Minutes
Erie County Fiscal Stability Authority
May 3, 2007

(Note: the following is a draft copy of minutes of a meeting of the Erie County Fiscal Stability Authority ("ECFSA"), which was held May 3, 2007. These minutes will not become final until approved at a subsequent meeting of ECFSA Directors, and may be amended before approval.)

Chairman Anthony Baynes called the meeting of the Erie County Fiscal Stability Authority ("ECFSA") back into session at 10:00 a.m. on Thursday, May 3, 2007 in the Auditorium of the Buffalo and Erie County Library in downtown Buffalo. Notice of the meeting had previously been distributed to all Directors by courier and announced to the public and press.

Directors Present: Anthony J. Baynes, Chair; Stanley J. Keysa, Secretary; Kenneth Kruly; Shelia Kee and John Johnson

Chairman Baynes: "The focus of this session will be two contracts that have been forwarded to this Authority. One for Information Service that was tabled at the last meeting, together with a proposal for the County's proposed tax lien sale with Xspand. Again I want to thank everyone for participating and their patience in this process. I would like to call this meeting back in to session."

Director Keysa moved to reconvene the meeting of April 19, 2007; his motion was seconded by Director Johnson; without further discussion, the motion was unanimously approved.

Chairman Baynes: "On April 19th, the Authority had questions on the contract between Erie County and IMS of Western New York for bulk mail services and tabled the proposed agreement. I ask Mr. Vetter to recap the proposed agreement and call relevant county officials for further information. Mr. Vetter."

Executive Director Vetter: "Thank you Mr. Chairman, I believe that Mr. Beam is here from Erie County to provide us a little more detail on the item. Mr. Kenneth Beam could you please step up to the podium."

Kenneth Beam: "Good morning, before I get into the contract, what I would like to do is give you a real quick background on what has happened there. The DISS mail room is responsible for receiving, processing and distributing all USPS and interdepartmental mail for all departments in the County. In 2004, we had three positions in the mailroom to do this work. Today we have zero positions to handle this work. On top of that the USPS retired the meter heads that we use, so we were really behind the eight ball on this. It would have cost us approximately $100,000 to buy new equipment. So, rather than buy new equipment we decided to put the mail services out to bid. We actually get a better price on the cost of postage with a one cent rebate for every piece of mail that goes through the IMS. So at that point in time, I thought it was the right thing to do and that is what we have done."

Director Kee: "Just a couple of questions. You mentioned that there are zero employees in the mail room. Who is doing the mail?"

Kenneth Beam: "I have two people coming out of title, coming up to work in the mail room each day for an hour each. We are still behind the eight ball there."

Director Kee: "So when you convert to contracting out mail service, how do you deal with these employees time?"

Kenneth Beam: "I will still need them to come up and but what we will not do in that room right now is process USPS mail through a postage meter that the County owns."

Director Kee: "If you made the investment of $100,000 in new postage equipment overtime wouldn't that be a good investment versus…?"

Kenneth Beam: "Well I thought about that too, but these meter heads cost us almost $90,000 almost four years ago. I have no control over when the USPS is going to retire a meter head and force me to buy new equipment. So I thought it would be more practical for the County have a service provider handle our USPS mail"

Director Kee: "Well, usually meter heads are in duration for a long time."

Kenneth Beam: "I thought that too. Like I said, the ones that we have expired in four years and chose instead of buying almost $90,000 worth of equipment which is now rendered useless because of that to contract out. I did not want to take the chance of spending that amount of money, that they could actually say in two years that they were changing the way they want the mail processed and that everyone purchase new meter heads."

Director Kee: "Have you done a pro-forma so that you can actually look at the difference in costs versus contracting is?"

Kenneth Beam: "This will actually save us money. We won't have to buy the equipment, I am getting a better rate on the service than I would normally get because it is bundled in with larger quantities of mail and we get the $0.01 rebate. I can not do that in house."

Director Kee: "But I don't see that type of analysis summarized here."

Kenneth Beam: "If you want, I can get that to you right away."

Director Kee: "I think that is what this needs; an analyzation of X, Y and Z. I am sure it will support what you are saying but I would like to see the numbers. I think we really need to see that."

Kenneth Beam: "I can get that to you."

Director Keysa: "You are indicating that you get a rebate on the postage, why is that? Is it because they are presorting?"

Kenneth Beam: "Yes, the presort mail house gets a rebate from the postal service for bringing in the mail presorted. So what they are doing is sharing that rebate with us."

Director Keysa: "So what they are doing is presorting all of this mail."

Kenneth Beam: "They are presorting everything. So normally on mail, we would not get the presort rate, we are now getting that instead of paying the full postage rate."

Director Keysa: "Your analysis is that this is going to save you money?"

Kenneth Beam: "Well it is already saving $100,000 by not buying the equipment. So the postage is always going to be the same no matter what I do. I am still going to have to have money for postage but I did not have to spend $100,000 on equipment."

Director Kee: "I would suggest and I don't want to delay this any longer that but I do think we need to see a pro-forma analysis on this. Then we can make a decision."

Chairman Baynes: "Could we take a vote on this contingent that we receive this information, is that fair?"

Director Kee: "No, until I see it, I really couldn't vote on it."

Chairman Baynes: "First of all let's bring it back off the table, so let's get a motion for further consideration of the IMS of Western New York contract that was tabled on April 19, 2007."

Director Kruly moved to bring the IMS of WNY contract be brought back on the table; his motion was seconded by Chairman Johnson; Director Keysa suggested further discussion.

Director Keysa: "I noticed that is for March 1st. Who is doing it now or are you still doing it now at this point?"

Kenneth Beam: "We are actually paying this company right now to keep this mail going and if I don't do that, there will be things from the Social Services Department, the Health Department, you tax bills may not be going out, so I have to do something to keep the mail moving in the County."

Chairman Baynes: "Mr. Beam when do you think we could get this information?"

Kenneth Beam: "I will go back and try and get that information to you today, if I am able to. I will get it to Mr. Vetter."

Chairman Baynes: "You can wait another two weeks?"

Kenneth Beam: "I would prefer not to but we are paying these people anyway because of the bid. We are okay as long as we keep mail moving. I will still get you the information that you requested today."

Chairman Baynes: "Well we want you to keep mail moving. Don't hold up the mail and we will vote on this in two weeks. Is that fair?"

Kenneth Beam: "That is fair."

Chairman Baynes: "May I have a motion to table that?"

Director Keysa moved to table the DISS contract request until further information was provided; his motion was seconded by Director Kee; without further discussion, the motion was unanimously approved.

Chairman Baynes: "On to the order of business and that is the reconsideration of tax lien sale agreement between Erie County and Xspand. I would ask my fellow Directors if they have any comments on the proposed tax lien sale before bringing it back for consideration. May I have a motion for further consideration of the tax lien Xspand contract that was tabled April 19, 2007?"

Director Kee moved for further consideration of the tax lien contract from Xspand; her motion was seconded by Director Keysa; without further discussion, the resolution was unanimously approved.

Director Johnson: "Before we go into further discussion, I would like to bring up something that was brought up at the April 19th meeting and it is still a concern for me. I, as a Director of this Authority, am still not satisfied with the fact that this contract was not bid; it was a solicitation and I think that it should be noted in our records that we are greatly concerned about this."

Chairman Baynes: That will be so noted. When we bring it back off the table, I think we will have some questions on that."

Chairman Baynes: "May I have a motion to approve the Xspand contract that was tabled on April 19, 2007."

Director Keysa moved to bring the tax lien contract from Xspand back on the table; his motion was seconded by Director Kruly.

Chairman Baynes: "Any amendments or discussion?"

Director Keysa: "I have some items I would like to discuss. Personally, I have to agree with Director Johnson and am very concerned with the fact that this was a solicitation and not a bid. It was not an open process; it was asking two parties and two parties only in a $40 million transaction. This really should have been open to a much larger range and quite frankly it should have been bid on a national basis. We use this process on used pick-up trucks; how come we are not doing it for a $41 million sale of assets? My own analysis, as I said before, is that in the first year, depending on how much is collected in a certain time frame, you are looking at potentially $2.5 million of earnings. The cost was approximately $600,000, I believe for the County to do it. So at least $2 million potentially, in the first year alone, of profit goes to the winning participant on this just in 2006. There is a significant amount of money here and I don't know that if this had not been bid out more broadly, if we would not have had different terms."

Chairman Baynes: "I agree with you. Mr. Tuppen could you come to the podium please?"

James Tuppen: "Good Morning."

Chairman Baynes: "There is considerable concern about this bid process that we spoke about in our meeting a few weeks ago."

James Tuppen: "We refer to it as the RFP process."

Chairman Baynes: "Okay the RFP process. On that day I asked you how the RFP was advertised and your response was:

> *"James Tuppen: "It was directly sent to the two leaders in the industry."*
>
> *Chairman Baynes: "So that's why there were only two bidders then?"*
>
> *James Tuppen: "I guess so, yes."*
>
> *Chairman Baynes: "Earlier that was a statement made that there are several companies in this industry that service tax liens; why would it only go to two people?"*
>
> *James Tuppen: "I can tell you anecdotally if you will accept it, they are very competitive and they were vying seriously for the purchase.""*

Chairman Baynes: "Then I go on and ask you what was the price difference was between the two companies? And your response:

> *"James Tuppen: "I don't have that exact figure."*
>
> *Chairman Baynes: "There was a difference of $8 million on a $41 million deal.""*

Chairman Baynes: "But I believe I misspoke; it is now only a $36 million deal."

James Tuppen: “What was bid on was $47 million. “

Chairman Baynes: “And then I said….

“Chairman Baynes: “If it was that far apart, wouldn’t you think of bringing in a third or fourth bidder? I mean that is a big difference, your talking about 20% difference. They are very competitive, your attorney just said, and they are 20% off.””

Chairman Baynes: “My question again, and I’m quite certain the question of the Board is, are there only two bidders and several companies in the country that do this?”

James Tuppen: “Servicing companies, as opposed to entities that buy liens. Now I do get calls everyday from people who watch infomercials and they want to buy tax liens as well. I could send it out to all of them as well.”

Chairman Baynes: “I have lot of people with this deal who have called and asked if they could do it to get the 18%. My question to you is, and in getting back to your statement which, again, I am just trying to be very clear because I don’t want anyone to say that we are playing politics here and I want to be clear on that too. I have been accused of playing politics and that we are trying to stop this deal or prevent a deal that the community stands to make a lot of money.

When you look at these statements that have been made when your friends from Xspand were here; I clearly asked them what companies they do business with and they said they did work with very sophisticated communities. Again, Nassau County has a control board, Erie County has a control board; Trenton, New Jersey, Newark, New Jersey…are all poor poor communities. That is why friends of mine on Wall Street say: let me buy the liens; this is a great deal for somebody who is buying those liens. So one more time and this is your statement…”

“James Tuppen: “I can tell you anecdotally, if you will accept it, they are very competitive and they were vying seriously for the purchase.””

Chairman Baynes: “So you have two companies and they are off by $8 million, I don’t think that that’s competitive and that is the problem here. You sent the two letters to the two companies. The word collusion was used last week. If you have two companies bidding and one gets one contract here and the other gets a contract in Cleveland, there are some questions here; that is what we want to know. How can you say it is very competitive?”

James Tuppen: “What I should have said was that, prior to receiving responses to the RFP, both entities were very interested in being able to participate. Whether they would come in close to one another or not remained to be seen. The phone was ringing of the hook saying: let’s get this deal going, let’s do this; put it out, put it out; we want to bid on it.”

“You mentioned a collusion item and I believe, since April 19th, remember, Mr. Garzone the President of PTTS was present. Today we have Doug Badaszewski who was also present from PTTS. Relative to the non-collusion reference specifically indicated, there has been no collusion.”

Chairman Baynes: “We requested a letter and….”

James Tuppen: “We have provided it. I hope that you would have seen it because I distributed it.”

Chairman Baynes: “…and that is what I said it wasn’t a question. The other thing, there are about 60 pages of minutes from the last meeting that was 3.5 hours long and all during the meeting up until Xspand came up here; Bear Stearns Xspand was used constantly. Bear Stearns is a very credible company, one of the largest bond companies on Wall Street and it was consistently used by Xspand; Bear Stearns Xspand and I made a comment to everybody, including you: “Is it Bear Stearns Xspand?” Everyone agreed it was Bear Stearns Xspand and then when I called Bear Stearns Xspand up here and said that we had spoken to Bear Stearns, they said now it’s Xspand. We went on Xspand’s website and it just says Xspand. Is there a reason to lend credibility to the name Xspand because Xspand has been accused of playing politics and is a company that you have to pay to play with?”

James Tuppen: “I do not know about playing politics. My understanding is and Mr. Badaszewski should be able to confirm is that Plymouth Park Services dba Xspand is a wholly owned subsidiary of Bear Stearns.”

Chairman Baynes: “Rich Products owns the Buffalo Bison’s. They don’t call it Rich Bison’s. They are a wholly owned subsidiary.”

James Tuppen: “I think that people doing business with the Bison’s would be very interested in knowing that they are actually doing business with Bob Rich. Yes.”

Chairman Baynes: "I own a company called Evolution Development under another company which is my primary company. I don't call it AJ Baynes we call it Evolution Development. I don't know anyone who would call it AJ Baynes. Why would you continue to call it Bear Stearns Xspand until the Xspand gentleman said "no" we are not Xspand Bear Stearns; was it to lend credibility? Because again I have received several letters from New York from anonymous people showing me that the former Governor of New Jersey was put on the payroll after he left. He had signed a $120 million deal for New Jersey and later hired by Xspand. I just want to know: are there any deals being made in Erie County?"

James Tuppen: "None that I know of. Bear Stearns acquired Xspand probably within the past two years."

Chairman Baynes: "Correct. Director Keysa has a few questions."

Director Keysa: "The question I raise is with regard to when we spoke about the bid process. You said it was a Request for Proposal (RFP) and noted that the ECFSA also did an RFP process. I would note that our RFP process for various items were published in a newspaper and also published with the state, is that correct Mr. Vetter?"

Executive Director Vetter: "Yes, every RFP goes through the State Contract Reporter and to any interested bidders who are local, regional, state wide and/or nation wide. So everything we do goes into the State Contract Report which bidders are used to looking at."

Director Keysa: "So, for example, when we are looking for an auditor, we don't go to a specific auditor and tell them that we want you to bid on this and pick only two. We have it so that any auditor and firm that is doing auditing in the State can come to us and propose that we use their services?"

Executive Director Vetter: "Right."

Director Keysa: "And we have to evaluate all of it?"

Executive Director Vetter: "Everything goes to the State Contract Report that bidders regularly look at. Then we receive bids for legal services, for accounting services, etc. and from all parts of the State."

Director Keysa: "Now, what I believe you said at the time, because the ETCC is not a general municipal government; so it does not fall under the General Municipal Law."

James Tuppen: "That is true, sir, as well as the fact that General Municipal Law does not cover the sale of tax liens. Even if it were simply Erie County offering, General Municipal Law bidding requirements simply do not apply to the sale of tax liens."

Director Keysa: "I certainly think that is a good policy."

James Tuppen: "I think it is a very wise idea. These entities are the only two I knew about and it was not for me to invite the infomercial people to come and bid on Erie County tax liens."

Director Keysa: "I think that that still raises a question; why was ETCC created in the first place? Why did Erie County not do this right off?"

James Tuppen: "The ETCC is a local development corporation that was created at the direction of the Erie County Legislature. As to why Erie County didn't do it directly without using the ETCC, my understanding was that the structure of the agreement involving an advance payment and subsequently residual payments precluded Erie County from going into that directly. In other words it had to be a sale to ETCC for that model to work."

Director Keysa: "Again on the ETCC, this is a membership corporation; created by a sole member?"

James Tuppen: "It was created by a sole member with Directors."

Chairman Baynes: "Is it a limited liability company?"

James Tuppen: "I don't believe so."

Chairman Baynes: "So there is one member?"

James Tuppen: "It was created by a sole member at the direction of the Legislature."

Chairman Baynes: "So there is one member and let's say for the sake of argument, one shareholder, right?"

James Tuppen: "Okay."

Chairman Baynes: "And that one shareholder is or member is Mr. Joel Giambra?"

James Tuppen: "Correct."

Chairman Baynes: "When Mr. Joel Giambra leaves office on December 31st, he is still that sole member and shareholder?"

James Tuppen: "Well, I would expect that there would be a transfer out, but more to the point, there is no possibility the monies belonging to the ETCC will inure to the benefit of any shareholder."

Chairman Baynes: "But the question is, there are several non-profits that are set up throughout the County; usually it is set up that if the Supervisor of that Town leaves, the new Supervisor becomes the new member but this has been set up a little differently, where Mr. Giambra continues as the member. Is that correct?"

James Tuppen: "He is the sole member. He is simply one of five Directors."

Chairman Baynes: "Right, but as the sole member, it is not written that this position is as County Executive. It is written as Joel Giambra."

James Tuppen: "Historically, he is and was the sole member having created the corporation."

Chairman Baynes: "As Joel Giambra?"

James Tuppen: "Well no, as County Executive. I haven't taken a real hard look at the by-laws or the certificate of incorporation on that particular matter, but Mr. Giambra certainly created the corporation in his capacity as County Executive as directed by the elected body of this County, the Erie County Legislature."

Chairman Baynes: And the way you wrote the by-laws, don't they say that, after December 31st, Mr. Joel Giambra is gone?

James Tuppen: "I do not want to represent that it does, because I will have to take a closer look. I have every reason to believe that the role of the sole member will cease, be ended or transferred over to the next County Executive. I have no reason to believe otherwise. Mr. Giambra will not carry on as a Director when he leaves office."

Chairman Baynes: "Okay, I would like to get back to some minutes here for a second:

> *"Director Kee: "So two years from now, the sole member is Joel Giambra?"*
>
> *James Tuppen: "It is not an ex officio matter, so I believe the answer is correct."*
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> *Chairman Baynes: "So after he leaves office, he is still in charge?"*
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> *James Tuppen: "No, the sole member is not in charge; the Directors are in charge."*
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> *Chairman Baynes: "Who makes the selection of the Directors?"*
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> *James Tuppen: "I believe the other Directors do at this point."*
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> *Chairman Baynes: "Who appointed the original Director?"*
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> *James Tuppen: "The original Directors were, I believe, nominated by Joel Giambra."*
>
> *Chairman Baynes: "So he put them in?"*
>
> *James Tuppen: "The original Directors, yes sir."*
>
> *Chairman Baynes: "And he is not in charge?""*

James Tuppen: "Are you asking me today or are you reading?"

Chairman Baynes: "No, I am reading. I will ask you today, but right now I am reading."

James Tuppen: "He's not in charge."

Chairman Baynes:	“No, he’s not in charge, even though he put everybody on in charge; he is not in charge? Then there is another question…”
James Tuppen:	“Well let me correct one item. As I indicated that last time we were here, seeing that we adopted what was called the Public Authorities Act of 2005.”
Chairman Baynes:	“Does this fall under the Act?”
James Tuppen:	“Yes it does.”
Chairman Baynes:	“Do you have a website?”
James Tuppen:	“Does who have a website?”
Chairman Baynes:	“The ETCC.”
James Tuppen:	“Not that I am aware of.”
Chairman Baynes:	“Well by law and in accordance with this Act you should have a website.”
James Tuppen:	“I am not quite sure that date has arrived. However relative to compliance with the Public Authorities Act, we did embark upon changing the structure of the ETCC. I should correct myself that there are now three independent directors and that third director was actually nominated by Mr. Polancarz.”
Chairman Baynes:	“And that would be Mr. Gregory Gach?”
James Tuppen:	“No, no I am talking about Mr. Sullivan.”
Chairman Baynes:	“So then it is two nominees by Mr. Giambra and one by Mr. Polancarz?”
James Tuppen:	“Correct.”
Chairman Baynes:	“I also asked you if County employees were a part of this company and I believe your answer was “no.” You told me that there was Mr. Hartman, Mr. Rubin and yourself but you do not act as County employees while they are in this company, correct?”
James Tuppen:	“I think that they wear two separate hats; yes.”
Chairman Baynes:	“Do they do business during the day; during County time or do they take time off?”
James Tuppen:	“Meetings have taken place during County business hours, yes sir.”
Chairman Baynes:	“Does anybody get paid?”
James Tuppen:	“No.”
Chairman Baynes:	“Is there a bank book, check book or bank statements?”
James Tuppen:	“I don’t have them. The Treasurer would have to speak to that, but I believe that separate accounts are kept from the County.”
Chairman Baynes:	“So there is a separate company that is made up of County employees that don’t work for the County while attending these meeting? It is run by Joel Giambra who, after he leaves office, will still be the director or the managing member and you don’t think we should be asking these questions?”
James Tuppen:	“I didn’t suggest that at all, sir. What I suggested was that, in my capacity as Assistant County Attorney/Assistant Secretary of ETCC, business is carried out pursuant to the will of the Erie County Legislature, the elected governing body of this community. In that capacity, I see no conflict. I don’t like the idea that the County is running something. We are carrying out the will of the Legislature in creating that local development corporation and in supervising it.”
Chairman Baynes:	“So let me just get this right. We have County employee James Tuppen that is part of this organization?”
James Tuppen:	“Assistant Secretary, yes sir.”
Chairman Baynes:	Deputy Comptroller Gregory Gach is a part of this?”
James Tuppen:	“Yes, he is the Vice President.”

Chairman Baynes: “Comptroller Mark Polancarz?”

James Tuppen: “He is a Director, not strictly speaking an officer.”

Chairman Baynes: “Deputy Budget Director James Hartman?”

James Tuppen: “Mr. Hartman is the Treasurer; he is not a director.”

Chairman Baynes: “They are all County employees?”

James Tuppen: “Yes sir.”

Chairman Baynes: “So, when I asked the question: Were there any County employees and the answer was no; that would be untrue or misstated?”

James Tuppen: “I’m not sure where you mean. I think I am clearly indicated that there are County employees who serve as officers of the ETCC. The corporation was formed at the direction of the Erie County Legislature by majority vote several years ago.”

Director Kee: “Are there annual financial statements prepared for this corporation?”

James Tuppen: “I do not know the answer to that. I know that Mr. Gach has been involved in securing independent auditing services for the corporation but I don’t know the progress of that at this time.”

Chairman Baynes: “Has there been an audit since it was established?”

James Tuppen: “I don’t know if there actually has been, but I know, as I have indicated, that Mr. Gach has been involved in the process of selecting an auditor by RFP.”

Gregory Gach: “I can answer that question. There have been annual financial statements by the corporation. They have been prepared by the office of the Comptroller. We have hired an outside auditor to audit those statements, Deloitte and Touche. We did issue an RFP and Deloitte and Touche were awarded that contract.”

Director Kee: “If I could ask, when did you hire Deloitte and Touche to do the independent audit?”

Gregory Gach: “They were hired to do the 2006 audit. Prior to 2005 there was a change in component unit recognition that requires that the ETCC financial reports be reported as part of a component unit of Erie County’s financial statements. Prior to that there was no need for an audited financial statement and the component unit recognition. Once that happened the board decided that we needed to hire an audit for it and that’s what we did.”

Director Kee: “So if I were to go back into the 2005 County financials… ?”

Gregory Gach: “If you looked into the 2005 County financials, ETCC is in there as a component unit and it is also noted that they are not audited. That will be corrected in the 2006 financials. There will be audited statements on ETCC.”

Director Kee: “Is there a footnote in the audit statements on the fact that this corporation is not audited.”

Gregory Gach: “There is a footnote in the County financials noting the recognition of ETCC as well as the Erie Tobacco Assets Securitization Corporation (ETASC) because they were also covered under this change in GASB requirements. So it has been noted in our financials and has been noted in our official statements. “

Chairman Baynes: “On the Tobacco Corporation, is that another one of those companies that is set up that Mr. Giambra is in charge of also”

James Tuppen: “I believe so, but I am not sure. If you would permit, Frederick Wolf is here. Of course, he was the Erie County Attorney at the time ETASC was established at the direction of the County Legislature.”

Frederick Wolf: “Good Morning, my name is Frederick Wolf. I am from the firm of Damon and Morey. Our firm Damon and Morey, LLP acts as independent outside counsel to the ETCC. I was also privy to a part of the transactions that gave rise to the bond sale in connection with the ETASC. I think it is important to note in both cases, and I don’t want to take exception with Mr. Tuppen, because I think he is being very careful, but that the sole member of these corporations is the County Executive in an *ex-officio* capacity. It does not mean that Joel Giambra becomes the sole member after he leaves office. Whoever is elected as the County Executive to commence in the next term on January 1, 2008 will be the sole member of the Corporation. The structure of ETASC and the ETCC are dictated by Wall Street. It is a very simple structure that is involved in all securitized transactions. The purpose of the structure is to isolate a single purpose corporation that is bullet-proof in the County, so that, if in effect, the County ended up like Orange County, California, the assets that are placed to secure the outstanding debt are isolated and can't be reached in a County bankruptcy or any other County action. Even though all the benefits of the sale flow back through the to the entity that owned the asset initially, that being the County of Erie, this structure is out there so that whoever buys the asset is assured that the note that it is used to secure or to finance the sale will be paid off with the proceeds of the assets."

"Banks do this day in and day out. They form single purpose corporations to sell auto loans, mortgage loans, home equity loans; General Motors does it, Toyota does it, other counties do it. It is done all over the country and the sole purpose of this is to isolate this corporation so that there is a guarantee that when the people pay the money here and the proceeds of these lien sales are used to pay off the note that was used to purchase the lien that these monies will secure, separate and apart from any other monies of the County or other seller for that matter if in effect the County or the seller would be declared to be insolvent. This has been done for probably 40-50 years. Mr. McNamara can certainly advise you on this here; there is no funny business. This is a transaction that is clearly in the best interest of the beneficiary and in the interest of the beneficiary; that is the County of Erie. The people that appear at these meeting are employees of the County of Erie. It is mechanisms derived and develop by Wall Street to assure the purchaser of the transaction that they will get the full benefit of the bargain notwithstanding the bankruptcy of the Seller."

"Another thing that is worth commenting on here is that Mr. Giambra does, as the sole member in his *ex officio* capacity, appoint the Directors, but the new County Executive, whoever that may be, will do the same thing the next go around."

Chairman Baynes: "So then what Mr. Tuppen said at the last meeting was incorrect?"

Frederick Wolfe: "He was incorrect, but in fairness I think you have to realize that the reason that this is done and the reasons that there are three independent directors; this is the same thing in ETASC, is that the independent directors are there to make sure the County or whoever it is that has pledged its assets, and it is the same thing with GM and the same thing with HSBC when it sells mortgages, loans or home equity loans. They have independent directors in a membership corporation who are there to make sure that they can't put the membership corporation into bankruptcy; that they can't take any action that is inconsistent with the interest of the note holders. This goes on 24/7, 365 days a year; this is not a model that the County developed; it is a Wall Street model that drove the ETASC tobacco bond sales and has driven probably 50-100 tobacco bond sales. No one has ever taken the position that a director in one of those corporations, albeit associated with the entity who has the bond rights to sell, has some how had a conflict. They are doing this to get the best possible price when they sell the proceeds or the item that they are selling, Mr. Chairman."

Chairman Baynes: "You would understand our concern when we hear the complete opposite of what you are saying today?"

Frederick Wolf: "I understand what you are saying."

Chairman Baynes: "I have another question; do you work for Xspand or ETCC?"

Frederick Wolf: "I do not work for Xspand. The contract that was negotiated very capably by Mr. Tuppen and Mr. Rubin as an additional piece of frosting on the cake has Xspand or PPTS paying outside counsel for the County and for ETCC. In fact, one of the conditions of the sale is the fact that because the County Attorney's office, and this is a kind of a self-serving position, is that we have in the past and we will in this transaction should it be consummated render a very detailed legal opinion that we are responsible for in terms of our practice insurance that assures PPTS and everyone else involved in transaction that all the pieces and part are in the right spot and that the County and ETCC has the authority to consummate the transaction being contemplated by the Board today."

Director Keysa: "Mr. Wolf, again were these independent directors added as a provision of the Public Authorities act of 2005?"

Frederick Wolf: "Not necessarily so, even before that when the ETASC transaction went down, Director Keysa, the purchasers of the bonds insisted that there be directors that don't have a direct tie to the County and that any action, for example, a bankruptcy petition on behalf of ETCC, requires the vote of those independent directors, not withstanding the so-called related directors that might be appointed by Mr. Polancarz or Mr. Giambra.

"Now I believe that, for example, before former Comptroller Nancy Naples resigned, that Nancy Naples had the right as Comptroller to appoint someone to the board, she appointed herself. Mr. Giambra under the enabling legislation had the right to appoint someone to the board and he appointed himself, but these independent directors have to be directors who have no ties, and there is a strict definition as to what ties are. They cannot be tied directly with the County, whether directly or indirectly. In fact, on the ETASC, we did not even have directors that are here, they are downstate directors from NYC who do not play golf here, do not eat here, do not sleep here; they don't do anything here."

Director Keysa: "What are the terms of offices of these Directors?"

Frederick Wolf: "Well, there is an annual meeting and my recollection is a little fuzzy there but I think the directors are generally elected on an annual basis Director Keysa."

Director Keysa: "Is there someplace that we can see these by-laws?"

Frederick Wolf: "Sure. I believe by the way, that in most cases, the directors serve until their successors are elected and qualified, so in one instant the annual meeting is not exactly held every year."

Director Keysa: "Are their terms of a specific appointing body, or are they for a specific term like we are?"

Frederick Wolf: "They are elected for a term, I believe, but continue to serve until successors are elected or qualified at the annual meeting, which does not always by coincidence occur every 12 months."

Director Keysa: "I think our biggest concern here is that these corporations don't appear to be as transparent as is the governing requirement. Now, under the Public Authorities Accountability Act of 2005, all related bodies that were covered under that were suppose to have a website. I believe by December 31st of last year. This body has one and my understanding is that neither the ETCC nor the ESTAC have a website. Is that correct?"

Frederick Wolf: "I can't speak to that."

Director Keysa: "These websites have to list a number of specific items including officers, directors, the charter or by-laws. That, again, makes that much more accessible to the public in general and frankly to people like us who are trying to figure out what is going on with this whole process. I would hope that that would be corrected shortly if it is not already in place."

Frederick Wolf: "I can only repeat, and I am not saying that I am wrong or not wrong, but Mr. Tuppen seems to have a sense that possibly it does not; maybe there is a period when you can elect to have and a period in which you are mandated to have a website. The period by which you are mandated to have the website…"

Director Keysa: "The directors are required to take by the end of last year or if they have been appointed more recently, within a one year period, they are required to take a mandatory training provided by the State. I know that everybody here has taken that and it applies even to simple local village community development corporations. Have they taken that?"

Frederick Wolf: "I understand your question, Director Keysa, but Mr. Tuppen ought to speak to that instead of myself. That is not something that I am involved in."

Director Kruly: "Mr. Wolf, just so that we can clarify things, Mr. Tuppen told us two weeks ago that Mr. Giambra was the sole member and he repeated that 15 minutes ago. I would appreciate it if one of you could give us the documentation?"

Frederick Wolf: "Oh absolutely; it is not a problem and I also believe that it is a legitimate request."

Director Kruly: "When was the ETCC created, what year?"

Frederick Wolf: "October 2003, Mr. Tuppen has stated. The same entity has been the vehicle for the four prior transactions."

Director Kruly: "Were you the County attorney at the time?"

Frederick Wolf: "I was the County attorney from January of 2000, so I would have been the County Attorney at the time that that was done."

Director Kruly: "When was Damon and Morey selected as the counsel for the ETCC?"

Frederick Wolf: "ETCC has always has an outside counsel."

Director Kruly: "When were they selected?"

Frederick Wolf: "I think we represented the ETCC in the 2005 tax lien sale."

Director Kruly:	"Who was representing the ETCC before 2005?"
Frederick Wolf:	"Mr. Tuppen can probably tell you better than I, but I think it was Jim Magavern's office represented us for one or two years; Magavern, Magavern and Grimm represented ETCC for probably two of the years. I thought somebody was before that, so they represented them before Damon and Morey."
Director Kruly:	"You left the County Attorney's office when?"
Frederick Wolf:	"I left the County Attorney's Office on October 1, 2005."
Director Kruly:	"About the time Damon and Morey became counsel for the ETCC?"
Frederick Wolf:	"After I left the County Attorney's office, I was asked whether or not I would consider becoming special outside counsel, because I was very familiar with prior transactions and the sense was that that would make the deal more cost-effective at a time when the County was paying the bills."
Director Keysa:	"Did ETCC solicit proposals for counsel in 2005?"
Frederick Wolf:	"I can't speak to that. I don't know."
Director Keysa:	"Mr. Tuppen do you know the answer to that? "
James Tuppen:	"I do not believe that the directors made provision for soliciting proposals, RFP, bid or otherwise."
Director Kruly:	"Do you think they selected a counsel who happened to have been employed with them and that was Mr. Wolf at the time."
James Tuppen:	"I don't know if it is a matter of "Happened" to be employed; they were selected for their professional services."
Director Kruly:	"Mr. Wolf, how much has Damon and Morey collected in fees from ETCC?"
Frederick Wolf:	"I have no idea. I will say that our bill to ETCC in the past, and our bills for selected work in the County, have been at an hourly rate of less than $200 an hour and if you would ask your counsel next to you what his hourly rate is for appearing here, I would guess that it is significantly above that."
Director Kruly:	"Does the ETCC take competitive bids for accountants or other folks doing a service?"
Chairman Baynes:	"I just want to say one thing, we put out a bid for our attorney and it is obvious the County did not put out bids for their attorneys and you are questioning the price?"
Frederick Wolf:	"I am not questioning the concept of the bid, but I am speaking to the concept of what was paid for the services. I don't think any of you doubts that Phillips Lytle is an excellent law firm and I hope none of you doubts that Damon and Morey is an excellent law firm. I am suggesting to you that the transactions and work that we have done for the County and ETCC have been at a significantly below market rate considering the sophistication involved in the transaction. These are transactions that are sophisticated and I would know that being a member of the bar that normally these transactions are handled on a rate of closer to $300 an hour than $200 an hour. So I am saying that we are doing some of this work in an attempt to bridge the County and assist in transactions to a certain extent transactions that were there when I was still there and I think the County gets a win-win out of it."
Director Kruly:	"I take it that you work at that price, but it seems that the fact is that the ETCC hired a counsel without competitive bidding proposal."
Frederick Wolf:	"Well, I think that Mr. Tuppen can tell you again that there is no requirement under the law for ETCC to do that. I do not think that they are required to do an RFP, although they do an RFP."
Director Kruly:	"Mr. Wolf, if they are covered under Public Authorities Law, then they are required to do so."
Director Keysa:	"Again I will note that that is a requirement under the Public Authorities' Law."
Frederick Wolf:	"When did the Public Authorities Law go into effect; it was in 2005? I should have corrected myself."
Director Keysa:	It was in 2005, so if you were hired before 2005, then yes, I think technically they were not required to at that time. Anything since then would be required to put out an RFP."

Frederick Wolf: "Well you should understand, Director Keysa, that our being retained as counsel for the ETCC. We are outside counsel for ETCC, not just for this transaction, not just for the 2005 transaction, but for issues that have been raised prior to my leaving on the first of October. So as a continuous engagement I believe as such it is probably appropriate."

Director Johnson: "Yes, Mr. Chairman at the outset of this meeting, as a Director of this Authority I put on the table the great concerns that I have for the lack of the use of NYS procurement practices which we are governed by and since we continue to stumble into that lack of use of the procurement practices, I believe that somewhere, during the proceedings here today or hence forth, it would be necessary for this Authority to go back and reinforce its well being with regard to how procurement practices are to be used in the operation of business practices. We keep stumbling into this and I believe if the NYS Comptroller's office came in tomorrow, we would find ourselves under some very very strange findings with regard to this and as a Director I am greatly concerned that we have to follow those processes."

Director Kee: "I have a couple of issues. You know the Administrative Code of Erie County, Section 19.8, if my memory serves me right, talks about the steps and the process for doing an RFP. It talks about people who leave the government and do business for the government for a certain period of time. It talks about how to evaluate, how to do the RFP and advertising. I just get the sense that at some times these off-shore corporations are being created to skirt the law. You also mention you are dong this to be able to buttress confidence in investors. Well you know the County owes how many millions of dollars? We have been able to give the confidence to investors relative to those issues. You know I find interesting as to why we've had to take such extraordinary measures to do the tax liens."

Frederick Wolf: "Well you know, I think that measures are the same that are taken in connection with the tobacco bonds; that same type of a concept that has been repeatedly applied in the public sector to very large profitable companies when they securitize and sell assets. It is to give people an absolute guarantee that the price is not adjusted to reflect the contingency that something could go wrong, albeit something that is not very likely to happen. So this is a procedure and a practice that has been tried and proven. I can't speak to why it is the accepted procedure, but I can speak to why it is the procedure, but it is the procedure that when you go to Wall Street to sell something like this that is commonly applied, not only in a municipal area, but also in the private sector as well."

Director Kee: "The case at point is that this is the public sector."

Frederick Wolf: "I understand that it is the public sector."

Director Kee: "Well to privatize these things and keep it out of the public light is what is an issue here."

Frederick Wolf: "Mr. Gach is going to enlighten us from an accounting stand point."

Gregory Gach: "The problem you have is that the County had taken the initial standard in place, instead of the ETCC, on the initial sales that happened or the counties called Erie 1-4. We would not have what is called a true sale. What has not happened is that, with a true sale, there are County pronouncements on things you have to do and in order to get Deloitte Touche to sign off on Erie 1-4 as true sales where the County could recognize all the revenue and basically be not part directly of the whole thing with residuals and note issues and everything else, that was a requirement was why ETCC was formed, because that allowed the County and those transactions to meet all of the GASB requirements and get Deloitte and Touch to sign of and say that these are sales. What we are looking at doing now is at 105% versus the 70 – 75% we used to get on Erie 1-4 and the residuals come in after note sold is and now we are looking at a "total sale," that is the term that they use. I do not need Deloitte and Touche to write an opinion or I don't need to pay them transaction fees. Transaction fees are much lower on the other transaction because we needed all of the lawyer and accountants to say you're doing right. When you do a sale like what we are proposing to do at 105%, you don't need to all of that. I simply just sell this and we have no connection to the assets anymore and are not entitled to any residual payments. Xspand/PPTS collect what they can collect on what they can and they stand alone on the deal. The County stays away from that transaction other than like that the Legislature asked us to do to allow us to buy back certain liens if there was a reason that the County wanted to buy back a lien."

Director Kee: "If I could ask another question; I realize that, for whatever reason, you didn't put that into law, now versus a couple of years ago, but what I would like to see is what I would call the old straight budget format for every year since this thing was created in October 2003-2006; I would like to see a ledger of every single expense."

Gregory Gach: "I have a spreadsheet that was, in fact, prepared under the Comptroller's direction when the Erie 5 was originally proposed to the ETCC Board which was a transitional, which I think we got up to 80 plus percent advance, still with the note and the residuals. I put together all of the expenses and all of the transaction costs, all the residual payments, all of the cash that flow back and forth between the

County, ETCC and Xspand and, basically, what myself and the Comptroller concluded was that these were not good deals. That was the reason why the Comptroller pushed to do an RFP to see if there were any competing entitles out there that could give us a better deal on what we call a total sale and that is what happened. We got two bids from the two entitles that were identified by us as being the major players out there who have the wherewithal to do this type of transaction. As soon as I get back to my office I will get that spread sheet to your Executive Director. I think it might be a little dated, as it goes through earlier in the year when the Board was discussing these transactions."

Director Keysa: "Were there are other employees of these corporations? We talked about County employees doing work during County time and I frankly don't have a problem with that. The question is, have any of the County employees paid additionally to work on this corporation?"

Gregory Gach: "No."

Chairman Baynes: "What about ETASC; no one was paid?"

Gregory Gach: "No that I am aware of but I am not a part of that deal."

Frederick Wolf: "The only people who are paid on ETASC are the independent directors. They are paid a nominal fee but no one else to the best of my knowledge received a check. Remember the beneficiaries of the tobacco sale and this proposed deal, Mr. Chairman, are the County."

Chairman Baynes: "Can I ask another question? I am a little confused and I need your help on this one. I am sure that as you are the attorney and you prepared this 14 page contract, correct?"

Frederick Wolf: "We were involved in the contract and it is not a lengthy contract. I will repeat one thing that I have said before to Mr. James Tuppen. When the general rule of thumb is that when you represent a seller the smaller the contract the better; it doesn't have pages of reps and warrantees, the ultimate goal is to get the cash. When you represent the buyer, and I have been on both sides, that contract will grow significantly because there are reps and warrantees and all sorts of indemnification provisions. So it is in the advantage to the seller usually to give a shorter contract."

Chairman Baynes: "Right, right, so that is the final contract? So the buyer is not going to produce a 50 page contract?"

Frederick Wolf: "No, that is the final contract. There are two contracts which you already have, both of which have now been revised because I thought the board and the people involved with the ETCC thought the board brought up some very good questions and comments. The contracts were revised to state the purchase price specifically and call for these adjustments on closing in a narrative format so people now exactly what is there. A schedule of tax liens has been provided to Mr. Vetter with all the provisions in there that show the allocation the purchase price and exactly what is being sold. There are some other provisions some of which are just clean up items that we noticed when we went back through things to make them consistent. There are no other addendums, Mr. Chair."

Chairman Baynes: "I have one more thing that I am still stuck on. Again, you were here last time when we discussed this."

Frederick Wolf: "I had the pleasure of being here on April 19, 2007."

Chairman Baynes: "…and you have been reading the newspaper and seeing reports?"

Frederick Wolf: "Right after I read the sports page, I read what else is going on in the news."

Chairman Baynes: "You read in the Buffalo News 105% or Mr. Giambra saying 105% and we looked at document and it is really not 105% for this total $40 something million deal; it would not be 105%, correct?"

Frederick Wolf: "The earlier ones, Erie 1-4 is at a lower rate and that because the…"

Chairman Baynes: "But the total is not at 105%?"

Frederick Wolf: "That is true Mr. Chairman."

Chairman Baynes: "So when the media picks up on 105% and says: Chairman Baynes, you're the Chairman; how could you not agree to give them 105% on the dollar. That statement is not true is that correct?"

Frederick Wolf: "I think the critical point in this discussion is that the tax liens that are being sold in which the County has a residual interest in, the transaction Erie 1-4, have some grey hairs on them."

Chairman Baynes: "You've been involved in the previous transaction?"

Frederick Wolf: "I have been involved but I wanted to finish saying previously, Mr. Chairman, is that the low hanging fruit has been picked here. The tax liens that are left, many of them are on properties that people don't want to take possession of. Many of them are on properties that are never going to get paid, so the fact that they accrue interest at 18% when you have a judgment proof creditor who owns a piece of property that is dilapidated in the city or the suburbs doesn't mean that that is a deal; you are not getting deals and that is why when Xspand looks at it and anybody else they look at the good stuff and the bad stuff and they come up with that number and that number takes into effect that some of these tax liens and, in fact, a great many of them at this stage of the game, will never be redeemed."

Chairman Baynes: "My question again: $1.05 for $1.00 has been put out in the public when in reality 75% of this deal is 84%?"

Frederick Wolf: "We are selling two different things. We are selling a residual interest…"

Chairman Baynes: "and 25% of this deal is at 105%?"

Frederick Wolf: "Part of this deal is that we are selling a house, is that we are selling the furniture. The part that we are selling the furniture, we are getting 84%, and the part that we are selling the house in, we are getting 105%."

Chairman Baynes: "So then I read a letter that Mr. Gach received from Xspand last week that said the total of 90.19%; 90.19% is the true number not a 105%?"

Frederick Wolf: "Maybe Mr. Gach or Mr. James can speak to that. I suppose if you combine the numbers that's accurate."

Chairman Baynes: "I just want to be clear that the dollar amount that everyone believes because the County Executive and the Comptroller said was $1.05; in reality 75% of this deal is 84%?"

"One more question Mr. Wolf: you have been County Attorney previously; when you made a deal with Xspand before, did they pay us a $1.05?"

Frederick Wolf: "I don't recall what they paid us, but they did not pay $1.05 because it wasn't the same deal. This is, as Mr. Gach has said, that this is a complete sale and one of the reasons that it is different from the prior deals is that the County still has a residual interest in those prior deals and those dollars that will flow back through a Delaware trust as a result of the residual interest ultimately, when all the notes are paid off, ultimately would come back to the County. So, ultimately, there are two things being sold here in the purchase and sale agreement; one is the tax liens for 2006 and the other is the other interest that is described there in which is basically residual interest in the trust and then those are paid off."

Chairman Baynes: "So they can be referred to as really two separate deals?"

Frederick Wolf: "They're really two separate deals; in the earlier deal we are just basically selling the residual interest, which isn't very much left anymore and the other deal…"

Chairman Baynes: "The old deal that is 84%, which is the bulk of the deal, which is 75%?"

Frederick Wolf: "Yes, that is the 84.2%"

Chairman Baynes: "For the remaining 25%, when could they start repossessing these properties; is it in 2008?"

Frederick Wolf: "Mr. Tuppen does this day in and day out and does it much better than I"

James Tuppen: "I would like to use the term "ripe" as to when a particular tax lien is ready or ripe for a text book closure and, as indicated in the last meeting, the third week of November is when Erie County has a tax sale and you could use December 1st as your date. December 1, 2006 net certificate, created December 1, 2006, is two years old. It is ready for foreclosure."

Chairman Baynes: "That is in 2008?"

James Tuppen: "Correct."

Chairman Baynes: "My question to you is, if 75% of this is most likely not going to be recovered, it will be difficult to recover, that is deal one. I love that deal. Sell that to them for 84%. Deal two, we cannot start repossessing these properties until 2008, why doesn't the County just collect these in the mean time and wait until 2008 and sell it to them then.'

Frederick Wolf: 'Mr. Maciejewski I believe can answer that question.'

Joseph Maciejewski: ‘Thank you Mr. Chairman, I am Joe Maciejewski, Director of Real Property and also President of the ETCC.”

Chairman Baynes: “I would like to thank you Joe for the presentation at the last meeting. I think you did a great job and I appreciate your candor.”

Joseph Maciejewski: “I appreciate that. We would. number one, to answer your question: why don’t we hold these liens for another two years and do our own foreclosure?”

Chairman Baynes: “No, I am not asking to do our own foreclosure. I’m just saying that, in the next 6-8 months, you can still collect, so that people that walk in and may pay you some money. Correct?”

Joseph Maciejewski: “Yes some money. Some do; some don’t.”

Chairman Baynes: “So some people will pay some money over the next year, let’s say through 2007, and you will pick up the interest rate. Correct?”

Joseph Maciejewski: “Correct.”

Chairman Baynes: “Why not at the end of 2007 sell it to…”

Joseph Maciejewski: “At the end of 2007 sell it to who?”

Chairman Baynes: “Sell it to whoever you want, but we are still collecting money”

Joseph Maciejewski: “If you look at my analysis, going back, we were not collecting as much money as we would by selling the 2006 liens that are owned by Erie County for 105% and I have said that.”

Chairman Baynes: “25% is the portion of that sale.”

Joseph Maciejewski: “I am being consistent in what I am saying. The 2006 liens are still owned by Erie County. They are not owned by the ETCC, Erie 1-4 liens are owned 75% by ETCC. I have never personally misstated that the deal as 105%.”

Chairman Baynes: “And I never said that you did; I have never met you prior the last meeting.”

Joseph Maciejewski: “Okay thank you. I try to stay out of the public.”

Chairman Baynes: “I keep hearing County officials going on the radio as of yesterday at 105%.”

Joseph Maciejewski: “Well if someone is misrepresenting Erie’s 1-4, I have not heard anybody misrepresent that in the media. The current years, to me, I am saying the 2006 liens that we showed that by the time we run it through the foreclosure. For the foreclosure, we get to the foreclosure stage, which is one of the most lucrative times where everyone started to pay. To answer Director Kee, in our experience, we never collected more that 80-85% of the delinquent dollars that we started with in 2006. That is the analysis that I prepared. It was checked by the Comptroller’s office and that is why when somebody wants to step up, regardless of, and I understand your concerns with our RFP process. There are four big players; we consider four big players. We considered Xspand, we considered American Tax Funding, we considered the MBBA and we considered JERR. We immediately tossed aside MBBA and JERR because they are a disaster and a nightmare that have been realized in the City of Buffalo. Did we go nationally with this but we, even then, with the two most responsible bidders who have done work in New York state, who have done work in Ohio and done work in this area and are familiar with the residual advance model that is authorized through the Legislature of the State of New York and legislation of the State of New York and we had something to do with it. We had some experience with Xspand, we had some comfort, some familiarity with them and we had another vendor come in and that’s really what is going on here.”

Chairman Baynes: “Here is my question; you’ve got a company that has been paying us 76% all along in the last deal.”

Joseph Maciejewski: “There was a bond that was set through and they gave us an advance on what they felt how quickly they thought they could recoup that bond.”

Chairman Baynes: “Did the County have to pay for the bond?”

Joseph Maciejewski: “The bond got paid back by the amount of the redemption. Once the bond was paid back, Mr. Chairman, we received a residual that the residual model kicked in and they collected and were the servicer on collecting those residual payments and they were coming directly back to the County of Erie through the ETCC.”

Director Kruly:	"I think we all need to stop referring to this as a bid or RFP process; it was a solicitation and Mr. Maciejewski has just admitted to that matter. Key people in the Rath building are hand selected to companies and we don't know how. You are telling me there are only five companies in the country servicing, but you just said that you don't go national."
Joseph Maciejewski:	"Mr. Kruly, we went with companies that we knew that were out there that would work with us."
Director Kruly:	"There was no bid on this. It was a solicitation and one of the two companies was a company that you were working with right along. I think we have to recognize what it is. It is not the best way to do business. The outfit that did the deal with Buffalo, and I am aware of the problems they have experienced in Buffalo, but from I have heard everywhere else in the State, they have been quite successful. So you made a judgment right off the bat that they would not be involved."
Joseph Maciejewski:	"The City of Syracuse also has some problems."
Director Kruly:	"You have a duty as a public authority to put out bids and advertise the deal nationally and solicit more bids. The whole thing is clearly not the way it is being reported; it was a solicitation of two companies."
Joseph Maciejewski:	"What I would like to do is stop some of the rhetoric. You said before that you did not want to be accused of politics here, but I do not see what is relevant to currently is the counsel of ETCC. I feel that there might be some politics. I would just ask that this board make their decision on the merits of the documents that you have in front of you. We have jumped through all the hoops that you have required and I understand that you need that information, but now I see the hoops being lit on fire, and there are questions being asked that I don't feel are relevant."
Chairman Baynes:	"You have an attorney on your board and no RFP required by law?"
Joseph Maciejewski:	"It wasn't required and they clarified that."
Chairman Baynes:	"It so happens, and no disrespect to Mr. Wolf, I think he is a fine attorney, but he is an attorney who leaves the Administration and is now hired by the Administration. You now have Xspand that worked for the Administration and is now hired by the Administration. Again you look at Mr. Tuppen's statement "very completive bidding"; there was no competitive bidding and you know that and you told me that last week. There was no competitive bidding."
Joseph Maciejewski:	"It is competitive when you have two companies. We are asking you to approve a County contract; we are not asking you to approve an ETTC contract."
Chairman Baynes:	"I know but how do we know that we have got the best deal. Look at it, how can you know we have the best deal?"
Joseph Maciejewski:	"Then that is going to be your decision, but we are asking you to approve a County contract and I don't understand why we are going over the officers of ETCC."
Chairman Baynes:	"You know why; because the appearance doesn't look good; the appearance is shady. It's Nixonesque; you have people who were working for the County and now working at this agency. There is suppose to be a separation of government and this is disheartening, it really is. You understand what Mr. Tuppen told me last week, that Mr. Giambra is the sole member for life. Now he has changed the plea, so I didn't know that until this week; you didn't know that until this week."
Director Keysa:	"Frankly, we still have a question here today because nobody knows what the by-laws are for this organization and we do not have access to them because they are not published as they should be published on a website."
James Tuppen:	"When Mr. Vetter was the Budget Director here, he had the ETCC certificate of incorporation and its bylaws."
Chairman Baynes:	"At that time Mr. Vetter worked for the Administration. Do you think he was going to say something bad when he still worked there?"
Director Keysa:	"Nor does he carry those records with him."
James Tuppen:	"Mr. Chairman, are you suggesting that something is bad with this administration?"
Director Johnson:	"Mr. Chairman, I think that it would be appropriate to address the esteemed gentlemen's question on why we are spending all this time on this. There are taxpayers out there, believe it or not, who are concerned about this, don't understand the sophistication of this process. We here as the ECFSA happens to be the body to help provide an understanding to provide an assurance that their taxpayer dollars are not being drained off, drained off and their taxes are going up. I can tell you that a lot of

people who are concerned with how did this come on board, why are we paying for something when we can do it in house and I can tell you there are a lot of people that are concerned with this and that is the reason why we are asking?"

Joseph Maciejewski: "Mr. Chairman, I think the Comptroller who is the chief fiscal watchdog, made one of the most important statements. That is, by doing this deal we ensure that we restore fund balance and, while not making any promises, it sure is going to help the County in protecting the tax payers in not having to raise taxes in order to restore these positions and recreate this department and that is perpetual."

Director Johnson: "In an effort not to create any contentious discussion here, I believe that Comptroller himself recognizes there is a lot involved here, entities involved, the process involved was not brought about through competitive bidding or procurement process that have been set up and that is really why we are here reviewing this."

Chairman Baynes: "Mr. Polancarz puts all his items out for bid, is that correct?"

Joseph Maciejewski: "I would have to refer to the Deputy Comptroller."

Chairman Baynes: "Mr. Gach, I am correct when I say Mr. Polancarz puts all of his items out for bid, is that correct? Everything?"

Gregory Gach: "Everything."

Joseph Maciejewski "That is part of the local government; it is not part of a local development corporation."

Chairman Baynes: "Mr. Gach and Mr. Polancarz have no say in which the selection was?"

Joseph Maciejewski: "Mr. Polancarz did because he was a Director."

Chairman Baynes: "Mr. Polancarz says the deal is great and I understand that, I respect Mr. Polancarz. I believe that this might be the greatest deal on the planet, but we don't know if one of those other three companies may have had a better deal. This is because Mr. Giambra and your Administration failed to put it out to bid legally. That is my question and it is nothing to do with politics. In my business we don't have to put things out to bid but you know that we do."

Joseph Maciejewski: "I don't know if your statement is accurate that we did anything illegally."

Chairman Baynes: "I am not saying anything was illegal, it is close to unethical. You put things out to bid and nobody bids on it. Come on, give me a break."

Director Kee: "I was assured that we would be getting that spreadsheet that would show al of the costs associated with years Erie 1-4, and I think it is important to not only get that information, but to do a secondary analysis to really understand what the true cost of this technique is, because it's being compared against the County doing it versus this approach. I am not quite sure that everything I am seeing includes that actual cost of this transaction, legal fees and all this other stuff. I am not sure that has been included in the analysis is. So I am asking very formally, Mr. Chair, if we could ensure that that kind of analysis especially for years 1, 2, 3, and 4 is done so that we can see how those costs and those expenses impact on the true performance of this technique. That is number one. Number two, the bottom line here is that this is not good public policy. What went on is not good public policy and it skirts not only the real provision of the law but the intent of the law and that is very, very problematic."

Chairman Baynes: "I agree. Mr. Gach, you were away from the microphone. Mr. Polancarz would not allow something to not go out to bid?"

Gregory Gach: "No, I am just going through my head. Since Mr. Polancarz has been in office we have done 6-7 RFP's; we've done about 7 RFP's just for banking services. It was a seven part banking services RFP. We have done RFP's for auditors, RAN sales, bond sales, fiscal advisors; I can imagine we are pushing at least a dozen RFP's that we have done in the 16 months of the Polancarz administration."

Chairman Baynes: "That is why I applaud Mr. Polancarz. My question to you is, and he did agree on this deal, that is true, but he did not have privy to seven other companies to look at this deal?"

Gregory Gach: "Well that is true, but the reason we even, and it has even been pointed out that your board is questioning the correctness of the RFP process that the ETCC did, you must keep in mind that the ETCC board was on to do another Erie 2005 that was similar to Erie 1-4 that would have been unbeneficial to Erie County taxpayers. When you look at the spreadsheet, it shows the expenses. Is it a good deal for Erie County tax payers? No. What we wanted to see was what we could get for a total sale, because it had been mentioned to the Comptroller and myself as being an option out there.

This was an option that had been looked at very haphazardly initially and we decided that it would be best to do an RFP process. I am an officer of the corporation and Mr. Polancarz is a director of the corporation. As Mr. Maciejewski said, it was portrayed to us and in looking around I could find, the two biggest players were Xspand and American funding. That is why they were solicited directly, to get competition, because we were not happy with the original deal put forth by Xspand; we wanted to seek competition."

Director Keysa: "Mr. Gach, Comptroller Polancarz made that point at the last meeting that he had seen the deal originally and felt that it was not appropriate."

Gregory Gach: "He was prepared to vote against it."

Director Keysa: "Our concern is that it ends up as a solicitation of two parties and not a bid of a broader spectrum. I think that he has indicated that he felt that we have a good deal here; others have indicated the same and I trust their judgment, but the real problem here is: Does the end justify the means? That is exactly what this whole process questions; Does the end, the fact that this may be a good deal, justify the fact that we have had a secretive process with a limited solicitation process rather than an open process with open bidding that may have gotten a better result? It may have even gotten us a worse result, but it would at least be an open result that would provides some assurances to the taxpayers that the government is working as it should work. The process right now does not that have that open bidding; that transparency that reassures the voters. I hope you understand."

Chairman Baynes: "Mr. Gregory Gach, Mr. Vetter has a couple of questions."

Executive Director Vetter: "Just one question and it's a clarification of what the Comptroller indicated last time. That is, he indicated that the best use of these funds would be to replenish the fund balance?"

Gregory Gach: "Yes, I believe Budget Director Hartman has a plan in place that would set up a debt service reserve for a number of years and a balance of the funding going into fund balance and no additional spending being authorized out of that. Mr. Polancarz stated at the last meting that he would be dead set against any new spending from these funds."

Director Kee: "Mr. Gach somebody mentioned a few minutes ago that the tobacco corporation had stipend for their board of directors. Could somebody respond to that?"

Frederick Wolf: "The independent directors, not any of the directors that have a direct relationship with the County, but the independent directors of ETAS, received a $1,000 a year and one of the reasons for that is that the definition of independent directors in that transaction was even stricter than the traditional one. We had to get people from NYC who did not have relatives here, didn't work here, didn't do anything here; there was a laundry list. To satisfy the rating agencies and when we did that and told the directors A) they have to come up here and B) there is a possibility that there is a possibility that someone is going to sue you as a director even though there are provisions under that law that indemnify them and other things, people get very nervous. There is an attorney and a guy from the securities business, both of whom are very sophisticated, smart people who give up a day to come here to have these board meetings and are paid for it. It is common practice."

Director Kee: "Respective to the ETCC?"

Frederick Wolf: "ETTC, no one receives, even the independent directors, any money to the best of my knowledge. This is something Mr. Tuppen handles the day to day on. These are all local people including the independent directors and I believe they do this from the goodness of their heart and as a result of their desire to enhance and improve the community."

Chairman Baynes: "Kind of like this board?"

Frederick Wolf: "There has never been a doubt in my mind, Mr. Chairman."

Chairman Baynes: "Thank you Mr. Wolf. I have just one more question. This $36 million, again, I just want to clear this political nonsense up, so as an attorney, you can probably help me. We were put here to do what is best for the taxpayers of Erie County; we had a serious meltdown in this County, there have been some questionable politics and one-shot deals such as, in the previous Administration, I believe there was a $29 million surplus. The newspaper the other day says the County has a $2 million in extra money this year?"

Frederick Wolf: "I will let Mr. Gach comment on that."

Chairman Baynes "You have to wonder; we all wonder, because we are not here to play politics; we want to help the community but it is like a battle. Every time you want to do something to help the community, there is trouble. This contract came out in January of 2007 but we did not get it until April 2nd."

Frederick Wolf: "I can't speak on that; nobody questions the intentions or the desires of the parties here."

Chairman Baynes: "For months we heard that we would be receiving the contract this week, then next week so do you understand the frustration and the reason for these questions?"

Frederick Wolf: "I can appreciate the role that you play and we think that the role is a productive one. We think, collectively, that there is not much to be gained by looking back and would like to think that, collectively, that we are part of the solution instead of the problem. We can't change what happened yesterday; we can only improve the situation tomorrow. I think what we have to do and what we are trying to do, as you note the number of changes we made in the documents, we were trying to be responsive to the comments of the control board from the April 19th meeting. I think you even received a letter from the young woman who came and spoke from the Mayor's anti-flipping task Force who now supports the transaction because she was able to get sufficient satisfaction from Mr. Rubin and others on how the process works and she thinks it is a positive process. So I think a lot of good has come from your comments and it was a good exchanges of ideas and thoughts and we are still of the opinion that everyone has a pure heart and a pure mind. We are not criticizing anybody and hopefully you aren't either; our intentions are good and the people form the County who do this, the one thing that I have learned in the five years that I have had on the job is I think there is a paint brush that paints municipal employees the wrong way. The people that work for the State and the County, some of which are on your board are more than 9 to 5 workers. They stayed there until the lights went out and sometimes the lights stayed on until 9-10pm at night. I think that people act very sincerely. Well, this deal is different than other deals. There are limitations under the other deals. We are getting out of the business. We have to reach a point where we can't have a deal that is death by 1,000 cuts. It is reasonable to ask for some of the things that have been asked for today but it would be helpful if the board could put together its laundry list and see what it needs so that if it does come full cycle and we are here in two – three weeks we don't come up with more items."

Chairman Baynes: "We won't I just wanted an answer to the question, if we were not to be in cooperation for some 6 months from now."

Frederick Wolf: "I would like to think it is not a question of cooperation; it is a question of thinking what some people, in the goodness of their hearts and sincerely, thought were the necessary elements in front of you to make a decision. I think Mr. Polancarz spoke to you about approving a bond sale based on a letter of intent that involved millions of millions of dollars and so the question I ask and people were kind of surprised at the level of detail the board wanted to go into on this transaction. We are not questioning your authority to do that and we are not even questioning your comments and some of the things you are saying are probably important. I think Mr. Gach said he would get over to Director Kee the information that she had requested so that she can see, even though Mr. Vetter had access to it and I wouldn't be surprised if he still would be able to find them, the ETCC Certificate of Incorporation, the Bylaws of the ETCC, over so the board can pursue those."

Chairman Baynes: "Could you send the ones over for the Tobacco Corporation as well?"

Frederick Wolf: "We could, but does that have a bearing on this thing?"

Chairman Baynes: "In case it comes up in the future; we would like to see the two of them."

Frederick Wolf: "Well I would leave that up to…"

Chairman Baynes: "Are you still the counsel for that?"

Frederick Wolf: "Yes, we are the outside counsel, but I haven't rendered any service to the ETASC in the past year or two so maybe Mr. Tuppen can send over the information. The books on that, Mr. Chairman, are voluminous and it is a complex transaction, I would suggest that he send over what it is he thinks are the primary documents of that transaction to give you an understanding of the transaction, including the bylaws and the certificate of incorporation if that would be helpful, and you could peruse the documents."

Chairman Baynes: "Is any County official paid by the ETASC or receive a check from ETASC?"

Frederick Wolf: "To the best of my knowledge, no County officials have received checks from ETASC but, again, these are beneficiaries, these are vehicle and conduits to which County assets are sold. The conduits are created in demanded by the bond market and the sophisticated buyers that we deal with on Wall Street to get the maximum dollar for the assets when we sell them and consummate the sale."

Chairman Baynes: "I am just happy that we are coming to a conclusion on this and that everyone is now in agreement that it is 90.19% instead of 105% whole."

Frederick Wolf: "I don't know your numbers; I do know that you are buying and selling two separate tax liens. The 2006 tax liens are at 105% and the Erie 1-4 are less at 84% because there is nothing really left there to sell."

David McNamara: "Mr. Maciejewski, you referred earlier to, I think, what you characterized as the Buffalo disaster. That is the sale of city liens?"

Joseph Maciejewski: "It was the sale of delinquent city tax liens to the Municipal Bond Bank Agency. It is pretty much common knowledge what the City did. The City basically retained, they cherry picked, the City retained the good liens; the City retained the bankruptcies where the money was still coming in, and what they basically sold the MBBA were the dogs, the worst of the liens, and then what the MBBA did was went out and floated a bond and what we are hearing is there isn't enough collateral in that lien pool to pay the bond back and that bond is currently sitting out there unpaid."

David McNamara: "Was that an outright sale?"

Joseph Maciejewski: "No, it had the advance and residual model."

David McNamara: "And that is the model that the ETCC is currently working under."

Joseph Maciejewski: "Yes that is the model we are working under. However, the advance rate that we received was higher than what the MBBA was going to do and in addition to that, when we went through and did this with Xspand wasn't going to sub out the servicing work. The MBBA subbed out the servicing work to JER, Xspand was doing everything and we developed a very good working relationship and had taxpayers or those that we talked about who were in trouble and we tried to help them out by providing payment plans, etc. It worked out very well. Both my office, Erie County worked very well with a compassionate side for the tax enforcement that we really did both come up with a fairly compassionate side; we tried to help out and established a fairly strong working relationship."

David McNamara: So that your office did that in consultation and cooperation with Xspand?"

Joseph Maciejewski: "That is correct."

David McNamara: "In your current model there is servicing agreement that requires Xspand to provide a certain level of service, taxpayer service, cooperation with the County in resolving those kinds of issues."

Joseph Maciejewski: "That is correct."

David McNamara: "Now we transition into the contract that is now proposed. Xspand no longer has an obligation to engage in that process because the service agreement is extinguished. Is that correct?"

Joseph Maciejewski: "Well let me have Doug Badaszewski some up from Xspand who can better answer those questions and provide some clarification to some of your comments."

Doug Badaszewski: "Good afternoon everybody, my name is Doug Badaszewski, I am an Associate Director of Bear Stearns Xspand. Mr. McNamara with regards to your question on we did write provisions into he current Purchase and Sales agreement that we would have servicing provisions which we would agree to be bound by, most importantly, of course, is how we continue to involvements in extending payment plans to the tax payers of Erie County."

David McNamara: "That is in the existing arrangement but those are not carried through into 2006?"

Doug Badaszewski: "It is in the latest draft."

David McNamara: "It's in the latest draft?"

Doug Badaszewski: "Yes."

David McNamara: "Okay and what service obligations is Xspand undertaking?"

Doug Badaszewski: "Well with regards to our servicing obligation, we agree to service these tax liens in accordance with the applicable law in this instance, which is the Erie County Tax Act."

David McNamara: "Okay, I think the compliance with the Erie County Tax Act is a feature in the submission that was made prior to the last meeting and that is carried through in the current version of the contract."

Doug Badaszewski: "I would believe so, that is correct."

David McNamara: "Okay, but I take it that the service agreement that is currently in place between the ETCC and Xspand has undertakings by Xspand that exceed any obligations under the Tax Act?"

Doug Badaszewski: “Well, what those obligations further detailed were obligations to recording requirements not only to the ETCC but to Erie County, the note holder and PPTS. I would like to take the opportunity if the Board would allow me to clarify some comments made by Chairman Baynes and some other Directors.”

David McNamara: “If I could just follow up with one more question to Mr. Maciejewski. In this outright sale arrangement where you are essentially delegating that the County’s responsibility with respect to Administration and collection of tax lines to a private for profit wall street organization, I would assume that there might be some risks that arise with that. Is there any risk analysis done with respect to any potential consequences of delegating that kind of duty and responsibility to a private organization?”

Joseph Maciejewski: “Anyone who has purchased tax liens or has been assigned tax liens stands in our shoes and follows the Erie County Tax Act.”

David McNamara: “There is discretion with in the Act in terms of how the liens are administered and enforced?”

Joseph Maciejewski: “Discretion in terms of payment plans, is that what you are saying?”

David McNamara: “Plans, when liens are foreclosed upon, etc. There is some significant discretion there and that discretion is being delegated by virtue of this agreement to a Private for Profit Corporation?”

Joseph Maciejewski: “I believe that is correct.”

David McNamara: “Then my question is: Has there been any risk analysis undertaken to determine if the taxpayers of the county will experience any negative consequences as a result of that delegations?”

Joseph Maciejewski: “I personally have not looked into that. The only negative consequence or risk I can see to the taxpayers of Erie County is this deal not being approved.”

David McNamara: “Okay, thank you.”

Chairman Baynes: “I have a question for our friend from Bear Stearns.”

Doug Badaszewski: “My last name is Badaszewski. I was born and raised in the City of Buffalo and moved out 15 years ago.”

Chairman Baynes: “Before the gold rush hit. Okay I have a question. I spoke with Mr. Garzone two weeks ago.”

Doug Badaszewski: “I do apologize. Mr. Garzone was unable to be here today.”

Chairman Baynes: “I asked him a question and I will read it if for you:

“Chairman Baynes: “I have one more question. I was looking at your website today and I believe on page one it says we do business with the most sophisticated government entities in the US and when I look at this NYC has a control board, Nassau County has a control board, Erie County has a control board, you have counties in Ohio that are in trouble, Camden, New Jersey, the Los Angeles City school District is in trouble, I don’ see Phoenix, Palm Beach, Beverly Hills, etc. Do you only deal with distressed or troubled communities?”

John Garzone: “Well no actually the opposite. Certain jurisdictions sell differently. Palm Beach for example we invest probably $20 million a year””

Chairman Baynes: “How do you invest that?”

Doug Badaszewski: “Palm Beach and the entire state of Florida, for that matter, on a county- wide basis, sell their liens on a lien by lien basis by public auction.”

Chairman Baynes: “So you went in there on an individual lien but you don't do bulk deals like these distressed or, I believe you website says, “sophisticated” governments. Every one of these government are in trouble, how do you use the word “sophisticated” with them?”

Doug Badaszewski: “I would, as a point of clarification, say that I believe the State of New York has an extremely professional and if not one of the best, the best financial office of any entity that we have had the pleasure of doing business with. Also, with regards to Los Angeles County which you mention…”

Chairman Baynes: “No it is not Los Angles County, it is the school district.”

Doug Badaszewski:	"However you did mention Beverly Hills. The school districts that fall within the footprint of Beverly Hills are also part of transactions that we have entered into with 94 of the school districts in Los Angeles County that are not solely LA County school districts."
Chairman Baynes:	"So basically in New York; Suffolk County and Westchester don't?"
Doug Badaszewski:	"Within Westchester County, the City of Yonkers does sell it tax liens on a bulk basis."
Chairman Baynes:	"And Yonkers is in trouble?"
Doug Badaszewski:	"I'm not certain as to what defines trouble."
Chairman Baynes:	"Yonkers had a control board also."
Doug Badaszewski:	"They do? "
Chairman Baynes:	"Yes they did. So my point is we are bring lumped in with poor counties and don't see Phoenix, Beverly Hills, Palm Beach, etc. doing the same thing, I realize why we have to do it and that is because we are in trouble; we have one of the lowest bond ratings of any county in America and I understand that this is what we have to do."
Doug Badaszewski:	"If it would please the board, I would just like to clarify a few comments made. One thing I believe that you, as members, might find as a benefit would be to understand is the gestation of the relationship between Xspand, PPTS and Bear Stearns. Prior to April 1 of 2006, Xspand was a wholly owned subsidiary of PPTS and PPTS was an independently- owned company involved in the purchasing and servicing of tax liens on a nationwide basis. Back in 2003, when we entered in to initial transaction with the County, Xspand put a financial in partnership with Bear Stearns, entered into these transactions. In April of 2006, Bear Stearns acquired essentially all of the assets of PP Financial through an outright purchase. I am now an employee of Bear Stearns. Subsequent to that, Bear Stearns also acquired a trademark and all the rights to the name Xspand. Xspand is utilized on a market basis simply for continuity of the relationships that we have had with prior clients as well as with out future clients. We have never made or tried to shelter the fact that Bear Stearns is our parent corporation."
Chairman Baynes:	"What precludes Xspand from selling these tax liens to a company in the City of Buffalo?"
Doug Badaszewski:	"There are no preclusions to the further redirection or resale of tax liens."
Chairman Baynes:	"Could you please speak into the microphone."
Doug Badaszewski:	"I apologize; there are no preclusions to the further sale of these liens."
Chairman Baynes:	"So that is a big question here because everyone here today is on record saying that they didn't even want to use them in the RFP because they are a poor company that destroyed the City of Buffalo and your telling me that you can sell those to them."
Doug Badaszewski:	"Excuse me sir, sell them to whom?"
Chairman Baynes:	"What is the name of the company in the City of Buffalo? Mr. Gach?"
Gregory Gach:	"Municipal Bond Banking Agency."
Chairman Baynes:	"So you can sell them to anyone you would like?"
Doug Badaszewski:	"I believe that is the understanding, correct?"
Chairman Baynes:	"So that is a problem because everybody today is on record saying this is the worst company and we do not want to do business with them, yet this contract says you can sell it to them. All right lets take a vote."
Doug Badaszewski:	"Could I just make one point."
Chairman Baynes:	"No I think we are done."
Joseph Maciejewski"	"The MBBA is a State Authority; they can not sell it to them."
Chairman Baynes:	"Can Xspand sell them?"
Joseph Maciejewski:	"No."

Chairman Baynes:	"Xspand can never sell these bonds to anyone."
Joseph Maciejewski:	"No, that is what we were informed of,"
Chairman Baynes:	"Can Xspand sell the liens to anybody?"
Doug Badaszewski:	"Can we sell them to individual investors? Yes."
Chairman Baynes:	"So they can sell them to any investor they want; is that true?"
Doug Badaszewski:	"Yes."
Chairman Baynes:	"Well this is not a good contract. Why don't you put in the contract that they can't sell them? How are protecting the citizens? Alright let's vote"
Director Keysa:	"At this point I think it is time we took a vote."

"I suggest that we consider a number of separate issues and that they be separate votes, if possible. As Director Johnson has said, I am very much concerned that the process here did not include an open bidding process. I am not prepared to vote for any of these without a rebidding. A rebidding should not take a long time; within or shortly over a month's time. That way we could know for sure that we have a better process here, what the best proposal is out there. I would like to make some suggestions here, if I might, and then we could go to these individually, if that is the consensus."

"First of all, I would like to suggest that we vote, but I am not moving at this point, but suggest that we vote whereby we request the portion of the agreement of 2003-2005 tax liens be rebid."

"Number two is that we have a resolution whereby we require that, as a condition of approval of any tax lien sale with any party, that the funds that are received as a result of an outcome of the agreement be placed into a reserve fund to enhance the reserves to assist in meeting the 5% reserve that is now mandated by the County Charter. That requires a resolution by the County Legislature and approval by the County Executive, as a condition for approval for any of these sales."

"Thirdly, I would like to see an audit of the ETCC; not only in the current year, but from its inception and that we have access to those audits, preferably an independent audit, and that those be provided to us before we be required to act on these sales."

"Fourth, I would ask that we require, as a condition of any tax lien sale approval, that the ETCC comply with the requirements of the Public Authorities Accountability Act of 2005, including that they set up a website, which should have been set up December 31st of last year; that they post on that website the various information required by state law and that they indicate the status of the training of the directors of that corporation."

"Fifth, I would also suggest that we also consider a resolution to rebid 2006 sales without the right of first refusal. These are suggestions of resolutions to undertake at this point. If it be agreeable, I would move the first of those resolutions."

Chairman Baynes:	"Thank you Mr. Secretary does anybody else have any resolution that they feel are appropriate at this time."
Director Kruly:	"I am not sure I got all the ones that Director Keysa was talking about, so if we could go through those one by one, that would be helpful. What I would be concerned about is codifying what the Comptroller has said, which I agree with, that no funds, no proceeds from this deal, would be used for anything other than fund balance and that, because of one-shot revenues, that they should not be used for any operating expenses at all. So I suggest that we make that a condition of approval."
Chairman Baynes:	"I think that we should make that a condition. I think that we should have the Legislature and the County Executive sign on that this money will be used for fund balance only. Again this a one-shot revenue and if they are on record to use this as fund balance, and that is not a problem, then we should put that in there."
Executive Director Vetter:	"If I could suggest, Mr. Chairman that there seems to be concurrence on the use and directing the use of funds for fund balance. I would suggest that a motion be made on that amendment and then go through each one of these sequentially."
Chairman Baynes:	"Let's take these one at a time."

Director Keysa:	“Okay. First, at this time I would move as this time that the ECFSA disapprove the contracts that have been presented to us and require specifically that the County and/or that the ECTT rebid, in an open fashion, that portion of the agreement that pertain to the 2003-2005 tax liens.”
Director Johnson:	“I second the motion.”
Chairman Baynes:	“Say that one more time to be clear; I think Director Kee has a question. Let’s start with the ones that we all agree on. The one in which the Legislature is on board, the County Executive is on board and the Comptroller is on board that the money is used for the fund balance if we agree to except Xspand. Let’s start with the items that everyone agrees on.”
Director Keysa:	“If you would prefer that to be the first motion, I will withdraw the last motion.” “The motion first of all is to require that before we approve any tax lien sale, that the County of Erie indicate to us by action of the County Legislature approved by the County Executive that any proceeds from the sale of tax liens for any years that are before us will be used solely for the purpose of establishing a reserve that will meet the 5% requirements that are now in the County Charter, as approved by the voters last November.”
Director Keysa:	“From a procedural stand point could I get a second here and then we can open it to a motion.”
Director Johnson:	“Seconds.”
Chairman Baynes:	“All right Mr. Chairman Johnson lets open it up to discussion. Any opposed?”
Director Keysa:	“On the question”
Joseph Cercone:	“I am Joe Joseph Cercone from the County Budget Office and I would just like to comment that the proposal that Mr. Hartman submitted for the sale of the Erie 1-4 and the sale of the 2006 tax liens are were clearly dedicated to go into the fund balance. Some of the money was also going to be set aside as a debt service reserve fund to pay of debt service. I just want to clarify that the 2007 budget, which included the assumption of a 2007 tax lien, is part of the budget so we would we would want to stay with that practice for an 2007 tax lien which is not part of what we are talking about now but just to clear it up…"
Chairman Baynes:	“Is it $15 million for 2007?”
Joseph Cercone:	“We could come up with some numbers on the 2007 estimate but I just want to clarify that for future tax lien deals; because this isn’t a one shot, this is a proposal I believe for a four-year period and was part of the 2007 budget and would continue to be part of the budget in 2008-2010; the four year plan.”
Executive Director Vetter:	“Can I suggest, to be consistent with the financial plan and the spirit of a reserve fund that money’s from 2003-2005, which are truly one-shot revenues at this point, that they be designated solely toward fund balance and that any monies from any potential 2006 sale, that have been budgeted in property tax revenues would still be allowed to be used if there is any excess over and above what was budgeted for 2007, that those funds as well, would go into fund balance so that the budget wouldn’t be out of balance but still move money into reserves for the future.”
Joseph Cercone:	“I believe Mr. Hartman would agree because it is his goal to continue to build up the fund balance but I would like to make it very clear that the 2007 tax lien sale is essential to the budget. I believe we could agree on the linage.”
Director Keysa:	“In 2003-2005 and anything coming in from that would be funds that are not currently budgeted.”
Joseph Cercone:	“Yes.”
Director Keysa:	“…and in the 2006 sale a portion of that is already budgeted.”
Joseph Cercone:	“No, anything prior to January 1, 2007 would be under Mr. Hartman’s plan go to the fund balance, with the addition of funds set aside for debt service reserve fund. The 2007 tax lien sale is part of the 2007 budget.”
Director Keysa:	“The 2007 plan is not before us except as a right of first refusal.”
Joseph Cercone:	“Right, right.”
Director Keysa:	“Would you and Mr. Vetter get together to work on the language?”

Joseph Cercone: "I believe that we can do that."

Chairman Baynes: "Again let's do this one more time."

Director Keysa: "The motion if I could restate it is a resolution that as a condition of approval of any tax lien sale hereby requires that the funds received for the year 2003 – 2006 be placed into a reserve fund to enhance the reserves to assist in meeting the 5% level as mandated by the recently approved County Charter and that this authority requires approval by resolution from the Legislature and approved the County Executive mandating that these funds be placed directly into fund balance and not be used for current operations. That is a restatement that is a motion."

Director Keysa moved the following resolution; his motion was seconded by Director Johnson; without further discussion, the resolution was unanimously adopted.

Resolution No. 07-31

CONDITIONING APPROVAL OF THE BULK SALE OF 2003-2005 ERIE COUNTY TAX LIENS ON THE ENHANCEMENT OF RESERVES

WHEREAS, Chapter 182 of the New York Laws of 2005 created the Erie County Fiscal Stability Authority ("ECFSA"), to serve as a corporate governmental agency and instrumentality of the State of New York, and as a public benefit corporation to "oversee [Erie] 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 first imposed a control period upon the County of Erie (the "County") by adopting Resolution 06-49 on November 3, 2006; and

WHEREAS, incident to and in furtherance of the imposition of the control period, the ECFSA adopted Resolution 06-51, which authorized a process for approving contracts, settlements, or other obligations binding or purporting to bind the County ("contract approval process"), on November 3, 2006; and

WHEREAS, by adopting Resolution 07-04 on January 11, 2007, the ECFSA renewed and continued the contract approval process authorized by Resolution 06-51; and

WHEREAS, the ECFSA has adopted Resolution 07-10, which replaces and supersedes the contract approval process authorized by Resolution 06-51; and

WHEREAS, the ECFSA must review and approve any contract, settlement, or other obligation, valued at greater than $50,000, that binds or purports to bind the County or a covered organization, before it takes effect; and

WHEREAS, the County Executive, a "Responsible Official" as defined in Resolution 07-10, has duly submitted a request for review and approval of a Purchase and Sale Agreement between Plymouth Park Tax Services, LLC ("PPTS") and the County, as well as a Sale and Assignment Agreement between PPTS and Erie Tax Certificate Corporation ("ETCC");

NOW, THEREFORE, BE IT RESOLVED that, because any revenues from the sale of tax liens are "one shot" in nature, the ECFSA conditions its approval of the sale of the County's 2003-2005 tax liens, as outlined in the Sales and Assignment Agreement between PPTS and ETCC, on the deposit of any and all proceeds from such sale into a reserve fund to enhance the County's reserves, and to assist in meeting the 5% level referred to in the recently revised County Charter.

BE IT FURTHER RESOLVED that the ECFSA further conditions its approval of the sale of the County's 2003-2005 tax liens, as outlined in the Sales and Assignment Agreement between PPTS and ETCC, on the adoption of a resolution, passed by the County Legislature and approved by the County Executive, that mandates that any and all proceeds from such sale be placed directly into fund balance, and not be used for current operations or any other purpose.

This resolution shall take effect immediately.

Chairman Baynes: "Could we do number two as far as Xspand and the ETCC. Could we make sure that it is in writing that Mr. Giambra's role is acting as the County Executive?"

Director Keysa: "Well I wouldn't do anything with Xspand because we do not know if they will be the lead bidder."

"Number two if you would like, I would move that we require clarification that the sole member of the ETCC serves ex-officio and will not have a role past the end of the term of the current office."

Chairman Baynes: "Is that a motion?"

Director Keysa: "It is a motion."

Director Keysa moved the following resolution; his motion was seconded by Chairman Baynes; without further discussion, the resolution was unanimously approved.

Resolution No. 07-32

CONDITIONING APPROVAL OF THE BULK SALE OF 2003-2005 ERIE COUNTY TAX LIENS ON THE RESIGNATION OF THE ERIE TAX CERTIFICATE CORPORATION'S SOLE MEMBER

WHEREAS, Chapter 182 of the New York Laws of 2005 created the Erie County Fiscal Stability Authority ("ECFSA"), to serve as a corporate governmental agency and instrumentality of the State of New York, and as a public benefit corporation to "oversee [Erie] 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 first imposed a control period upon the County of Erie (the "County") by adopting Resolution 06-49 on November 3, 2006; and

WHEREAS, incident to and in furtherance of the imposition of the control period, the ECFSA adopted Resolution 06-51, which authorized a process for approving contracts, settlements, or other obligations binding or purporting to bind the County ("contract approval process"), on November 3, 2006; and

WHEREAS, by adopting Resolution 07-04 on January 11, 2007, the ECFSA renewed and continued the contract approval process authorized by Resolution 06-51; and

WHEREAS, the ECFSA has adopted Resolution 07-10, which replaces and supersedes the contract approval process authorized by Resolution 06-51; and

WHEREAS, the ECFSA must review and approve any contract, settlement, or other obligation, valued at greater than $50,000, that binds or purports to bind the County or a covered organization, before it takes effect; and

WHEREAS, the County Executive, a "Responsible Official" as defined in Resolution 07-10, has duly submitted a request for review and approval of a Purchase and Sale Agreement between Plymouth Park Tax Services, LLC ("PPTS") and the County, as well as a Sale and Assignment Agreement between PPTS and Erie Tax Certificate Corporation ("ETCC");

NOW, THEREFORE, BE IT RESOLVED that the ECFSA further conditions its approval of the sale of the County's 2003-2005 tax liens, as outlined in the Sales and Assignment Agreement between PPTS and ETCC, on the resignation of the sole member of the ETCC as of the conclusion of his current term as County Executive, and on reasonable assurance to be provided to the ECFSA that the title of County Executive be listed as the ex officio member, not the personal incumbent.

This resolution shall take effect immediately.

Director Keysa: "I would suggest that number three that this Authority requires as a condition of approval of any tax lien sale, that the appropriate officials authorize this Authority to audit the books and transactions of the ETCC including prior years. That is the motion."

Director Keysa moved the following resolution; his motion was seconded by Chairman Baynes; without further discussion, the resolution was unanimously approved.

Resolution No. 07-33

CONDITIONING APPROVAL OF THE BULK SALE OF 2003-2005 ERIE COUNTY TAX LIENS ON AN AUDIT OF ETCC RECORDS

WHEREAS, Chapter 182 of the New York Laws of 2005 created the Erie County Fiscal Stability Authority ("ECFSA") to serve as a corporate governmental agency and instrumentality of the State of New York, and as a public benefit corporation to "oversee [Erie] 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 first imposed a control period upon the County of Erie (the "County") by adopting Resolution 06-49 on November 3, 2006; and

WHEREAS, incident to and in furtherance of the imposition of the control period, the ECFSA adopted Resolution 06-51, which authorized a process for approving contracts, settlements, or other obligations binding or purporting to bind the County ("contract approval process"), on November 3, 2006; and

WHEREAS, by adopting Resolution 07-04 on January 11, 2007, the ECFSA renewed and continued the contract approval process authorized by Resolution 06-51; and

WHEREAS, the ECFSA has adopted Resolution 07-10, which replaces and supersedes the contract approval process authorized by Resolution 06-51; and

WHEREAS, the ECFSA must review and approve any contract, settlement, or other obligation, valued at greater than $50,000, that binds or purports to bind the County or a covered organization, before it takes effect; and

WHEREAS, the County Executive, a "Responsible Official" as defined in Resolution 07-10, has duly submitted a request for review and approval of a Purchase and Sale Agreement between Plymouth Park Tax Services, LLC ("PPTS") and the County, as well as a Sale and Assignment Agreement between PPTS and Erie Tax Certificate Corporation ("ETCC");

NOW, THEREFORE, BE IT RESOLVED that the ECFSA, as a condition of approval of any tax lien sale, the ECFSA requires the appropriate officials to authorize the ECFSA to audit the books and transactions of the Erie Tax Certificate Corporation (ETCC) going back to its inception in 2003.

This resolution shall take effect immediately.

Director Keysa:	"Number four, I would move that at this point this Authority rejects approval of the contract with Xspand that has been presented to us both as to the 2003 – 2005 tax liens and as to the 2006 tax lien sale also."
Director Kruly:	"Could you state that again?"
Director Keysa:	"I would resolve that the Authority rejects at this time the proposed sale of the 2003-2005 tax liens and also the sale of the 2006 tax lien sales."
Director Kruly:	"Mr. Chairman, I think I made it clear that I have all sorts of problems with this proposal and have listened to five hours of discussion and countless hours of other reviews on this. I feel that the net portion of the deal that effect 2003 – 2005 should be allowed to proceed and the other one that the County should proceed to collect the revenues on its own for the time being. So I would not be in favor of Director Keysa motion, I would prefer that we deal with these as separate deals."
Director Keysa:	"Let me withdraw the motion then, we will separate the deals. If Mr. Director Kruly would like to move to approve those he can do so."
Director Kruly:	"I would move to approve the deal that effect 2003 – 2005 with all of the conditions that we are otherwise adopting."
Chairman Baynes:	"So that first part of the deal which is 75% of the deal we are going to move."
Director Keysa:	"Director Kruly has moved is there a second?"

Director Kruly moved the following resolution; his motion was seconded by Director Kee; without further discussion, the approved by Chairman Baynes, Director Johnson, Director Kee and Director Kruly. Director Keysa voted nay.

<u>Resolution No. 07-34</u>

APPROVAL OF THE BULK OF SALE OF 2003-2005 ERIE COUNTY TAX LIENS

WHEREAS, Chapter 182 of the New York Laws of 2005 created the Erie County Fiscal Stability Authority ("ECFSA") to serve as a corporate governmental agency and instrumentality of the State of New York, and as a public benefit corporation to "oversee [Erie] 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 first imposed a control period upon the County of Erie (the "County") by adopting Resolution 06-49 on November 3, 2006; and

WHEREAS, incident to and in furtherance of the imposition of the control period, the ECFSA adopted Resolution 06-51, which authorized a process for approving contracts, settlements, or other obligations binding or purporting to bind the County ("contract approval process"), on November 3, 2006; and

WHEREAS, by adopting Resolution 07-04 on January 11, 2007, the ECFSA renewed and continued the contract approval process authorized by Resolution 06-51; and

WHEREAS, the ECFSA has adopted Resolution 07-10, which replaces and supersedes the contract approval process authorized by Resolution 06-51; and

WHEREAS, the ECFSA must review and approve any contract, settlement, or other obligation, valued at greater than $50,000, that binds or purports to bind the County or a covered organization, before it takes effect; and

WHEREAS, the County Executive, a "Responsible Official" as defined in Resolution 07-10, has duly submitted a request for review and approval of a Purchase and Sale Agreement between Plymouth Park Tax Services, LLC ("PPTS") and the County, as well as a Sale and Assignment Agreement between PPTS and Erie Tax Certificate Corporation ("ETCC");

BE IT FURTHER RESOLVED that the ECFSA approves the attached Sale and Assignment Agreement between PPTS and ETCC pertaining to 2003-2005 tax liens, subject to the conditions set forth in this resolution and in Resolutions 07-31, 07-32, and 07-33.

This resolution shall take effect immediately

Chairman Baynes: " Motion is approved for the first part of this deal which is 75% of this deal."

"That is approved contingent on these resolutions being adhered to. Those are all contingent on the County Executive, the Legislature and the Comptroller and everybody agreeing that these funds be used for the fund balance, that the auditing is done and that Mr. Giambra no longer be in charge after December 31st."

Director Keysa: "Those will all be included in the resolution and is contingent on that."

Director Keysa: "Number five then would be my motion to reject the sale of the 2006 tax liens. This is the specific sale that has been proposed to Xspand to clarify."

Director Keysa moved the following resolution; his motion was seconded by Director Kruly; without further discussion, the resolution was unanimously approved.

Resolution No. 07-35

DISAPPROVING THE BULK SALE OF 2006 ERIE COUNTY TAX LIENS

WHEREAS, Chapter 182 of the New York Laws of 2005 created the Erie County Fiscal Stability Authority ("ECFSA"), to serve as a corporate governmental agency and instrumentality of the State of New York, and as a public benefit corporation to "oversee [Erie] 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 first imposed a control period upon the County of Erie (the "County") by adopting Resolution 06-49 on November 3, 2006; and

WHEREAS, incident to and in furtherance of the imposition of the control period, the ECFSA adopted Resolution 06-51, which authorized a process for approving contracts, settlements, or other obligations binding or purporting to bind the County ("contract approval process"), on November 3, 2006; and

WHEREAS, by adopting Resolution 07-04 on January 11, 2007, the ECFSA renewed and continued the contract approval process authorized by Resolution 06-51; and

WHEREAS, the ECFSA has adopted Resolution 07-10, which replaces and supersedes the contract approval process authorized by Resolution 06-51; and

WHEREAS, the ECFSA must review and approve any contract, settlement, or other obligation, valued at greater than $50,000, that binds or purports to bind the County or a covered organization, before it takes effect; and

WHEREAS, the County Executive, a "Responsible Official" as defined in Resolution 07-10, has duly submitted a request for review and approval of the attached Purchase and Sale Agreement between Plymouth Park Tax Services, LLC ("PPTS") and the County, as well as a Sale and Assignment Agreement between PPTS and Erie Tax Certificate Corporation ("ETCC");

NOW, THEREFORE, BE IT RESOLVED, that the ECFSA disapproves the attached Purchase and Sale Agreement between PPTS and the County insofar as it pertains to 2006 tax liens and the option to purchase future tax liens.

This resolution shall take effect immediately.

Chairman Baynes: "I think if there is no other business, I would call for an adjournment?"

Director Keysa: "Well I think we have one more item for consideration, that being what do you do for 2006?"

"If I can, we missed one of the items that I wanted to address previously and that is the requirement from this body, as a condition, and again we can propose this for any of these sales but that the approval of any tax lien sale, requires that the ETCC comply with the requirements of Public Authorities Accountability Act of 2005 within 60 days. I would make that a resolution."

Chairman Baynes: "Could I have a motion?"

Director Johnson moved a resolution on ETCC compliance with Public Authorities Law; his motion was seconded by Director Kruly; Director Kee requested discussion.

Director Kee: "Just some discussion on that. I think I would like to have that accompanied by a letter from our Executive Director mapping out what the rules are for the Public Authorities Accountability Act of 2005 so that they can specifically address the provisions that are required."

Director Keysa: "Director Kee, I would note that they have very qualified counsel being paid at less than the going rate, who are very capable of reading that Act and advising them of what the requirements are even if they have not been met so far."

Frederick Wolf: "Director Keysa the ETCC is not a public authority. I know that the County get roped in and one of the reasons that the ETCC and ETASC is not a component unit, whose activities would be subject for review by this board is that the enabling statute of this board ropes in public authorities that are affiliated in component units but does not technically rope in ETCC. I am not here to argue whether you have a right to look at what ETCC is doing or not doing but I do have some hesitancy. I have relied on Mr. Tuppen to this extent on this particular question. To the extent that it is, Mr. Tuppen and I will put our heads together. They certainly will comply if need be but if it is clear within the Act that they are not required to comply then we will advise you accordingly."

Chairman Baynes: "Mr. Wolf, again from our previous meeting:

> *Director Keysa:* *"And how are they selected?"*
>
> *James Tuppen:* *"How are they selected? Well there has been a change in membership over time. They were nominated by the sole member as I recall. For example the …"*
>
> *Director Keysa:* *"Who is the sole member?"*
>
> *James Tuppen:* *"That is Joel Giambra; he was the sole member/creator of the development corporation and, like I said, over time the board membership has changed, most significantly relative to compliance with Public Authorities Accountability Act of 2005…"*

Frederick Wolf: "All that I am saying, and this is because Mr. Keysa made the comment that outside counsel is well compensated or not so well compensated and assumed for the record that our office has some involvement with whether and to what extent this board is subject to compliance with that Act. I am saying that we have not been asked to address that question, so from my stand point, I believe that it would be appropriate to take a hard look at that because technically they are not a "public authority."

Chairman Baynes: "So when Mr. Tuppen speaks, you don't rely on that?"

Frederick Wolf: "I am not suggesting that he is right or wrong. I am just suggesting that we haven't looked at it. I think it is worth taking a look at that question very specifically because I think it is a legitimate question; well-raised and to the extent that they are not covered under the law, I will let you know because if they are covered under the law then I think your resolution is appropriate."

Chairman Baynes: "Since they are a government entity, any way you want to put it; they work for the government and is the government, don't you think there should be some transparency anyway to let us see it."

Frederick Wolf: "Well we are talking about strict compliance with the statute and when you do that just as if your board operates pursuant to statutory authority, we don't expand; you know it is not our role to interpret what the responsibilities are."

Chairman Baynes: "You are saying today that it is not subject to Public Authorities Law?"

Frederick Wolf: "I am not saying that, I am saying that ETCC is not a public authority and as such, the reason I know that is because the ETCC's transactions are not subject to review by this board because this Board has the right to review the transactions of public authorities that are related to the County and we are not."

Chairman Baynes: "Again, I just want to quote Mr. Tuppen so that we can be clear. When Mr. Tuppen says:"

"James Tuppen: "…over time the board membership has changed, most significantly relative to compliance with Public Authorities Accountability act of 2005…""

"He was false?"

Frederick Wolf: "I am not saying that, all I am saying is that I have not looked at it. Director Keysa suggested that our office or at least implied that our office look at that issue. That is not an issue that our office has been asked to look at. I do raise in my mind the question of whether or not it is applicable because they are not technically a public authority. That does not mean that the County, Mr. Tuppen and Mr. Rubin have been elected to educate the members of that board in a manner consistent with public authorities' law."

Chairman Baynes: "Mr. Tuppen is an Attorney for the County."

Frederick Wolf: "Of course he is and a very good one for the past 25-30 years and if he doesn't know it…"

Chairman Baynes: "I am quoting a respected attorney."

Frederick Wolf: "I am just suggesting that we will clarify that issue. There is a very strong possibility that Mr. Tuppen is correct. I am not saying he is wrong. I am just saying that, technically, the ETCC is not a public authority so, to the extent that there is some sort of a connect between that Act and them not being a public authority, I think we just have to take a peek at it; we will do what you are asking us to do."

Director Keysa: "First off all, I did not direct the resolution at you specifically but to ETCC. Secondly, the Public Authorities Accountability Act drew in, under its provisions, a number of corporations that previously were treated as private corporations or not public corporations and specifically drew them within its purview. So it is worthwhile to take a look and I would still stand by the resolution."

Frederick Wolf: "The resolution is fine."

Director Keysa: "I think if you, as a corporation would like to clarify that, we certainly will be having a series of meeting here and we can reconsider."

Frederick Wolf: "I don't think that is the question. Could I make one more suggestion before I step down, Mr. Chairman?

"I think it would be very helpful from both side of this transaction if when this is done, we do not need 60 pages of minutes but certainly a laundry list of items that you are suggesting have to be put before this board if any portion of this transaction is to move forward. I think it would be very very helpful if Mr. Vetter in his capacity as the Executive Director could direct that list to the appropriate person in the County so that when we respond, if there is an election to respond to specific item we are all on the same page."

Chairman Baynes: "As a mater of fact I sent Mr. Giambra a letter last week requesting that. So we will continue to try and work with the Administration, also with you. Again I am not questioning your legal expertise."

Frederick Wolf: "I appreciate that."

Chairman Baynes: "I understand that you are a very fine attorney and the same with Mr. Tuppen. We approved 75% of this. We have some questions on the RFP process. I hope you understand where we are coming from."

Frederick Wolf: "I understand. If we could get copies of the resolutions Mr. Vetter, that would be helpful."

Director Kee: "On the resolution still before us, I would just like to clarify a couple of points. One, is this corporation subject to the Public Authorities Act? Yes or no. Even if it isn't I still want every provision of that listed so that they can tell us whether or not they are doing those practices; because they are good practices. Even if they are not a public authority they should be exercising according to the provisions of the law."

Director Keysa: "I believe there is a motion on the floor."

Chairman Baynes: "Could you repeat the motion."

Director Keysa: "The motion is to resolve that the ECFSA as condition of approval of any tax lien sale; require that the ETCC comply with the provisions Public Authorities Accountability Act of 2005 within 60 days of this date. That is the motion."

Director Keysa moved the following resolution; his motion was seconded by Director Kruly; without further discussion, the resolution was unanimously approved.

Resolution No. 07-36

CONDITIONING APPROVAL OF THE BULK SALE OF 2003-2005 ERIE COUNTY TAX LIENS ON THE ETTC COMPLIANCE WITH THE PUBLIC AUTHORITIES ACCOUNTABILITY ACT OF 2005

WHEREAS, Chapter 182 of the New York Laws of 2005 created the Erie County Fiscal Stability Authority ("ECFSA"), to serve as a corporate governmental agency and instrumentality of the State of New York, and as a public benefit corporation to "oversee [Erie] 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 first imposed a control period upon the County of Erie (the "County") by adopting Resolution 06-49 on November 3, 2006; and

WHEREAS, incident to and in furtherance of the imposition of the control period, the ECFSA adopted Resolution 06-51, which authorized a process for approving contracts, settlements, or other obligations binding or purporting to bind the County ("contract approval process"), on November 3, 2006; and

WHEREAS, by adopting Resolution 07-04 on January 11, 2007, the ECFSA renewed and continued the contract approval process authorized by Resolution 06-51; and

WHEREAS, the ECFSA has adopted Resolution 07-10, which replaces and supersedes the contract approval process authorized by Resolution 06-51; and

WHEREAS, the ECFSA must review and approve any contract, settlement, or other obligation, valued at greater than $50,000, that binds or purports to bind the County or a covered organization, before it takes effect; and

WHEREAS, the County Executive, a "Responsible Official" as defined in Resolution 07-10, has duly submitted a request for review and approval of a Purchase and Sale Agreement between Plymouth Park Tax Services, LLC ("PPTS") and the County, as well as the attached Sale and Assignment Agreement between PPTS and Erie Tax Certificate Corporation ("ETCC");

NOW, THEREFORE, BE IT RESOLVED that the ECFSA further conditions its approval of the sale of the County's 2003-2005 tax liens, as outlined in the attached Sales and Assignment Agreement between PPTS and ETCC, on the ETCC's compliance with the provisions of the Public Authorities Accountability Act of 2005 within 60 days of this date; and

BE IT FURTHER RESOLVED that the ECFSA approves the attached Sale and Assignment Agreement between PPTS and ETCC pertaining to 2003-2005 tax liens, subject to the conditions set forth in this resolution and in Resolutions 07-31, 07-32, and 07-33.

This resolution shall take effect immediately.

Director Keysa: "That is the final motion."

Chairman Baynes: "There being no other business to address, I would entertain a motion to adjourn."

Director Johnson entertained a motion to adjourn. Chairman Baynes seconded. Without further discussion the board, voted unanimously to adjourn.

Respectfully submitted,

____

Stanley J. Keysa
Secretary

May 3, 2007