

MINUTES
Erie County Fiscal Stability Authority
February 23, 2006

Note: the following is a draft copy of minutes of a meeting of the Erie County Fiscal Stability Authority (“ECFSA”), which was held February 23, 2006. These minutes will not become final until approved at a subsequent meeting of ECFSA directors, and may be amended before approval.)

Vice Chairman David Campbell called the meeting of the Erie County Fiscal Stability Authority (“ECFSA”) to order at 2 pm on Thursday, February 23, 2006 in Room 106 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: John Johnson, Sheila K. Kee, Stanley J. Keysa, Anthony Baynes, P. David Campbell, and Kenneth Kruly (Note: Chair Edward V. Regan resigned 2/22/06)

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

Opening Remarks:

Vice Chairman Campbell opened the meeting at 2:00 pm and welcomed all attendees. The meeting started with the Pledge of Allegiance.

Vice Chair Campbell asked for a legal opinion from Greg Stamm and comments from the Board regarding an editorial in the Buffalo News about the \$15 million ECMC settlement and the suggestion that sharing of \$12.5 million sales tax revenue will imperil the 2007 budget. “Mr. Stamm, do we have the legal right to take this board from an advisory capacity to a “hard control” board based on the statute?”

Mr. Stamm answered “No.” The legislation was drafted as previously discussed and until such time as the County demonstrates an inability to keep itself in balance or fiscally sound. The hospital settlement is not within the purview of an advisory board to do anything other than examine after it is completed and determine whether it poses a problem. The answer is, it does not. The prior chairman and counsel have offered their services to both the County Executive and ECMC officials if they thought they needed help and they worked it out themselves. The issue of the sales tax came down from Albany and that was a direct challenge to the County Legislature and County Executive to try and work that out. We have no role in that whatsoever and, in fact, one of our members is appointed by the Assemblyman who proposed that legislation. We could not have done anything but muddied the water. The simple answer is there is no provision whatsoever in that statute for us to go “hard”.”

Director Kee asked what the trigger factors are for going into a “hard” control board. Mr. Stamm responded, “The trigger factors are that in any given period of time the County demonstrates that it is unable to stay balanced or within 1% of the fund problem that was identified. The other situation would be because of its conduct they cannot go to the bond market. It has successfully gone to the bond market on a couple of issues. The trigger points are restrictive and narrow. The four-year plan that was sent to us, we did accept. That is factually wrong the way it is written in the paper. The four-year plan will change, it can’t help but change, but the challenge becomes at the budgeting time of each year, what is the County doing to stay balanced, whether it is cutting or raising taxes, and that is why we have to take a look every year. Unless something dramatic happens during the course of the 12 months between budget periods, we are going to remain advisory.”

Director Kruly said he appreciated what Mr. Stamm stated and agreed with what triggers a “hard” control board. However, there are certain circumstances in the hospital deal that bring it to this board in its advisory capacity. “A good portion of that settlement is bonded – our enabling legislation provides that we review and comment on all borrowing – we didn’t comment on that at all, we accepted the plan. Secondly, the plan provides a 50% increase in the cap in capital borrowing that was discussed and approved by the County last fall. That is going in the wrong direction and we should provide advice on that because we should be borrowing less than we are retiring to bring the debt down. The deal with the hospital provides \$15 million for employee settlement arrangements. That has consequences for the whole County because the four-year plan has \$10’s of millions in union contracts. Whatever precedent the County sets by giving the hospital employee incentives, will obviously spill over to other employees because they are in the same bargaining unit. This also needs to be discussed. We have some matters to be taken

up that relate to our covered organization – the County of Erie – because it is the County expenses and the County debt that is involved.”

Director Johnson noted that on 1/17/06 the amended plan was accepted and that within that four-year plan there are \$100’s of millions of initiatives. “Along the lines of Ms. Kee’s question, what are the trigger factors in terms of what brings us to a” hard” control board? I do recall that our priority is one of not just eliminating services, but operating in such a way as an advisory board to improve how services are delivered. If the case should be, where the Executive or legislative branch does not agree as how we, as an advisory board, recommend to them how those services are delivered, is that a triggering factor?”

Mr. Stamm responded “No it is not. We were not put here to run County government. It is the elected officials’ job to run the government. We can give advice on a whole variety of subjects and in fact, if people took the time to realize what Director Campbell has put in place, the Office of Management and Productivity is already hard at work, working with Mr. Hartman and representatives from all the departments trying to initiative more ways to provide these efficiencies. If this authority was to run County government, the law would have been written accordingly. We will live the law that they gave us until it is changed.”

Director Kee remarked, “several meetings ago, we spoke about the need to contact the state legislative delegation about the notion of having ECMC become a covered entity of this authority. Not sure of the status of that, but since that time we have had a lot more additional information of the size of the deal with ECMC, \$121 million, \$15 million so on and so forth. I would like our Board to reconsider the notion of making ECMC a covered entity. I would like to ask the Chair to debate that point or do a resolution.” Mr. Stamm stated that, at the unanimous request of this board, Mr. Van Riper in September made calls to legislative counsel.

Vice Chairman Campbell stated that he did not want to get into ECMC as the sole item here. “In communication with Director Kruly and Director Kee, we need to get on the next agenda and prepare a position paper and request the County to come and explain to us the items. Director Kruly has volunteered to do that. If we draft something, get an official statement and send it to Albany and request that coverage and we can have this behind us. But regardless of whether they make it a covered entity or not, we have every right and obligation and request an understanding of the deal that was struck. And we will do that as a normal agenda item.

He stressed that, “When the Buffalo News issues something that says we ought to do something, and we don’t have the legal right to do it, it is confusing to the citizens of Erie County. It is clear from the law that there is no trigger mechanism that has taken place today or in the past, that is allowing us to become a “hard” control board. Maybe we need to talk about responding, if we want, to this comment, because it sends a real difficult signal out into the community.”

Approval of Minutes

Director Johnson moved to approve minutes from January 17, 2006 meeting. The motion was seconded by Director Kruly and general discussion took place before it was unanimously approved.

Director Campbell remarked about the request that we start looking at job vacancies, retirements, attrition from the County employee level on page 2, and we asked the chairperson to send a letter to the County. Lee Van Riper said he has had many meetings along with Director Kruly and had gone thru the reporting forms that they used to use. He has met with the current Budget Director to follow up for the 2006 budget and initiatives and this was one of items that were covered. The County’s reporting system is back on line with the help of PFM, and along with the four- year plan, they did do a monthly report. With that reporting system, they can access their personnel files, they do have lists of vacancies, and they do have lists that follow the attrition rules. Mr. Van Riper was told that he will be able to access the system, and after 4 or 5 days training, to get on the SAP system to learn how it works, to be part of future agendas. “Hopefully, we end up with another person that would also do that. They do have a process and they have reports and we have access to them.”

Resolution 06-06

APPROVING MINUTES AND RESOLUTIONS FROM JANUARY 17, 2005

BE IT RESOLVED that the Erie County Fiscal Stability Authority approves the minutes of its meeting of January 17, 2006 and ratifies and affirms 5 resolution numbered 06-01 – 06-05 that was approved on January 17, 2006.

This resolution shall take effect immediately

Future Meeting Schedule

Director Campbell has met with all board members, except Anthony Baynes, due to his travel schedule. “There are two opinions on how the board should meet from a frequency standpoint. For the next three months, we should meet bi-weekly and then a monthly type of schedule. Director Kruly is of the opinion that we need schedule a meeting for discussing the management initiatives and what is being done with them. His option would be to have us complete the review of 160 of them by the end of July or early August so that whatever comes out of that can be used in the preparation of the 2007 budget. For that reason, I would agree that frequent meetings are needed.”

He continued, “Director Kee thinks we should meet every two weeks and she agrees with Director Kruly getting through each and every one of the initiatives. That is important because a certain percentage of these initiatives are not realizable so we are going to have to come up with new ideas to fill in some of the holes.”

Director Campbell asked Lee VanRiper to put a calendar together for the next three months in which the board will meet every two weeks and then go to once a month. Meetings on Thursday’s would have a conflict with the Legislature; meetings on Wednesdays are a difficulty for Director Johnson.

Financial Reports

Mr. Van Riper spoke about the Erie County, January, Budget Monitoring Report included in the briefing books. “We received the report yesterday, having worked with the County Budget Director to make sure we would get it for this meeting, and thereafter, monthly. We received it late and that is why your board books were delivered after 4 pm. There was a news article today that included that the County has an un-audited, \$10 million surplus, which other people have objected to because it uses tobacco money to fill holes and uses the sales tax increase, without which there would have been a deficit.”

The article also points out that the 2006 impact of the ECMC settlement is to be solved with \$13.75 million in tobacco funds, \$6.5 million in a judgment bond, and another \$3.5 million in capital borrowing for 2006. Mr. VanRiper said that bonding will happen in July, so there will be time to comment on it. The Legislature already passed the authorization to go forward. He is unaware if more specific authorization by resolution is needed when a bond issuance is prepared.

Director Johnson commended the County for getting this report to us earlier than it has previously. He would like for the report to include, in its future submission, indications of what kind of hiring activities and what kind of expenditures are being made on personnel. He acknowledged that the close out on financial year 2005 is not yet complete, but that it could provide some very strong indicators for the Board.

Mr. Van Riper reported that, “This is their report and we are free to ask for supplemental reports if needed,” and said he has been told that we will have access to the system.

Director Baynes asked whether it be possible to get overtime numbers, social service caseload or the personnel vacancies. Mr. Van Riper asked the board to send email or call if there are any additional items and he will follow up on them and see if there is a supplemental report for these specific items.

Director Kee commented about the budget monitoring report (“BMR”). “This is not a BMR. It simply a snapshot of a dozen accounts where it is going up or down. It is not a comprehensive revenue/expense budget monitoring report. “This doesn’t do the job for me”. She said her biggest concern is that, if the positive fund balance is to be 1 % of operating budget or \$10 million, why is the County going to issue debt in a judgment bond of \$6.7 million for ECMC? “If we have full confidence in the status of this budget, certainly we should avoid the issuance of debt. In order to solve these issues, she would call upon the Board to make sure that the County budget office is instructed that we expect to see a comprehensive budget monitoring report.

Mr. Van Riper stated that January does not give much of a trend to base on. The November report that they submitted was comprehensive. The County Executive said of the \$10 million surplus, that when it was identified, that he would attempt to keep it as a reserve because the rating agencies have been very critical of the County's low reserves. "They are trying to improve their rating for their next issuance. We could point out to them that we still have the authority, if asked, but they have to ask us to do that borrowing and get a better rate for them."

Director Campbell stated that we need adequate information on a timely basis to give advice as to where they ought to be going and what they should be concentrating on.

Director Kruly commented that County Budget Director, Ken Vetter should be requested to be present at every meeting if BMR's are going to be on the agenda. He asked the Chair to invite Comptroller Poloncarz to speak.

Comptroller Poloncarz addressed the issue of why the County is doing a bond, and what was needed to move it forward. There is presently, with bond counsel, a bond resolution that has been in place and will be presented to legislature. He stated, "As it stands, the consent decree entered into as part of the ECMC settlement is being signed at this moment, by Judge Makowski. It does require \$6.5 million of that amount be paid to ECMC out of a bond. Technically that bond will not be transacted until later in the year. But for Erie County to transfer funds that exists, that it has right now, we need to have a bond resolution approved by County Legislature which will then, based on accounting methods, allow us to go ahead and transfer cash flow that we have at this moment to meet the March deadline as part of the consent decree. Then, later in the year, when they do their bond transaction, and actually receive the funds, replace one account with another. If the legislature does not pass that bond resolution, technically we cannot do it and we would miss a deadline."

Director Johnson asked if a complete fiscal analysis been done on the cost of issuing the \$6.5 million bond. "What is the long term cost of the bond?" Comptroller Poloncarz stated that it is the County's goal not to do one separate bond but mix in other transactional and capital spending. They plan on doing one revenue anticipation note and all of their capital spending bonds at the same time, so there are not multiple transaction costs.

Director Campbell restated that the Comptroller's office is getting the paperwork in order so they can transfer existing funds to ECMC, but the bond will not be issued until July. "If there were funds available, could that be stopped and not issued?" Comptroller Poloncarz restated that the consent decree specified the funds were to come from a specific source." The County Executive today spoke about a surplus for 2005, the only hard numbers we have right now are those related to sales tax figures which we receive from the state. Their sales tax figures came in \$1 million over budget, but the only reason for that is because of the increase in sales tax by .25 %. They have an expedited timeline for mid-April to close out of 2005, and they are on target, but they will not be providing the ECFSA, pursuant to its statutory law, financial statements until at, the earliest, mid-April, and then the auditors will have the opportunity to confirm those statements. They will not have a final closed out, audited year for 2005 until June. Until then, we will not know if there is a surplus, balanced budget or a deficit. Early indications say that it will probably be a fund balance left over after 2005, although it is premature to put a hard number on that at this time."

Director Kruly pointed out that the Comptroller just said that the PFM report recommended that the County do things to build a fund balance of about 5%, so the \$10 million would be nice but it certainly would not be 5%, and the County ought to be holding to that.

Director Campbell stated that we will ask the County Budget Office be in attendance to answer any questions.

Treasurer Report

Director Baynes stated that, "turning to ECFSA's own operations, we came in under budget for 2005 by about \$150,000. A vendor report is attached for all of the expenses listed in alphabetical order from August through December. The major payments last year were PFM of \$860,000, and that was limited by a resolution. The final PFM bill showed that they donated over \$100,000 in additional work and has continued to help beyond their contract. The Hawkins law firm was a major expense. Hodgson Russ was also authorized for a labor counsel. The January 2006 preliminary monthly has an expense of \$36,356 – and all sales tax intercept dollars are recorded. The vendor report is also attached for January 2006." Director Baynes stated that these monthly reports will be circulated and placed on the website after board approval.

Mr. Van Riper added that PFM billed for the \$860,000 but “did not run out of the County.” They stayed and helped with communications up until February 10th. For the 2005 preliminary report, he requested the approval of the resolution attached as a formal acceptance. “Section 2801 of the Public Authorities Law requires us, as an authority, to send to the Division of the Budget, Senate Finance Committee and Assembly Ways and Means Committee a budget report. An adopted budget was approved at the last meeting and I can combine the two and make it the annual financial budget report that we need to send legally to Albany.”

Director Kruly moved to accept the 2005 Financial Report, seconded by John Johnson and after discussion, the motion was unanimously approved.

Resolution No. 06-07

Approving Submission of Preliminary 2005 Financial Report

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 has been operating since August 1, 2005 as a State Authority in accordance with the projected budget adopted at the August 18, 2005 public meeting; and

WHEREAS, the 2005 fiscal year of the ECFSA ended on December 31, 2005.

THEREFORE, BE IT RESOLVED that the ECFSA approves the preliminary 2005 Financial Report for submission to the governor, chairman and ranking minority member of the senate finance committee, and chairman and ranking minority member of the assembly ways and means committee as part of a budget report pursuant to section 2801 of the Public Authorities Law.

This resolution shall take effect immediately.

Director Kee asked about the bill for Hawkins Delafield and Woods. Mr. Stamm stated that they were hired to get this Authority started up and were given a contract for \$40,000 a month. “The Special Counsel, Chairman, and Vice-Chairman were not happy with their bill and requested they send us a bill breaking down their services. Under protest, that bill was paid. It was a legal obligation. We should never incur bills like that again. In August, the first thing we did was terminate their services as not needed.” Mr. Stamm said he has been able to function as counsel and we have others that can do so at more reasonable rates. They are willing to work at \$240 an hour vs. Mr. Stamm’s rate of \$200 an hour.

Director Kruly asked about the smaller expenditures: Do we take informal bids for these services, and if we have, what kind of interest have we seen with that?” Mr. Van Riper stated that we did not take in bids. The authorization, when he was name Executive Director, also gave him authorization to administer the expenses of the offices within constraints and these were all seen as necessary and functional, every-day items of the operation and the same as most Authorities operate, Buffalo Fiscal Stability Authority and Nassau County Interim Finance Authority.

The Governance Committee will be reporting a little later on in this meeting on the By-Laws and what is authorized, so that the Board understands completely and either approves, comments, or asks for amendments, as to how that is run. What we have currently in place are procurement guidelines which were passed by this Board by resolution, and they say that a procurement contract is defined as an annual expense over \$15,000. Any expense of that size, we would have to issue a contract by RFP (request for proposal), and for expenses underneath those levels, there are varying methods of approval.” Mr. VanRiper said he would not sign any contact without the approval of the Board. But, for example, the audio visual services here are seen as part of the operational needs which he has been authorized to oversee and we have been paying them as we go along, without expressed consent for each one. The

personal cell phone bill that was mentioned was from when this Board was first formed, and he submitted reimbursement for personal cell phone calls because when he first came up here that was the only phone that he had. His first cell phone bill was \$300, and the next month \$500, and he has never had a bill that size on his one personal cell phone before. "Until we got phones in the office and until we got the Blackberries that was the only communication we had." He stated ECFSA HAD RECEIVED A REQUEST UNDER THE Freedom of Information Law ("FOIL") over his personal email account because that was what was used in the RFP's for a response and there is some contracting company which was tracking state contracts and trying to do a follow-up. "Early on in the stages of this Authority we had nothing but personal things to use, so that is why that is there. As a matter a fact, we still use a lot of personal things."

Director Johnson said that looking back at our actions to get the ECFSA up and running, the directors were told we did not have to adhere to state procurement guidelines and we did not have any of our own. Therefore certain expense vendors were brought on board quickly. He asked that any future vendors be engaged with advice from this board, that their contracts be approved by this board before they take any action, even if it is just writing a letter, because that is a matter that can take us totally out of the procurement process and we will be audited by the NYS Comptroller. Director Campbell stated that there should not be any concern on the part of this Board that any contract entered into will be surfaced without approval, and none have.

Office Relocation Discussion

Director Campbell reported he has spoken to Erie County officials through the budget department, requesting a proposal for space that is available. They have contacted Lee VanRiper to see what requirements ECFSA has and when information is available it will be presented to the Board to make a decision. Vice-Chairman Campbell explained, "The terms of the lease at the Ellicott Square Building are being reviewed to see the impact and the costs and see what the best decision to make in the short term." An article in the Buffalo News stated that the annual lease payment was \$30,000.00. Mr. Van Riper stated that, "it would be closer to \$15,000 and the lease is on the website."

Director Kruly asked Mr. Stamm what penalties might be incurred if ECFSA canceled the lease on the anniversary date. Mr. Stamm responded that we would be able to get out at the end of a year without penalty. Remember at the time this was entered into, we wanted to go into County space, but everyone thought we would be in a difficult situation with the County Executive. Through the hard work of this Authority, people got to the table and started working together. That was not the atmosphere in July when this was created and it was felt that in order to do our job we need some independence and for \$15,000 a year it is money well spent. Let's get to the bigger issues that really matter and we will try to get to any space and all information will be brought to the Board.

Governance Issues

Director Keysa reported that when this Board started operations there was a need to try and immediately address the substantive issues and many housekeeping items were not addressed at that time. "Since then, discussions have taken place and a series of items were reviewed. What is presented today is not an end-all by any means but is intended as a start for discussion. Many can be adopted today but with a realization that further changes will be proposed based upon the comments made at this meeting. The statutory language itself makes it clear that we are all subject to the State Code of Ethics; that we are subject to the State Financial Disclosure and we propose to put that in the By-Laws. Also, we want to see agendas in advance of the meeting. I debated whether or not to make it 72 hours or 24 hours and realized some of these issues need a fairly quick response time, also, realizing that when calls are made to set meeting dates, we are getting a notice that a meeting is coming up. As proposed, the staff has 48 hours prior to the meeting to get an agenda out, and then, if you have other items you would like on it, we ask that you communicate it to the Chair and to the Executive Director within 24 hours. That would give them an opportunity to incorporate the additions into the actual final agenda, which we then get 24 hours in advance of the meeting. On the resolutions, we want to see proposed resolutions wherever possible so members know what is coming, but recognize that we will need to amend resolutions from time to time. Certainly those proposed in advance are open to amendment at the meeting. There may be other resolutions proposed during a meeting. I had suggested a suspension of the rules require a two-thirds vote of the Board and the Vice-Chairman suggested that this be at the approval of Chairperson, or in his or her absence, the Vice-Chair.

Vice Chair Campbell stated that these By-Law discussions are in direct response to the individual meetings with Board members, and their requests that we get information to them in a timely manner so they can review it in advance. At the meeting we can talk about the substance of the issue, rather than what the issue is.

Director Kruly thanked Vice Chairman Campbell for moving this along and putting it on agenda. He asked if directors might have a longer period of time for notice, as 24 hours seems short. "We didn't get our board packets at 4 pm and if you were busy it was not a lot of time to review." He agreed with Director Keysa that resolutions should be included in the package, but that doesn't prevent something from being added at the meeting. He thought normal parliamentary procedures would permit agenda items to be added depending on the will of the Board. In Article 4, he said he was glad to see that Section 2 addressed employment of personnel by recommendation of Chair and Vice-Chair, provided that a budget is established for this position. He stated that the employment of Stamm, Keil and Van Riper was done by resolution but that no resolution was approved for the Director of the Office of Management and Productivity. He suggested the Board take a look at addressing that.

Director Kruly added that the procurement policies should get more specific about how we are bidding. "In the County, and we should be as strict as they are, there are procedures for formal and informal bidding depending on the dollar value. We should make sure we are not breaking things up in one month allotments. But if it is going to cost more than \$15,000 a year, then that needs a bid. I would like to see more information in the procurement a guideline as it is not clear on what we are doing about that, is someone assigned to write those guidelines and to expand on this, I know it makes reference to Section 2879 of the PAL and it doesn't tell me a lot about their procedure."

Mr. VanRiper stated that the Board approved the procurement guidelines back at an early meeting in September. This was to put a reference to that in the By-Laws. In the future amendments would also be in the By-Laws. Director Kruly asked for a copy of that. Mr. VanRiper said he would provide a copy (Note: he had a copy with him and gave it to Director Kruly) and that it is in the minutes and on the website.

Director Kee asked to make a few comments about travel. She said there should be very clear cut terminology about the type of proof of expense that has to be submitted to get reimbursement. Every travel policy she has ever seen, you have to have proof, and suggested the By-Laws be amended to require reimbursement proof of purchase.

Director Keysa stated that regarding employee benefits, it was his goal to set some general policy in the By-Laws and then create a handbook with the specifics rather than burdening the resolution with the specifics. He noted that Ms. Keil is working on a handbook to be presented at a future meeting for the specific approval of Board.

Mr. Van Riper commented that under these proposals state that we will be following the State regulations as published by the State Comptroller, published guidelines that we have been following "That is what we intended to follow but we can get that booklet off their website, pass that around, and give everyone a clear understanding of what they are."

Director Kee asked about part-time employees and "managerial/confidential rules." She said "I understand the need to have a linkage, but question whether this gives ECFSA employees five personal leave days, which is more than the four personal leave days the County gives. The ECFSA employees would also get sick leave benefits which are comparable to the County even though part of our dialogue and discussion is that sick leave in Erie County government is three times the national average." Thirdly, she asked about compensatory time. "You should always have provisions for prior approval for compensatory time and also we are establishing a 37.5 hour work week, when it should be very minimally 40 hours. Now the reason why I think we have to hold ourselves to a higher standard is because we are going to be dealing with this issues with County employees and I don't want standards set here that are better off than County employees are getting or vise versa. We have the right to challenge certain County issues and rules relating to work hours and privileges."

Director Keysa said he debated the issue in his mind and the key is that this is a State agency, not a County agency, and therefore, we should be at this point following the State agency rules unless we have specific items with which we have difficulty. "I did anticipate we would have some discussion on this. As you may notice on the draft there are a number of items that the State provides and we would not provide at all. Overtime meal allowance, moving expense reimbursement, geographic pay differential, shift pay differentials, other pay differential are a number of

things that did not seem appropriate. I hoped to put on the table something on which we could have had specific discussion. We will also obtain copies of the CSEA handbook for Erie County and then take a look at handbook and note where the State is more generous than the County. We can then specify the less generous of the two rules.”

Director Campbell stated that this is a dynamic document that is going to need refinement, and asked if the Board wanted to approve a resolution to move forward or hold these things to make modifications. Director Baynes’ questioned, “Section 3: Is it 24, 48 or 72 hours? Section 8 and Section 3: Is it going to be 2/3 majority or approved by the Chair or Vice Chair?” He thought it best not to move for a resolution until the Board comes to an agreement.

Director Keysa asked that we take the first group of amendments to the By-Laws and address that today because that does set up our policy for the future. “Already we are following a different rule than in the past, which is why we have an agenda in advance, but we want some guidelines on that and it would be useful for us to do the modifications to that area and get that out of the way. We can take the comments that we have on the other items and we will refine them for the next meeting.”

Mr. Van Riper spoke about the urgency, especially in the times and terms of employment, and pointed out the need to adopt rules to be applicable back to August 1st, so ECFSA can close the books. “We have all followed and filed time sheets following our hours but no one knows how to treat time off.” Lee had to take time off for surgery. He used personal days at the time but we have not put a formal policy in place where we can close the books for 2005 for a lot of personnel issues. That is why he pushed for a governance committee so we can establish some of these rules and procedures. “We also have a legal requirement to hire an auditor and have an independent audit as a state authority, and we have some outstanding issues before we can close 2005 financials.”

Director Kee suggested a subcommittee be impaneled to review these matters and if we are meeting in two weeks we could come back with definitive solutions to some of these issues, which need more discussion.

Director Kruly made a motion to adopt a resolution that accepts and confirms what has been done till this date. “We certainly are not going back and rewrite history and so, if that will help to wrap up the books for 2005, as everything was operated in good faith, we should accept the State rules for 2005 so that we can allow the procedure to shut down for the year and if we can have a committee to review these things with Director Keysa to see what should be in the personnel handbook, we can bring it back to a meeting in the near future.”

Director Johnson stated he would concur with Directors Kee and Kruly’s remarks. “I don’t think we have to stop the forward progress and it would put staff in a very precarious position not having a sense of closure of what their needs are at the present time, since we do have staff on board.”

Director Keysa stated that he would appreciate having more members added to the Governance Committee. Director Johnson seconded the motion, which was unanimously approved.

Directors Kee and Kruly volunteered to help Director Keysa on the Governance Committee.

Resolution No. 06-08

Setting ECFSA Employee Rules for Fiscal Year 2005

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 has been operating since August 1, 2005 as a State Authority with a professional staff to the extent necessary; and

WHEREAS, those employees have been operating under an interim basis under terms and conditions applicable to certain New York State employees.

THEREFORE, BE IT RESOLVED that the ECFSA approves the adoption of the Employee Guidelines as attached until the same are modified as appropriate to the mission of ECFSA.

This resolution shall take effect immediately.

Attachment

Interim Employee Guidelines for the Erie County Fiscal Stability Authority (ECFSA).

RESOLVED, that the interim employee benefits and terms of employment of the ECFSA shall generally be those applicable to New York State Management/Confidential (NYS M/C) employees unless specified differently in this resolution or in an Erie County Fiscal Stability Authority Employee Handbook adopted with the approval of a majority of the Directors. Terms and benefits deemed to have been in effect since August 1, 2005 and to continue until that same are modified as appropriate to the mission of ECFSA, are as follows:

- Basic Work Week – shall be 37.5 hours, 9 a.m. to 5 p.m. Monday through Friday with ½ hour lunch period;
- Holidays – shall be official holidays for New York State employees and holiday compensation shall be subject to the same terms and conditions applicable to NYS M/C employee;
- Sick Leave – shall be earned and accrued as NYS M/C employees not enrolled in the Income Protection Plan (i.e., ½ day each bi-weekly pay period for a total of 13 days per year) and shall be subject to the terms and conditions applicable to NYS M/C employees;
- Workers Compensation Leave – shall be the same as the terms and conditions applicable to NYS M/C employees;
- Deferred Compensation Plan – shall be the same as the terms and conditions applicable to NYS M/C employees;
- Unemployment Insurance – shall be the same as the terms and conditions applicable to NYS M/C employees;
- Travel Reimbursement – shall be the same as the terms and conditions applicable to NYS M/C employees;
- Overnight (Per Diem) Travel – shall be the same as the terms and conditions applicable to NYS M/C employees;
- Meal Allowance for Non-Overnight Travel – shall be the same as the terms and conditions applicable to NYS M/C employees. In addition, reimbursement shall be allowed for specific and actual meal charges incurred while attending conferences or speaking engagements for the ECFSA;
- Mileage – shall be the same as the terms and conditions applicable to NYS M/C employees;
- Reimbursement for Disabled Employees – shall be the same as the terms and conditions applicable to NYS M/C employees;
- Personal Leave – an employee shall be credited with five days of personal leave upon appointment and on January first of each year. Personal leave shall be subject to terms and conditions applicable to NYS M/C employees and personal leave not used within the ECFSA fiscal year is forfeited;
- Vacation Leave – shall be the same as those applicable to NYS M/C employees. For purposes of vacation only, former employment with Federal, State or local municipalities shall be considered;
- Compensatory Time – shall be available to employees who work in excess of the 37.5 hour basic work week on a straight-time basis for hours worked in excess of the 75 hour bi-weekly pay period. Compensatory time may only be used with the approval of the Executive Director, and by the Executive Director only with the approval of the Chairperson;
- Other Issues (with recommendation):
- Overtime Compensation (generally not applicable, but subject to Federal law);
- Overtime Meal Allowance (not adopted);
- Moving Expense Reimbursement (not adopted);

- Geographic Pay Differential (not adopted);
- Shift Pay Differential (not adopted);
- Other Pay Differentials (not adopted);
- Corporate Card Program (not adopted); and,
- Any other terms of employment or employee benefits not specifically addressed shall be the same as the terms and conditions applicable to NYS M/C employees.

BY-LAWS

Director Keysa stated “We need to get some housekeeping items out of the way.” He moved a resolution on the bylaws to bring this on for discussion. Stating he notes, “There is a resolution sheet and specific language sheet and there are a couple of items that need to be changed.” Director Kruly seconded the motion for purpose of discussion.

Director Keysa now asked for amendments to the proposals. Regarding Article 3, Section 7, he noted he had proposed 48 hours but that others suggested 72 hours. Director Kruly moved to require 72 hours, seconded by Director Baynes. Director Campbell commented that, “in getting the agenda out, one thing we don’t want to do is put out an agenda that we don’t have ample time to prepare for and, as you can see, there are always items that are very important. It is easy to put an agenda together, but we don’t want to push it so much that we are not really taking up to date where we are, and getting an agenda that deals with the issues before us. Particularly if we start meeting on a more frequent basis. Whether it is 72 or 48 (we could make it one week)but what I don’t want to do is get a standard agenda and then we get here and we are back to the same situation we were before, where we start talking about things and spending time on things that are not on the agenda.”

He said he would like to stick with the 48 hours, and we can always amend it if it becomes a problem. Director Kruly withdrew the motion for the 72 hours but said he would now like to consider changing the other part regarding additions to the agenda being at the call of the Chairman, up to 24 hours before, and some discussion of whether adopting a 4 or 5 vote majority to add things at the last minute that would, “at least involve some of us if there are last minute items or not, so if we went back to the 48 then we should have something that involves more members than just the Chair in the decision of last minute items.”

Director Campbell responded, “One, you can’t have a meeting without the Chair and coming in and at the last minute having 3 or 4 people having some item that hasn’t been talked about yet and say we want it on the agenda, it starts again deteriorating the purpose of planning the meetings in advance, knowing what we are going to be looking at, making sure we have ample time to get the information back to you because you could end up with an item on the agenda at the last 24 hours and we don’t have time within the office to even prepare the data to get it back to you. We would create some false walls here that are going to prevent us from actually doing what you have asked to be done, which is getting information to you in a timely basis somewhere along the lines of a clock-in. If there are emergency situations, nobody is going to prevent things from coming to the table, but at the same token, you don’t want to have yourself where you can all of a sudden change the whole meeting around, you can create chaos.”

Director Kruly said, “In an advisory capacity, I can’t imagine what emergency there would be that would have to drop last minute items on us.” Director Campbell agreed and asked why even do it. Director Keysa stated that, in his experience (and he has chaired over 1,000 public meetings), there are occasionally things that do come up. If someone raises an issue for it to be considered, any member can object to suspension of the rules and for that objection to be overcome, a 2/3rds vote is required in most bodies. Legislator Marinelli noted from the audience that it required a unanimous vote in the Legislature. Director Campbell stated that that is different, that he could accept with a unanimous vote rather than a simple majority. He is not trying to give the Chairperson any more authority, “You just need to control this thing where it doesn’t get away from us.”

Director Keysa said that, as a notation of procedure here, there was a motion by Director Kruly to move to change that to require a suspension of the rules be approved by 2/3rds vote, but the motion lacked a 2nd. Director Johnson seconded. Director Campbell asked for a vote and it was unanimously approved.

Discussion then focused on amendment to Section 7. Director Kruly withdrew his motion to require 72 hours. Director Baynes asked if we want have everything in advance and we don’t want to change things at the end, what prohibits us from keeping it at 72 hours. Director Keysa stated that it is marked as a preliminary agenda. This is

really a tickler to everybody that this is out there, and if you have something else that you want on, now is the time to get it to the Chairman to get it on. Actually 24 hours could be a problem with that because 24 hours is when notices should go to the directors, but there needs to be some preparation time in there so maybe we make it 48 hours. Director Campbell remarked that we would end up with an agenda item that is not on the agenda and we would then have to try and notify directors by email. We will get the information out as soon as possible to the Board.

Director Keysa, as Secretary, asked clarification whether a motion is on the floor for the amendment to Section 8 that suspensions of the rules to require a 2/3rds vote of the directors, as moved by Director Kruly and Director Johnson. Director Campbell said it was voted on already and was unanimous. Director Kruly asked the Vice Chair, "What are we voting on?" Director Keysa clarified that it was the basic resolution to adopt these changes in the By-Laws, both changes. Director Kruly asked about Section 4 about employee benefits, if we are going to have a review of that we need to pull this out at least until another meeting. "We have taken care of the 2005 issue but I think we need to separate Section 4 from the rest of the motion."

Mr. Van Riper spoke that the By-Laws would address employee benefits going forward. Director Keysa suggested removing Section 4 for consideration, (adding that) "Section 4 could be marked intentionally left blank."

Director Campbell asked for a vote on the amendment, which was unanimously approved.

Director Keysa stated that if there were any more changes to the basic resolution, if not, "We can proceed at this point to consider the basic resolution which is to adopt those two pages subject to the amendments that have been made on the motion." Director Baynes asked, in Section 5, "It is a majority of the directors, not 2/3rds, correct?" Director Keysa stated "a majority, that's correct, standard operation. The only time you normally would look for at a super majority would be suspension of the rules. Now we are voting on the resolution itself - amendments of the By-Laws."

The motion was thereafter unanimously approved.

Resolution No. 06-09

Amending By-Law of ECFSA

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 adopted By-Laws at its meeting of August 1, 2005, and a mended such By-Laws at its meetings on August 18, 2005 and August 30, 2005; and

WHEREAS, certain technical amendments are recommended by the Governance Committee Chair, to update and improve such By-Laws.

THEREFORE, BE IT RESOLVED that the ECFSA approves the adoption of the proposed amendments to the By-Laws, as amended at the public meeting of the ECFSA on February 23 2006, attached to this resolution.

This resolution shall take effect immediately.

General Counsel

Mr. Stamm asked for a motion and discussion on acceptance of the RFP for general counsel. Director Johnson made a motion, seconded by Director Baynes. Mr Stamm said "We have had responses since October from a number of counsel firms in NYC and Buffalo, and after a lengthy review of them by both Lee and myself, we came up with the

recommendation for general counsel, if and when we need them, now we only needed the one so far on a labor issue early on. Back then we hired at \$240 an hour a local firm of Hodgson Russ. They in turn did put together a proposal. We have summarized the other proposals as well, as you have previously asked for in writing. At this time we are in a position to recommend to you that, in the event we need expertise beyond my expertise, that we would be then in a position to go to Hodgson Russ at that hourly rate for that service.”

Director Kee asked how often we would need more expertise. Mr. Stamm responded, “What is not here is the RFP for bond counsel. As general counsel, I was been able to cover it, but the labor issue that I couldn’t have covered; they did a very good job of representing us.” He further stated that there was a bond issue back in December and he had to spend a fair amount of time analyzing our position on the bond proposal that was going to Wall Street. He would have liked to have had the ability to call on someone with more expertise to advise the Board at a fair hourly rate. Those RFP’s for bond counsel have also been evaluated and at a future meeting one should be recommended. “We should not need counsel very often, and we haven’t used them at all since we terminated those folks back in September.”

Mr. Van Riper remarked that he would have felt more comfortable in the last three weeks if he had more access to legal advice, as he has been learning and phoning to get opinions on the Freedom of Information Law from the swarm of requests received which he stated, he regards that as a waste of taxpayer’s money. So far, the information he sought has been freely accessible. “BFSa counsel was used to help with this along with the Ethics Commission in Albany, regarding the legal requirements that ECFSA response should cover. It would have been entirely appropriate to ask a hired counsel to give a few hours. We could limit it by the Board; we could circulate to the Board, that this is a request, and get comments back before we offered.” He said that there are instances that come up where he would feel more comfortable with specialized counsel.

Mr. Stamm commented that he had not been available at the time. “Honestly, if we have it, we give it to them. We don’t have to create it, but if we have it, we give it. Open shop. Mr. Van Riper added, “A lot of information that was asked for was personal and we needed to know how to address it.”

Director Keysa said he has picked up some materials in New York City for the members on the Open Meetings Law and Freedom of Information Law so everyone will have an opportunity to understand them, as well as some additional materials which will be of benefit to us and which he will distribute before the next meeting. Director Baynes stated that, regarding the FOIL’s that we know we are going to be meeting more frequently and all expenditures will be on the website and all the information is available. Hopefully, this will slow down a bit. We hit some bumps in the road and things will be corrected going forward.

Director Campbell asked if there were any additional questions on the resolution before us. A vote was then taken and a unanimous vote was recorded.

Resolution No. 06 -10

Hiring Hodgson Russ, LLP as General Counsel to ECFSA

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 issued Requests for Proposals (RFP’s) in October, 2005 for General Counsel to provide legal advice on powers of the Authority, general corporate activities, and laws affecting the Authority pursuant to the criteria specified in Article IV of its adopted procurement guidelines; and

WHEREAS, it is now certain that legal advice and representation will be needed by the ECFSA during 2006 and that the RFP’s have been reviewed and evaluated.

THEREFORE, BE IT RESOLVED that the ECFSA approves the selection of the firm of Hodgson Russ LLP, as General Counsel to the ECFSA.

This resolution shall take effect immediately.

Auditor

Mr. Van Riper spoke about the need for an independent auditor. ECFSA is required to contract for an independent audit for 2005, which is part of the reason why the Board needed to get some type of rules on the books, to address time. Now we have approval on that. We sent out the RFP's in the fall following the procurement guidelines and advertised through the State Contract Reporter. For auditor we received just one response from a local firm Toski, Shaeffer, and it seems like a responsible bid, but we didn't want to move forward until we had some discussion by the Board. "Do you think it is appropriate to just look at this one response, consider that bid and move forward? It would be for a fixed amount. He wanted the board's input on whether to go forward with that one or try and advertise locally and encourage more local firms to do respond but said, "We are going to need an independent auditor as it is a requirement of the Public Authority Law that we have an independent audit."

Director Kee commented that this is a very tough time of the year to get a new auditor on board for a new engagement. If we issue another RFP, we are going to find similar issues and another long delay and she would suggest that we may want to do a one year engagement, and issue an RFP for 2006 financial statements in the summer and we might get a much better response and solve the problem for next year.

Director Campbell requested that the firm be contacted to see if they are still interested. Director Keysa spoke about the timeframe needed in which to respond, because we have an audit that is due to the State. He thought the fee quoted was reasonable. Mr. Van Riper stated that he had checked into the timeframe and it is not as immediate as he had initially thought, but the Board should move forward. Director Campbell asked who BFSAs use and maybe we could get some information on their circumstances. Mr. Van Riper stated that he will have a resolution for the next meeting.

The second part of the audit issue is the County's audit. As the Comptroller mentioned previously, the statute that created the ECFSA requires the County Comptroller to provide an independent audit to us by 120 days at the close of the year (April 30th). They will be able to get us financials by that date, but they will not have a complete audit available for two reasons: one, the audit letter and certificates won't be there and in that timeframe and; two; part of their audit requires them to receive our independent audit, which we don't have. The Comptroller points out that by other statutory requirements, they have until June 30th to do a County fiscal year audit.

Comptroller Poloncarz remarked that it is not so much the audit, but there is also a requirement from the State Comptroller's office to follow USAC standards which would be providing certain information to them through June. They are on target to provide us with their financial information, not fully audited financial statements, but financial information by mid-April. "At that same time they are provided to you, they will also provide them to our own auditor, who will then compile and complete their end of it. We hope to have final audited financial statements of the beginning of June. Erie County has many components and ECFSA is one of those components, so we also require your financial information." He noted that Erie County also received only one response to their RFP for auditors.

Mr. Van Riper said this is another instance of where the state law was written in a way that gives us a problem, but it is a legal requirement. He suggested adopting a resolution that he could work with the Governance Committee, to do a proposal which allows us to mention the state law and to say that we will get the financials appropriately on time and postpone the actual audit until a reasonable date that we come up with, and it was something the Board needed to be aware of. Director Keysa asked if there was a date that was determined. Mr. Van Riper remarked that there is none specified for ECFSA except that, from the time that audit was completed; ECFSA has 30 days to transmit it to the State Comptroller and various parties. Our requirement then ties into the County Comptroller's in that they have it in time to put it in their audit, which could be postponed by resolution.

Mr. Van Riper stated that in the Board packet that was delivered to members a couple of weeks ago, he put in a letter for comment, but he would like mention, on the record, that the Comptroller's office turned over to this Authority in December the account for the repayment of the July RAN, because that was required by statute

specifically passed by Albany. That is in ECFSA's name. The cash flow projections indicate that money will be flowing into that and the county has arranged that they will make those deposits. He will be monitoring it to make sure they are made and when July comes and it is time for the repayment that will take a Board action. ECFSA is in charge of that account and he wished to acknowledge it in the minutes, because before it was a just an internal communication.

Office of Management and Productivity

Director Campbell stated that an OMP status report is next on our agenda. "This is the first opportunity we have had to actually update everybody on what the activity level has been over the last few months. The issue at hand is that at every meeting this will be on the agenda and this is the most important thing we have going and that there is a full understanding and support for these initiatives."

Mr. Ritzenthaler spoke about the OMP and the Initiatives with a slide presentation— he sat in the audience at the last meeting on January 17th and he heard Director Kee suggest that the ECFSA needed a process that not only looks at the initiatives but allows new ones to be added, ones done to be taken off, and being able to keep up with it on a regular basis. He is referring to the high level process, not the specific process of each initiative. The second part of the presentation looks at the funding that ECFSA is responsible for and in charge of and what the funding process looks for, what happens now, how funds will be requested and how ECFSA will get funds from the State and into the hands of the initiators. The third section is more specific examples of work to date.

Director Campbell asked the Board, "Because most of you have had gone through the packet and I think there is a comfort level that we have a detailed process in place. Is that a correct assumption? Are there any concerns from this Board about it? Does it look logical to you as how we are approaching it?" Director Kruly said he would rather move to discussing the actual initiatives, "as we have all had the opportunity to read the slide show that was in our packet."

Director Kee remarked about the \$18 million displayed for efficiency and productivity grants and said, "It has become clear that some decision may be made in Albany to change those amounts of funding that come through to the Authority and move some of those dollars to the City of Buffalo." Her concern is that the Board and staff don't get disappointed if that happens. "Do you have back-up plans?" Director Campbell said he spoke to the Governor's office this morning. "They said we should proceed as we have been instructed by them, they put that money in and those funds are available. The office does not have an alternative plan if that money is removed but the process that we are going to go through to attack these items isn't only contingent on having those funds available, but we were very clearly instructed today to proceed with those items submitted by the Governor."

Director Kee stated that prudence dictates that there are some backup strategies relative to expecting reductions in that funding. Director Campbell stated, "We have not committed the funds. We have tried to get in place how we are going to attack the situation."

Mr. Hartman, Erie County Director of Initiatives, stated that it is a pleasure to work with Mr. Ritzenthaler. He will be joining them up on the 16th floor and it will be good to work together. "Fran has a good sense of this and is winning a lot of respect in County government." They are going through the initiatives as quickly as they can. He said it was no secret that PFM went around to agencies and did initial reviews and talked to a lot of agency people and collected an amazing amount of information in a quick period of time. What happened was that the October 15th version of the plan was really provided to the County Executive and the Budget Director with only a day or two to review it. It was accepted, but for the most part the department Commissioners never really had a chance to have a second round with PFM and to buy in to what had been recommended and, therefore, what we have been engaged in is the process of taking all of the PFM recommendations back to our commissioners and talking through them and sorting out what works and what doesn't work and in particular what will work with regards to 2007. "Ken, your point earlier is well taken and we will be through that process much sooner than July. In fact, it is our intention to essentially be done with that process by mid-March at which point we will have a full written report on every initiative, and our review of it, and in particular we will be indicating specific items with dollar amounts which we are prepared to put into the 2007 budget to which our commissioners feel reasonable. They have some sort of implementation plan. Essentially, they are willing to be accountable. They have looked at 127 initiatives. There are a lot without dollar amounts attached. It shouldn't surprise anyone that some of them are turning out to not be feasible and we are continuing to work through this process and it is our intention to have a complete synopsis of where we stand by it by March 17th."

He said he was with the Legislature this morning and told them when we are at that point, we want to have a full session with the Legislature which will go over the entire body of what we have done and then it is their plan to assign pieces of it to their respective committees to work on further because there will be items in it that will need their agreement and review so they can be included in the 2007 budget. "We promised the Legislature that we are not just going to dump a package on them in October, we are going to do a lot of the work for the 2007 budget in the time period from the end of March to September."

Mr. Ritzenthaler remarked that, "with the database we are creating as we go through all these, we are going to be able to extract information that is important to the commissioners in the departments trying to implement initiatives, as well as important to other groups trying to make these initiatives work or replace those that are not working, and we will be able to highlight that and produce documents that will draw attention to the right places. Because, when you look at a package of information, they may have 75 items, of which 2 of them may have 98% of the dollar value, and we could spend a lot of time talking about the \$2,000 items and not get to where the big nuts need to be cracked. So we are going to use additional information like this to assist in the decision making process for the leadership."

Mr. Hartman went through the samples of the initiatives. Some have been put in the 2006 budget and are completed and have 06 budget goals. "Where we have budget goals, and where we have budget goals for 2007, there are others such as in this case – privatizing the golf courses is one that is being researched. They are issuing an RFP to potential operators of our two golf courses and based upon the response to that RFP, we will be able to determine whether or not it is a viable idea and we can make a profit with it. This is the type of reporting format that we will use going forward. We will have one of these for all of our agencies in about two weeks and then this will be a monthly report to the Board."

Mr. Hartman spoke with the Social Services Commissioner about the proposed two-year waiver from the state to allow foundation money from this community to replace money that had been cut in the 2005 budget to fulfill the County's matching dollars requirement. "Essentially the money here, which we still don't have in hand, is meant to restore 2005 cuts. It is not feasible to count it as a savings going forward. This is an example of one that we will be removing."

Director Johnson reacted that talk of abandoning the Social Services waiver is not valid, suggesting the County go forward. That matter is still being worked on in Albany and he knows the two departments involved and, "I am one of them." Mr. Hartman said, "everyone of these initiatives has a big story behind it and one of the things that we are going to decide, with the same procedure with the Legislature, is how we discuss each of those and how much time we are going to take to do that and if we want to do it with the full board and the public."

Director Campbell stated that Director Johnson brings up an excellent point. "There is a participant that can help that cause and he said it shouldn't be taken off and you need to work with Commissioner Johnson and we do not have to debate it here but its an excellent point, and with all Social Services you have a great resource right here and he's willing to help. I am going to go out on a limb here, as you know we have a task that we are working for towards 2007 of \$40 million and I believe they are getting close to identifying how we will meet half of that challenge."

Mr. Hartman commented on the next slide about the major risks to the 2007 plan. "As part of the \$40 million of PFM ideas for 2007, there is \$4.9 million in projected savings – alternatives to incarceration and at the moment there is high risk to that. The other is \$12.3 million in labor savings. That is a number which is developed using a particular methodology. We are in discussions with the unions, but we would all have to agree that is a difficult number to achieve and then the other issue, in regards to 2007, the agreement with \$12.5 million of sales tax revenue will be shared with the city and localities."

Director Campbell asked what the entire labor bill for the County is. He stated that he believed it to be about \$220 million, then the percentage reduction is around 5%. Director Campbell commented, "Erie County has an absentee rate twice the industry average. There are items that we have not even thought in terms of. We can't just look at that it is a contractual change requirement. It is a cultural change in many of these areas and those are the things we need to look at and how to utilize and how overtime is utilized. Lots of different things, don't put blinders on that you have to have a major contractual change to get any kind of labor savings. Technology in and of itself can." Mr. Hartman responded "these are things that involve union concession, but we have overtime savings elsewhere

throughout the plan.” Director Campbell, “It’s hard, but there are lots of ways to approach that are not just changing contracts, better procedures and better accountability issues.”

Mr. Hartman, moving on, said that, regarding the revenue sharing piece, this agreement was made by the County Legislature. There was some indication from the leaders of the State delegation that they would make an effort to try and help compensate us for this amount. “We have put forward several ideas. We do not have agreement on any of those and this is a number, which I expressed to the Legislature this morning, we need to continue to pursue this discussion with our State delegation very vigorously in the next six weeks before April 1st. They are on a fast track to adopt a state budget and if we are going to get some commitment, we need that to happen. At the moment we do not have agreement on anything that would help us resolve that particular amount.”

Director Johnson had a comment, “As you pursue these matters with the state delegation, I would strongly recommend that you include some sourcing of the information you are getting out legislative branch with NYS department heads because many of the heads have proposed items in the Governor’s proposed budget for 06-07, which impacts upon what the legislative members are going to be reacting to.”

Mr. Hartman elaborated on a slide of alternative incarceration issue. “The PFM recommendations assumed we could get a 215 person reduction in inmate population and it relies heavily on the use of technology-based probation and we are pursuing those, but the risk and uncertainty of it is really two-fold: One, we don’t really know the extent there will be judicial acceptance; and then, the other issue we have is, unlike some of the assumptions that were made, the detention center is such that you don’t get a corresponding reduction in cost based upon the same percentage of inmate reductions, so this is a difficult one for us.” We are doing two things. The County had for a while a task force which included all of the components of the criminal justice system and we are attempting to reconvene and activate that group to help us address some of these issues.

The last bullet point is an important one because, in this whole area, and it is actually where he is spending most of his time, “25% of the population in the detention center on criminal charges, are there for reasons of mental health and, in fact, we have that number because they are people they have been recommended by the courts to have mental health evaluations. What is happening is that the detention center has become an ad hoc psychiatric ward/homeless shelter, and a major idea is to provide an alternative to that population. We are pursuing it and ready enough to present an idea to the state delegation to get some special pilot funding for Erie County in 2007.”

Director Kruly asked about the risks to the 2007 plan, the \$12.3 million in labor costs. “Are there specifics that lead to a \$12.3 million or was there a percentage of the total payroll or how was that developed? Is this \$12.3 million County money that is subsidized by County property and sales tax, or is it payroll costs, which as you know, in many cases are supported by federal and state government.” Mr. Hartman’s response was that what is in the four year plan document was estimated and is rather extensive. The whole PFM approach to the labor savings was to develop a menu of things which included a complete wage freeze, as well as union concessions with regards to health care costs and a variety of other things. It is a combination of wage freeze plus other concessions. “Their calculations in this area are all based on total payroll, not County funded payroll and that is a problem.”

Director Kruly spoke about initiatives already implemented, specifically, the \$600,000 for the Medicare Part D. “Is there some issue there now with how that money might come to the County in terms of the broker in the medical insurance program, the labor health organization.” Mr. Van Riper responded that the Administration is working on it and they have had meetings to try and get this done and they think the process is working.

On the 2006 initiatives, VanRiper said he has been working with the Budget Director specifically, what Fran Ritzenthaler and Jim Hartman have been working on is the implementation of those things that will be taking effect in 2007 and beyond. These are 2006 issues that have been gone over with Ken Vetter and they are comfortable with these numbers in the budget. Ken Vetter is not available today; Lee VanRiper can get more detail on these things for which directors have suggestions. “This is not the complete list of 2006 initiatives, these are the ones already in place and budgeted for the current year and have every expectation of getting. There are others awaiting state authorization, which we fully expect to be implemented and that will be added to. We wanted to show that there is over \$9 million in place and more coming. We are going forward and will get more information on issues raised and get back the board.”

Director Kruly asked if we could get from Mr. Vetter, on each of these, a status report. Especially the consolidation of the 911 call-taking and dispatch. He has heard that was actually turned down because the County was not prepared to do it and may not be prepared for the whole year. Mr. Van Riper stated that his conversation with Vetter was that this is where there were two different agencies and one of those agency heads is now gone and it has been done in fact, if not in statute. Director Kruly said, "There is not a savings anymore on this thing and this is the sort of thing that we can get more detail and come back at the next meeting."

Director Kee would like to piggyback on Ken's comments. Her expectation is to receive actual evidence of how much has been saved for the first two months, the second quarter, whatever it may be, and be able to supply backup evidence that in fact those savings have been achieved. Mr. Van Riper said that as they are being achieved, we are following up, we have January's report and January is tough to get any numbers on, but these are what are budgeted. As they come on line and the savings are achieved it will be reported. Mr. Hartman stated that, "It is Ken's intention, in the monthly BMR, to have exactly what you say. In other words, for each of these specific savings initiatives there would be a year-to-date savings accomplished."

Director Kee had another question, "If you add up the problem areas, they have been identified as \$29.7 million, which clearly underscores the dramatic need to start identifying new initiatives to fill those holes through the PFM recommendations." She asked to talk about strategies for coming up with new initiatives to do just that. Director Campbell injected that Fran Ritzenthaler and Jim Hartman are meeting with all commissioners and asking these questions and see what other alternatives are and what other items can be looked at. "We need to meet with not only them, but everybody included in the package, Chairperson Marinelli sent a paper within the Legislature and we can take those things and start bringing all this stuff together just for that reason."

"At this stage we are operating under a four-year plan that gave us a certain set of numbers and, now that things are shifting, we have got to get real time information in front of us. How many of these have been quantified as a risk? Do we need to move some over to the other column? How do we get actual information in a timely manner to figure out where we are going?"

Mr. Hartman stated, "It doesn't mean those initiatives are lost or we are giving up on them, just indicating that in several weeks we will have a fairly solid feeling about much of these are the ones that we need to work on, or find replacements for."

Director Johnson stated that, "in terms of governmental process, you have a State 06-07 budget that is being deliberated in the State Legislature right now; many changes are being recommended by department heads for that budget and moved forward by the Governor. He is strongly recommending that, as we move forward and hopefully we get State budget by April 1st. The thing that he is looking at is that some of the changes that are being recommended at the State level by department will impact on Erie County's budget. Health, mental health, probation, social services, that includes but not limited to the Office of Children and Family Services, as well as the Office of Temporary Disability Assistance." One particular funding stream that he is aware of that is being proposed and Erie County government will benefit from is a funding stream called "Flexible Funds for Family Services" that will come out with allocations under the egis of the Department of Family Assistance." So, as you talk to department heads at the county level, please put a warning to them: "Hey, tell me what State and Federal funding streams are going to impact upon your fiscal decisions, because it is going to weigh heavily on what we do in an advisory capacity, about do we go for higher taxes, the extension of sales tax to get more revenue, but it is that kind of warning offered to Jim and Fran before we go forward. The initiatives that were proposed by PFM were great. We as an Authority were all excited, because we saw some potential savings for Erie County, things that could help reengineer. But PFM missed the mark in sourcing some of those dollars and that is why we are getting hit sometimes, and I hope we just don't go past that the second time."

University of Buffalo Correspondence

Director Campbell spoke about a copy of a letter from Dr. Kate Foster, Director of the UB Institute for Local Governance and Regional Growth which had been distributed in briefing books. Directors Keysa, Kee and Campbell met with her and asked where she thought they might be able to help ECFSA. The urgency of coming up with savings cannot be understated. "Whether UB can be of assistance or not, I recommend Sheila, or Stan, or Anthony could help review this and have discussion with Jim and Fran and see if there is a role we think UB can play that would be beneficial to us, because we owe her a comment/response back. There are a lot of resources

there and it isn't going to free, but we do have the \$400,000 the Governor's office has given us to try and do these types of things. Maybe the next meeting we can get together and discuss them."

Vice Chairman Campbell also thought Chairperson Lynn Marinelli's sheet was very well put and that she intends to be very active and we need to tie all the information together. The process will look at resource requirements and how ECFSa will go about doing that. "OMP needs all the resources they can get to fund some of this stuff and actually get it to where we can go forward or not, and that is not something we have been successful in, just pulling people off their normal jobs and whether we should look at, based on the OMP requirements and as well as the financial requirements which is continuing to escalate within ECFSa, to look at an additional resource and we don't need to debate it right now."

Human Resource Committee

The Board needs to get involved in these staffing decisions. They need to start dealing with the facts and then we can make a recommendation to the Board to see if we ought to be looking at hiring someone or not. Again, I would throw it open to the Board; "Who wants to be on the Human Resource Committee because we are going to need these types of discussion because the urgency is on top of us?" Treasurer Anthony Baynes agreed to Chair the committee and Commissioner Johnson agreed to serve as a member. Vice Chairman Campbell said, "Let's do that. Fran and Lee will get the information put together and decide what is it that we think we ought to do, or not do, and then the Board can take a position on it."

Job Descriptions

Director Campbell spoke about the job descriptions for Financial Officer, Executive Director, Director of Administration and the Director of Management Initiatives. Drafts were provided for review in the briefing books. Director Kee stated that every job description should have a qualification section to it. She asked that qualifications be added to these and they not be adopted at this time. Vice Chair Campbell concurred.

Director Keysa remarked that State Commission on Public Authority Reform is conducting seminars for board members and directors, and he passed out the forms. There is a meeting in Buffalo on March 24th, an all day seminar. There is no fee but you do have to register. "Each of us should take an opportunity to look at that. You need to be registered by March 15th and it is mandatory that you have to do it by next year. It is part of the Public Authority Reform bill which increases some of our reporting requirements it imposes the training session on Board members."

Public Comments

The Chairman then opened the floor to questions or comments

Majority Leader Maria Whyte: "As a new legislator, I have made it my business to quickly identify the role of the County Legislature, the roll of the County Executive and, of course, the roll of the Erie County Fiscal Stability Authority and I feel like that process is furthered and helped by good streamlined communication and I guess my comment is, really, that I appreciate very much that you will be moving the meetings to Wednesday so that we can continue to streamline communication and make it possible for Lynn and I to be here, or other members to be here, because we did actually miss some committee meetings to be here. So thank you very much for agreeing to move the meetings to Wednesday. Thank you."

Legislature Chairperson Lynn Marinelli: "I wanted to quickly mention, when you guys go through, that we compare notes and, hopefully were all working off the same initiatives and outcomes. We are pleased to have the handout because today at Finance and Management at 11:00 we had an overview discussion. We didn't get some of the level of detail that you are getting, so I want us all to get the same information, at the same time. Especially since we are the ones that are dually elected to be held accountable for it and in an advisory role we could help with the advisement here as well and I will give some examples to add to the homework to come and some of the initiatives being implemented. Those that are questioned or unlikely, to have those flagged and also, with the limited time this morning we also praised Mr. Hartman for being candid. I think there should be that and I know you have expressed this Vice-Chair that I appreciate that and I want to say that publicly that we can all handle candor and truth and I think the public is hungry for it too. That they certainly want to hear what goes well and what goes right and they should hear about the successes and they should also hear about things that aren't working out, and we should determine when that is. We all don't have to throw in the towel on February 23 of 2006, but in those areas where it

is not going to work out, please say so and say so when we can do those offsets for that. With that I also want to mention that we meet as a Legislature next Thursday. I am sure that we are going to have some activity now that I have heard from the Comptroller that we are going to have some bonds to consider. That has been anticipated, but also with the fee areas. There are three fee categories that require State home rule and one of them is 911, which brings in the bulk of the fee revenues. It is my understanding, and I have to get this verified, that both the Assembly and the Senate bills are now filed, or are being filed, so that will then lead towards the County Legislature's ability to take an action. It does need a super majority vote in the house of 15, and there are two other fee areas to bring in revenue, I do not know whether or not those State bills are filed or not, but again we may need the Authority, with the help of those of you, to help us check on those bills to keep those things moving along. Thank you very much."

David Campbell: "Thank you very much."

Roy Schenneberger: "As a life long resident, junior citizen of Erie County, with my revenue stream decreasing and my cost, including taxes, increasing, let me say I am cautiously optimistic by the dialogue that went on here. I don't know if you are all volunteers or just some of you I thank you for your contributions and maybe I might come out of this with a piece of meat on my table."

Vice Chairman Campbell asked Director Keysa if he has something to add. Director Keysa replied, "As you all know, Ned Regan has left us after approximately nine months of serving as Chair. I think it would be appropriate for this board to suspend the agenda to adopt a resolution to send him a letter thanking him for his service." The various Directors nodded approval.

Vice-Chairman Campbell then told the Board that he is resigning from the ECFSA. He stated that he wanted to apologize to the Board, that he did not have the opportunity to communicate a little better and a little more in advance. "Over the last few weeks I have been in several conversations with the Governor's office. I find myself in a situation where my character, and my integrity, and my honesty have been challenged. I don't need this. I have volunteered for this and done everything I could do to bring it to the point we got it to today. The communication between the Board, I accept, it is not as good as it should be. I think we have demonstrated we have an ability to go forward and do the things that need to get done and make this board function in the way it should. With that said, at the conclusion of this meeting I am resigning, my position the ECFSA. The reflection, the things that have been insinuated, the impact that has on my family, I am not up for that. The Governor has been very supportive of everything we have tried to do, and has gone to bat for this authority to get us some funds to try to do something and I don't know how it is ultimately going to be negotiated. We need to clean the slate to where this Board isn't hampered by anything that has taken place in the past. I have not done anything that was motivated by anything other than to help Erie County. That was my position, and so as soon as this meeting is adjourned, my resignation is in effect. As far as the press is concerned, would you just stay back. You have my statement and that is all I am going to say. I thanked the Governor and we had the conversation, so there is no issue there. They will make whatever decisions they need to make and as soon we get a motion I would like us d-miked. Because I at least want to see the Board individually people for just a minute here, and I would ask you to honor my request and to leave it as to what I told you."

Comments from Lynn Marinella-thanking Chairman Regan and Vice Chairman Campbell.

Director Keysa asked to change his prior suggestion and make a letter of thanks to both Chairman Regan and Vice Chairman Campbell. Again, the other Directors nodded their consent.

At 4:30 pm., Director Campbell moved to adjourn, seconded by Director Johnson and the motion was unanimously approved.

Respectfully submitted,

Stanley Jay Keysa
ECFSA Secretary