Erie County Fiscal Stability Authority
Minutes of Board of Directors Meeting held November 2, 2007

(Note: the following is a draft copy of minutes of a meeting of the Erie County Fiscal Stability Authority ("ECFSA"), which was held November 2, 2007. These minutes will not become final until approved at a subsequent meeting of ECFSA Directors, and may be amended before approval)

The meeting was called to order at 12:00 p.m. in the auditorium of the Buffalo & Erie County Main Library in downtown Buffalo. Present were: Vice Chairman Robert Glaser, Secretary Stanley Keysa, Director Kenneth Kruly, Director John Johnson and Director Joseph Goodell.

Vice Chair Glaser: "Welcome everyone to the meeting of the Board of Directors for the Erie County Fiscal Stability Authority. We are going to try to begin this on time because we have a lot to cover today. The first order of business would be to approve the minutes of the October 22, meeting. Could I get a motion?"

Director Johnson moved to approved, Director Kruly seconded, and the Directors voted unanimously to approve the following resolution:

Resolution No. 07-100

APPROVING MINUTES AND RESOLUTIONS FROM OCTOBER 22, 2007 MEETING

BE IT RESOLVED that the Erie County Fiscal Stability Authority approves the minutes of its October 22, 2007 meeting and ratifies and affirms eight resolutions numbered 07-92, 07-93, 07-94, 07-95, 07-96, 07-97, 07-98 and 07-99 that were approved on October 22, 2007.

This resolution shall take effect immediately.

Vice Chair Glaser: "With that there are numerous contracts to approve today. So Mr. Vetter can I turn it over to you to go through those?"

Executive Director Vetter: "Mr. Vice Chairman, most can be approved as a slate. Let me go through a couple of them. On page 1 of the contract matrix number 1-1, which is an Environment and Planning Service Contract for the Stormwater Coalition. This was tabled on September 28, 2007 because the Legislature still had this in Committee and had not approved it. Subsequent to our initial review the Legislature has approved the contract. The total value is $120,000 it is all reimbursed, there is not local share. Therefore, there are two actions that the staff would recommend. One is to remove this item from the table and the second would be to vote in consideration of that item."

Vice Chair Glaser: "Can we just take a vote on that or do we have to put it back on the table?"

Executive Director Vetter: "No, it has to go back on the table first, Mr. Vice Chairman."

Secretary Keysa moved to remove item #1-1 from the table and bring it back before the Board, Director Goodell seconded and the Directors voted unanimously to remove item #1-1 from the table.

Executive Director Vetter: “Mr. Vice Chairman, now I would suggest a motion to approve the item now that it has been removed from the table.”

Director Johnson moved to approved, Director Kruly seconded, and the Directors voted unanimously to approve the following resolution:

Resolution No. 07-101

APPROVING CERTAIN CONTRACT SUBMITTED BY THE ERIE COUNTY DEPARTMENT OF ENVIRONMENT AND PLANNING

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, in 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 or a “Responsible Official,” as defined in Resolution 07-10, has duly submitted a request for review of the contract on the attached document; and

WHEREAS, the ECFSA Executive Director, after consultation with the ECFSA Staff, has recommended approval of said contract via written correspondence to each ECFSA Director;

NOW, THEREFORE, BE IT RESOLVED that the ECFSA approves the contract submitted by the Department of Environment and Planning for CBIB Systems Limited software for members of the WNY Stormwater Coalition to comply with NYS Phase II Stormwater Permit requirements.

Department	Description	Amount
EC Environment & Planning	Service Contract – CBI Systems Limited; Software for members of the WNY Stormwater Coalition to comply with NYS Phase II Stormwater Permit Requirements	$120,000 – no local share

*EC- Erie County

This resolution shall take effect immediately.

Executive Director Vetter: "Mr. Vice Chairman, as a slate, items 1-3 through 4-6 are items that have been distributed to the board. They have come in on a timely basis and appear to be regular County business, have been reviewed by the staff, the contracts have been reviewed by the board and there seem to be no issues with those items. I would suggest that these be considered as a slate and suggest a motion to approve them as such."

Director Keysa moved to approve resolution No. 07-102, Director Goodell seconded, and Discussion followed.

Director Johnson: "I have just one question. Mr. Vetter, on all the items that there is no local share have we identified and I am assuming that the revenue would be coming from another source. Have we identified those other sources for each and every one of those items?"

Executive Director Vetter: "We have been in contact with the departments and we haven't done this on every single item but what we do with selected items is to go and check in the budget to see if reasonable reimbursements are there so that we do have reasonable assurances that there will be reimbursements."

Director Johnson: "I have just one more question; it is for the construction of a storage facility.

Secretary Keysa: "Item #4-2."

Director Johnson: "Yes, what are we using now?"

Executive Director Vetter: "Commissioner Loffredo is here and this is for the construction of the replacement of general storage facilities and a sign shop that is the $66,000 item service contract with Lauer Manguso."

Commissioner Loffredo: "Good afternoon, John Loffredo from Public Works. There are actually three items there; there is the item with the architect and then there are two bids that are in your package for the actual buildings. One building collapsed last October with the October storm the other building we had to take down because it was in very bad shape and was dangerous. It was a hazard so we had to demolish that one. So all our equipment, supplies and parts are outside right now and it's not a good situation. So we are trying to get this building. It is really just a metal building with lighting. One has heat and the other doesn't. We would like to see it built before the winter and it is getting close now. So the architectural theme that you see is for the design of those two building which the funds that we have now, we can only build part of the buildings that we want but they are expandable so when we get more funds hopefully the 2007 funds, we will expand those buildings in the future."

Director Johnson: "Thank you Commissioner."

Vice Chair Goodell: "Any other questions on the slate of contracts?"

Director Goodell: "I have a question on item 3-2 mental health service contract to develop a 70 bed single occupancy facility; this has no local funds so that means we don't have to provide any, is that correct?"

Executive Director Vetter: "Right, this is all State funding through the State office."

Director Goodell: "Who pays for the upkeep and maintenance of this once it is built?"

Executive Director Vetter: "This isn't the County's building, this is with Living Opportunities of DePaul to provide this service and they are developing the 70 bed facility, so this would not be a County facility."

Director Goodell: "Why do we have it here if it is not a County facility?"

Executive Director Vetter: "It is a contract with Living Opportunities of DePaul to develop a single bed occupancy facility so it is really for them to develop whatever is there and the County pays them for the service and they are reimbursed by the State."

Director Goodell: "So there is no cost to the County going forward in terms of maintenance or anything like that?"

Executive Director Vetter: "Right, this is not a County building, I think it is in the description in the little box that is in front of the form and maybe it could have been a little more descriptive."

Vice Chair Glaser: "Are there any more questions on this slate of contracts?"

There being none, Vice Chair Glaser polled the board, which voted unanimously to approve the following resolution:

Resolution No. 07-102

APPROVING CERTAIN CONTRACTS, SETTLEMENTS, AND OTHER OBLIGATIONS BINDING THE COUNTY OF ERIE

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, in 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 or a "Responsible Official," as defined in Resolution 07-10, has duly submitted a request for review of the contracts, settlements, and other obligations listed on the attached document; and

WHEREAS, the ECFSA Executive Director, after consultation with the ECFSA Staff, has recommended approval of each contract, settlement, or other obligation via written correspondence to each ECFSA Director;

NOW, THEREFORE, BE IT RESOLVED that the ECFSA approves the contracts, settlements, and other obligations listed on the attached document.

Department	Description	Amount
EC Central Police Services	Service Contract – American Red Cross – Community Disaster Education Initiative – Homeland Security	$125,000 – no local share
EC Central Police Services	Purchase Contract – Globalquest; Software development for CAD/RMS systems for use between police agencies	$129,438 – no local share
EC Division of Information Services, Fleet	Purchase Contract – Approved Vendors – Approval for Fleet Fuel	$500,000 – all county share
EC Division of Information & Support Services	Service Contract – AT&T – Wide Area Network (WAN) to provide county network users access to the internet	$477,000 – no local share
EC Division of Information Services	Service Contract – Hewlett Packard – Annual Software maintenance & license fees for Windows Operating System	$200,000 – 60% local share

EC Environment & Planning	Federal Grant Sub-recipient Agreement – Town of Eden – CDBG funds for construction of an industrial road parkway	$300,000 – no local share
EC Environment & Planning	Federal Grant Sub-recipient Agreement – City of Tonawanda – CDBG road, sewer and drainage improvements to Benton St.	$90,000 – no local share – fed rev. = $67,500, City share = $22,500
EC Environment & Planning	Federal Grant Sub-recipient Agreement – North Collins – CDBG sidewalk replacement on Sherman & Dewey Streets	$60,000 – no local share
EC Environment & Planning	Change Order – S&W Contracting – Change order Southtowns Sewer District Roof Replacements	$3,500 – capital funds
EC Health Dept.	Service Contract – Harlem Road Associates – Leased space to provide WIC services in needed area	$54,900 – no local share
EC Health Dept.	Service Contract – M/Mgt systems – Laboratory Information System – patient & environmental laboratory results	$255,161 - local share 64%
EC Health Dept.	Receipt of Grant Funds– Fed./State – Assist uninsured adults and/or children to obtain needed health insurance	$292,459 - $44,859 local share
EC Mental Health	Service Contract – Living Opportunities of Depaul – Develop a 70 bed single room occupancy facility for seriously and persistently mentally ill individuals	$2,649,043 – no local share
EC Mental Health	Service Contract – Various Approved Vendors – 100% state aid increase by NYS Office of Mental Health	$74,152 – no local share
EC Public Works	Purchase Contract – Transwave Communications Systems – Furnish & Install microwave system for connection between the Rath Building & central monitoring at 1084 Harlem Rd.	$82,845 – capital funds
EC Public Works	Construction Contract – Cloverbank Construction – Replace existing Highway maintenance Center in Hamburg	$172,800 – capital funds
EC Public Works	Engineering Services Order – Parsons Brickerhoff – Change order for repair of flood damage to Blakely Corners Road in the Town of Aurora	$81,599 - $10,200 county share
EC Public Works	Construction Contract – Cloverbank Construction – General Storage & Sign shop maintenance facility in East Concord	$182,500 – capital funds
EC Public Works	Service Contract – Lauer Manguso – Design and construction administration services for the replacement of 2 replacement general storage facilities & a sign shop	$66,435 – capital funds
EC Public Works	Purchase Contract - Siemens – Redundant server configuration for Andover Controls Security	$274,600 – capital funds
EC Public Works	Construction Contract – Approved Vendors – Noise attenuation project within the Family Court Building	$78,564 – capital funds
EC Public Works	Change Order – JW Danfort; Rath Bldg. Cooling Tower Change order	$1,736 – capital funds

*EC- Erie County

This resolution shall take effect immediately.

Executive Director Vetter: "Mr. Vice Chairman, if I could, on page five these are all items…"

Director Goodell: "Are you going to do item #1-2, the standby generator?"

Executive Director Vetter: "No, I think in conversations with a number of Board members before the meeting that it appears that this time even though there has been additional information received that we may need some further information and from a staff no action need be taken at this point and will remain on the table."

Director Johnson: "On that note about the generator, I don't know who in the County would be responsible to answer this question but I am going to ask it. Are we, Erie County, under any obligation for Y2K compliance with other municipal governments like the federal government and/or state government? Y2K was the situation where all governments were to assure that there would be minimal operations in place should there be some kind of disaster; generators put in place, things like that. Are we under any obligation and if so are there other units of government providing funding to do this?"

Executive Director Vetter: "I don't think there is anyone that can address that. It is probably a collaboration of a bunch of different departments, maybe Emergency Services and the Health Department. This is a question that we could raise with those department heads and those individuals."

So Mr. Vice Chairman, if I could continue, on page five, and we are taking this out of order, I believe Mr. Mike Raab is here from Environment and Planning, who has to leave right away, is here to speak on item #5-6 which is with regard to a clean bus initiative. It was a late arrival that has been in front of this board before but because it was a late arrival and did not have a tremendous chance to review we have asked for some one from the department to come and speak to this particular item. Mr. Raab?

Mike Raab: Good afternoon, my name is Mike Raab, Deputy Commissioner of Environment and Planning. This item that is coming before you for what I think is the third time, it is a $299,000 grant from EPA. There is no local share or contribution. The funds are to provide funds to school districts in Erie County to provide all diesel buses with control equipment so the children inside the bus will not be suffocated by the diesel fuel. We asked for authorization first to enter into agreement with EPA which this Board was kind enough to give us. We selected vendors through a bid and we brought it back here to authorize the bid and the vendors. We received this authorization and we are here now for a third time asking to issue the purchase order for getting the buses equip and looking at over 6 school districts with over 200 buses. The reason for immediate consideration is that we are doing this with the University of Buffalo Engineering School for before and after testing air quality inside the bus to see the impact or the reduction in particular inside the buses. We have to do it with the same air quality condition and look at the after testing. We will be behind the curve because we have to be in sync with the season."

Director Goodell: "Are you requesting $224,000 from the County or is that amount coming from somewhere else?

Mike Raab: "It is 100% federal money; there is not a penny of County funds."

Vice Chair Glaser: "Are there any other questions?"

Director Goodell: "As a federal tax payer I wonder how many children have suffocated in school buses in the past 10 years in diesel fumes. My daughters never had a problem with school bus fumes."

Secretary Keysa: "I would note on that that my wife has been a school nurse and has been appalled by the increased number of children suffering from asthma and other related diseases. She has been a school nurse now for 20 some years and we are probably talking about 10 times the number of kids in school with asthma today than when she first started. There is a significant increase in the number of children that are having difficulty with asthma, so anything that can be done to reduce it is a good thing."

Vice Chair Glaser: "Could I have a motion to approve that?"

Secretary Keysa moved to approved, Director Goodell seconded, and the Directors voted unanimously to approve the following resolution:

<u>Resolution No. 07-103</u>

APPROVING CERTAIN CONTRACT SUBMITTED BY THE ERIE COUNTY DEPARTMENT OF ENVIRONMENT AND PLANNING

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, in 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 or a “Responsible Official,” as defined in Resolution 07-10, has duly submitted a request for review of the contract on the attached document; and

WHEREAS, the ECFSA Executive Director, after consultation with the ECFSA Staff, has recommended approval of said contract via written correspondence to each ECFSA Director;

NOW, THEREFORE, BE IT RESOLVED that the ECFSA approves the contract for the Department of Environment and Planning for a USEPA grant to install Air Quality Retrofit Equipment on 200 plus school buses.

Department	Description	Amount
EC Dept of Environment and Planning	EC Clean Bus Initiative – USEPA Grant; Installation of Air Quality Retrofit Equipment on 200+ school buses	$224,000 - grant

*EC- Erie County

This resolution shall take effect immediately.

Executive Director Vetter: “If I could go back to the top here on the Board of Elections item; it is a purchase contract. I believe that there is someone here from the Board of Elections, Dennis Ryan.

Dennis Ryan: “Dennis Ryan, Board of Elections Deputy Commissioner.”

Executive Director Vetter: “I think the issue on this is when we received this. There is not a question on what it is for; the mechanism cards and machine supplies. The question among some of the Board members was when this was received; this was received subsequent to the primary and it was indicated that the materials were needed for the primary.”

Dennis Ryan: “Well the bid was for the primary and general election.”

Executive Director Vetter: “So this is something that hasn’t been executed or used as of yet. This wouldn’t be coming to approval after the purchase has been made?”

Dennis Ryan: “I believe this is a bid for the primary that we are looking at there. They were bid together so we are trying to pay the primary costs.”

Director Goodell: "So the money has already been spent?"

Dennis Ryan: "Well the primaries are over."

Secretary Keysa: "It would have been nice if it came in before the primary."

Vice Chair Glaser: "I'd like to rephrase that question, why didn't it come in?"

Dennis Ryan: "I don't have an answer for that."

Director Goodell: "Who would know?"

Dennis Ryan: "Well apparently it should have been sent. We go through all of our bid process at the Board and we have for many many years. We send out our own bids and in this case which was probably an error, should have sent it here first."

Vice Chair Glaser: "Are there other items over there like this; items that need to be approved but have already been spent or is this the last one?"

Dennis Ryan: "Not that I am aware of."

Secretary Keysa: "While we have the Deputy Commissioner here, one of the questions that I have is the new voting act and the federal requirements that the County take over the voting responsibilities and also provide new machines. What is the anticipation there in terms of replacing machines?"

Dennis Ryan: "In all likelihood we won't see new voting equipment until 2010 based on the problems that have been happening nationally with the equipment. We have gotten an extension in New York State so actually we have been fortunate because other States have had so many problems and it give us a real good opportunity to take a look at the equipment that is out there and evaluate it."

Secretary Keysa: "So you are going to continue using the mechanical equipment which is frankly just barely effective?"

Dennis Ryan: "That's seems to be the consensus, yes."

Secretary Keysa: "What is the anticipated cost once you do move into the new regime?"

Dennis Ryan: "Well it is all Federal and State money that we have been appropriated. We have been appropriated over $13 million to buy new equipment."

Secretary Keysa: "So there is not going to be a County share?"

Dennis Ryan: "If it goes over that amount then the County will be responsible for the additional share. There is also a 5% fee that the County does have to chip in towards this."

Secretary Keysa: "So the County share will be 5% plus whatever the amount that goes over?"

Dennis Ryan: "Correct."

Vice Chair Glaser: "When you say appropriated, we know that we are going to have to spend the money for this once they decide which machines are best for New York State, is that correct?"

Denis Ryan: "Correct."

Vice Chair Glaser: "Then we will be looking at them and voting on them and sending out an RFP at that time point in time. We haven't sent them out yet?"

Dennis Ryan: "The State is going to handle all that. The money is in an account in Albany and they will do the actual bidding and ordering for us. So once that is done the County will not have much say. It will be handled through the state."

Vice Chair Glaser: "Even what type of machine it is?"

Dennis Ryan: "Depending on what it is, correct."

Secretary Keysa: "I suppose the question we've got here is, when we are looking at the four year plan and budget, we are looking at when is that cost going to get in the four year plan?"

Dennis Ryan: "Well we have talked to the Division of Budget about it. They know this cost is coming this potential $0.5 million cost that the County is going to have to cover in the future. We can't put an exact date on it but have had many discussions on it and the Budget Department has been made aware of the fact that the County is going to be responsible for that."

Secretary Keysa: "For the half million?"

Dennis Ryan: "Well for the 5%, somewhere in that area."

Secretary Keysa: "If it is $13 million it will be a little bit above that, correct?"

Executive Director Vetter: "So in that case that does get re-spread to the municipalities? So that if we are looking at a financial hit to the County in two years, the potentially there will be a million dollar hit to the County and that will be reimbursed."

Dennis Ryan: "That will be reimbursable correct."

Vice Chair Glaser: "Your best guess was about 2010?"

Secretary Keysa: "I don't want to prolong this but I have an opportunity to ask you a question here; the spreading of costs with regard to the election, how is that being accomplished. Are we paying for example the inspectors and then charging it back to the Towns?"

Dennis Ryan: "Well, each municipality is charged. Our overall budget is taken and divided by the number of election districts in each municipality and that is how everyone is charged."

Secretary Keysa: "So it is charged per election district?"

Denis Ryan: "Correct."

Secretary Keysa: "So than that is billed back in advance or after the fact?"

Dennis Ryan: "Well there is a two year lag on the re-spread; that is just the way the cycle works."

Vice Chair Glaser: "Why is there are two year lag, just out of curiosity?"

Dennis Ryan: "Maybe Mr. Vetter can answer that better than that."

Executive Director Vetter: "It is based on audited financials so that, in essence, say the County 2006 audited financials were just done in mid-year this year, those re-spreads will go into the 2008 financial statements."

Secretary Keysa: "So that is to give the municipalities time to anticipate that cost coming to them, is that correct?"

Executive Director Vetter: "And they are. I don't know if I would say exact costs but they have been measured by the public accountants to be reasonably represented so that if there is a dispute there is not a mystery over the amounts."

Vice Chair Glaser: "So the cost for the departments are audited and then just all spread back so the County's is zero basis, there is zero-based budgeting?"

Dennis Ryan: "There are just certain salaries and natural operations of the building that are not re-spread back to the municipalities; really, management salaries are not re-spread."

Secretary Keysa: "Is there any analysis that has been done in realizing that each municipality would pay a different rate typically in minimum wage, a different rate. Many of them have buildings and so forth that are provided for the purpose of elections. Has there been a comparison of the costs in municipality that are occurring versus the cost of the County is occurring for this? Are you paying more for inspectors? Are you paying for the polling places?"

Dennis Ryan: "Well there is a standard rate for the inspectors of $132 which probably fell somewhere in the middle of what all the municipalities were paying them. Some towns were paying them as much as $180 some were paying as little as $80 so we came up with a figure of $132 which was approved by the Legislature."

Secretary Keysa: "For how many hours?"

Dennis Ryan: "I think we pay them for 16 hours."

Vice Chair Glaser: "Could I, hopefully, get your commitment that in the future we will get these things on time; ahead of time?"

Dennis Ryan: "Yes we will make sure we will follow the proper procedure with our bidding."

Vice Chair Glaser: "Any other further questions with this item, could I get a motion?"

Director Johnson moved and Secretary Keysa seconded the following resolution. On calling the roll, all voted in favor.

Resolution No. 07-104

APPROVING CERTAIN CONTRACT SUBMITTED BY THE ERIE COUNTY BOARD OF ELECTIONS

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, in 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 or a "Responsible Official," as defined in Resolution 07-10, has duly submitted a request for review of the contract on the attached document; and

WHEREAS, the ECFSA Executive Director, after consultation with the ECFSA Staff, has recommended approval of said contract via written correspondence to each ECFSA Director;

NOW, THEREFORE, BE IT RESOLVED that the ECFSA approves the contract submitted by the Erie County Board of Elections for primary mechanism cards and voting machine supplies for the September 18, 2007 primary.

Department	Description	Amount
EC Board of Elections	Purchase Contract – Fort Orange Press; Primary mechanism cards & voting machine supplies for 9/18/07 primary	$53,405 – re-spread to municipalities

*EC- Erie County

This resolution shall take effect immediately

Executive Director Vetter: "Mr. Vice Chair if I could on item #5-2 and #5-3, Mr. Gervase and Mr. Stevenson are here from the Division of Information and Support Services. I would still suggest taking those separately. There were question on #5-2 regarding the Globalquest Consulting services; really more detail on the type of services provided, looking at the change over in Administration in the future, looking at the necessity of the current contract right now and in the last couple of months and the Administration that goes through 2010. Mr. Gervase?"

Joseph Gervase: "Would you like a history on this or do you want me to just stick to some questions?"

Executive Director Vetter: "Well there are two issues, one on the kind of services that Globalquest would perform and two I think the question among the Board are, if these are necessary services at this point? Is there necessity for this contract until 2010 or is this something that can be staved off for depending on what is going to happen with the next Administration; whether they might have another option than these services?"

Joseph Gervase: "There will not be any options, at least not initially for any changes in the types of services that are going to be provided. It is our enterprise resource system, it controls all of our financials, our payroll, procurement functions; it is a total integrated package that we have invested in. We have to have ongoing support throughout the year. Until such time that we have internal people trained to do configuration and the types of support that our consultants are doing we are going to have to rely on outside consultants. The change in administration coming up in a couple of months, there is not an impact on the financials and the payroll system that is currently being utilized unless at some point in time we decide to change the software and use a different software package. That could happen, anything is possible but if it does happen it will probably not happen in the first year or the first two years anyway. In order to get an appropriate pricing structure and give the vendor the opportunity to create recruit the various individuals needed to support the program a one year type deal is really not good enough commitment for us to give them to the vendor in order to go out and recruit. It is an issue of pricing more than anything else. We could have had a one year contract but the price would have been extremely higher than what we actually received. Just to give you a little history, we were paying $1.7 million a year for the service and by cutting out actually one of the bigger players IBM and using a different firm and a different application for this whole thing we are actually saving about $1 million in support costs a year. A three year contract is the standard contract and I believe it was the appropriate decision to make. The good thing is we can cancel with 30 days notice. The cancellation clause is part of the contract and all the other clauses that are included in the standard County purchase contracts that are included in this contract. The funding clause is another example."

Vice Chair Glaser: "When does the current contract expire?"

Joseph Gervase: "The current contract expired in June."

Vice Chair Glaser: "So it has already expired?"

Joseph Gervase: "Yes, we are doing a month-to-month contract right now with the current vendor."

Vice Chair Glaser: "Okay, so, on this month-to-month basis, are you paying the same amount that you would have paid say in June?"

Joseph Gervase: "No, we are paying an amount based on what is closer to what we were paying before we did the RFP."

Vice Chair Glaser: "Who is Globalquest?"

Rick Stevenson: "Globalquest is a local computer company; computer personnel, support, the same functions that an IBM would for software applications implantation or network support or things of that nature only on a smaller scale."

Joseph Gervase: "The other point that Mr. Stevenson makes here is that Globalquest was the subcontractor on the original IBM contract."

Vice Chair Glaser: "They basically come into support the ERP system or are they actually sending people in there who are doing the work?"

Joseph Gervase: We actually have on site support. They go out in the field, recruit people who have specific skills in SAP software that can do configuration and programming and bring them in for case support. We do have some remote support from them also?

Secretary Keysa: "If I read this correctly you are running about $60,000 a month since June. What has been the status since June?"

Joseph Gervase: "We have an open purchase order with them that was approved by the Control Board to pay them."

Vice Chair Glaser: "Is there any opportunity with the new administration that is to look at this and do anything differently. Would we be prevented is the new administration came in and said I have a great idea we could do something this way but we can't because we have this contract."

Joseph Gervase: "We have talked about this in the past actually with this body, there are opportunities to send people away for training and to achieve a level of competence so we can phase any consultant out or at least phase it out to the point that we are not so dependent on the support and the expense could be reduced considerably. It is either external or internal support; those are really your two options."

Vice Chair Glaser: When you say support are you saying that they are actually running the software, changing the software, writing the software; what are they doing?

Joseph Gervase: They are doing changes, additions, some programming, configuration, changing the rule sets, things of that nature that allows the software function in the way it does

Director Goodell: Mr. Glaser we did deal with this earlier and the consensus of the group was that they were probably better off using outside services partly because the outsider could pay more money for the individuals and has the responsibility for supplying the technology. We looked at an internal training program and that gave a number of us the willies. I do have two questions. One you said there was a termination clause, how much notice?

Joseph Gervase: "30 days."

Director Goodell: "Okay, we have been working with you and you asked for $500,000 to develop a study, basically a strategic plan. I presume that one of the out growths of that plan could be change modification, cancellation, enhancement of this contract is that correct?"

Joseph Gervase: "No that is a totally separate piece of the whole program. This is the application side what you are looking at now is the technology portion of our service. The technology service centers around actually pushing these application over the network, so it means things like how we deliver those applications to the desktop, to computers, the routers, the network infrastructure, whether we use other types of software to reduce our server population; those are the types of things you are going to be looking at in the other grant that we submitted. So it is a little different."

Director Kruly: "As far as the 30 day cancellation is there any penalty for that cancellation?"

Joseph Gervase: "No there is no penalty for that."

Vice Chair Glaser:	"Is there anything negative, is there any reason why we shouldn't. Is there any concerns that you might have with it?"
Joseph Gervase:	"I would have concerns if you didn't approve it. We had a problem back a few months ago where the payroll system failed and without that support we would have had a major issue; there are a lot of things that are dependent on this right now."
Vice Chair Glaser:	"Have they been a good support group?"
Joseph Gervase:	Yes, yes they are responsive and we are very happy with them."
Director Johnson:	"So this contract relates more to a help desk kind of service."
Joseph Gervase:	"In a way help desk is part of this but on the application side so we may field calls from the user population specifically for the SAP application. Maybe we are having a problem with one of the human resource applications or maybe they wanted to make a change in the human resources module, these would be the people who would be taking those calls, the problems or doing some of the development work."
Director Johnson:	"The service that is provided through this contract would cover every County department with information technology?"
Joseph Gervase:	"Yes, this is for the SAP application."
Vice Chair Glaser:	"Could I have a motion to approve?"

Director Goodell the moved the following resolution, Director Johnson seconded, and all Directors present voted in favor.

Resolution No. 07-105

APPROVING CERTAIN CONTRACT SUBMITTED BY THE ERIE COUNTY DIVISION OF INFORMATION & SUPPORT SERVICES

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, in 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 or a "Responsible Official," as defined in Resolution 07-10, has duly submitted a request for review of the contract on the attached document; and

WHEREAS, the ECFSA Executive Director, after consultation with the ECFSA Staff, has recommended approval of said contract via written correspondence to each ECFSA Director;

NOW, THEREFORE, BE IT RESOLVED that the ECFSA approves the contract submitted by the Erie County Division of Information and Support for consulting services through Globalquest.

Department	Description	Amount
EC Division of Information & Support Services	Consulting Service – Globalquest	$2,676,217.90

*EC- Erie County

This resolution shall take effect immediately.

Vice Chair Glaser: "Thank you very much."

Executive Director Vetter: Mr. Vice Chairman, maybe if they could stay up, there is item #5-3 regarding replenishing obsolete computer equipment PC's, laptops and the server. If Mr. Gervase would like to speak to that item as well?

Joseph Gervase: "The one change in that request is that I believe it mentions a vendor, Synergy, which may or may not be the vendor, because we still have to go through the bid process on that one. That purchase request actually replaced some outdated PC's. It's to put some new PC's in various departments that are currently implementing new services. They are all going to need upgrades in technology; those purchases will come out of that purchase order. There is infrastructure, routing and things of that nature and servers also that are failing that we have to replace on a regular basis. So that purchase request is for the replacement of all those various pieces of equipment that are part a normal probably five year refreshment program."

Vice Chair Glaser: "That has nothing to do with the 2,000 computers we couldn't find?"

Joseph Gervase: "No this is something totally different from that."

Vice Chair Glaser: “If we found those would it be helpful in this”

Joseph Gervase: “No, not really; it is pretty much junk.”

Director Goodell: Why is this different from the 2,000 lost computers?”

Joseph Gervase: “Well first of all, there are not 2,000 lost computers. I want to just make that clear. There are some record-keeping issues that we have to resolve, but the equipment that is currently unaccounted for is so old that it really has no value and it does not fit into this infrastructure. It doesn’t have the memory, it doesn’t have the processing power that could be useful to the system.”

Vice Chair Glaser: “Is this a request from capital budget or the operating budget?”

Joseph Gervase: “Actually it is put in the operating budget.”

Secretary Keysa: “You have raised the question of old equipment so I will raise another item. A lot of the records went on to electronic media and the software. When I first came to the County, I had to boot up a machine that ran WANG. I think when I left I had the last computer in the department that still would run WANG and look at old records. I suspect probably that that machine is since gone. Is there any provision within the County IT effort to have equipment available that can read these old records?”

Joseph Gervase: “To read the old records?”

Secretary Keysa: “In other words there were studies and such that were done in the past that might be valuable in the future that the County could go back and look at. If the computer cannot look at that, if the software cannot look at those documents, it is now useless; it is a useless library.”

Joseph Gervase: “We will always have desktop software and that should be able to read and utilize just about any type of data that is available out there as long as it is in electronic format. Much of what you are asking for can be made available in an ASCIaskey format or a simple database format and the whole Microsoft suite allows you to continue to utilize that information. The other side of this whole thing, when you are talking about assets, there are actually asset management programs. Within SAP program, you actually have an asset management program that can be implemented and if we can feed the information in to the system from the old records and it is integrated with our financial then we have some answers and we are really moving forward. So the answer is yes, we can, but there is a better way to do too.”

Executive Director Vetter: “Is there a complete listing of what would be purchased; a list that reconciles to the $400,000?”

Joseph Gervase: “Not in total because some of them will be in PC’s, some of them will be routing equipment and some of the money will not be spent up front. I would not commit the whole $400,000 as a one time purpose it is going to be utilized as needed. In the event that we do not have to replace a server or two down the road, I won't spend the money and that has always been my policy."

Director Goodell: "You do have a quotation though?"

Joseph Gervase: "We have some state contract pricing available so we based the $400,000 based on that state contract information. So I have some quotations of the state contract list.

Executive Director Vetter: Mr. Vice Chairman, let me suggest for now that this is tabled do that we can get a better idea, maybe not and exact listing but a sense of what the ratio is and what line items would be there. Maybe we could bring this back if that would be acceptable to the Board."

Director Kruly moved to table the purchase contract with Synergy Global Solutions, Director Goodell seconded and the Directors voted unanimously to approve.

Director Goodell: "I think this is consistent with what we have been doing all along is not approving any contract that has any kind of open-end to it."

Vice Chair Glaser: "Right and I agree with that. I think most of us feel that this it is too open-ended for us."

Joseph Gervase: "So than what you would like from me is to list out the equipment that we are going to need on an as needed basis and bring it forward?"

Vice Chairman Glaser: "Just a list of the equipment and how you plan to phase that in over the course of the year. Something like that would be great."

Joseph Gervase: "Okay. No problem."

Executive Director Vetter: "Mr. Vice Chairman to speed this up just a little, could a representative from the Department of Public Works come to talk about the installation of a dishwasher. I think Commissioner Loffredo is here."

"If you would like to go through the contract because I know that one of our meetings we had approved a dishwasher and really the question in the contract was what is the relationship of this approval to the previous approval."

Commissioner Loffredo: "They are one in the same. What happened is that you approved the last request. The low bidder submitted his bid and in it he stated that he had complied with all the bid specifications. You approved it. We then asked for shop drawings through those shop drawings we found that he did not comply so we rejected that bid and than went to the next lowest bidder which was $5,000 higher. The low bidder was about $100,000 and the next highest was $105,000 so we have had an option of rejecting the contract and going to the next lowest bidder or rebidding the whole thing. However by rebidding the whole thing we would miss our window of opportunity at the Convention Center. They have a two week period in mid December from December 15th on in which they have to install that equipment. There is a six week delivery so for $5,000 we thought it would be better to go with the next highest bidder and meet that window of opportunity."

Vice Chair Glaser: "We did approve this the last time. Could I get a motion?"

Secretary Keysa moved to approve the purchase contract with D&M Refrigeration, Director Goodell seconded and the Directors voted unanimously to approve the following resolution:

Resolution No. 07-106

APPROVING CERTAIN CONTRACT SUBMITTED BY THE ERIE COUNTY DEPARTMENT OF PUBLIC WORKS

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, in 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 or a "Responsible Official," as defined in Resolution 07-10, has duly submitted a request for review of the contract on the attached document; and

WHEREAS, the ECFSA Executive Director, after consultation with the ECFSA Staff, has recommended approval of said contract via written correspondence to each ECFSA Director;

NOW, THEREFORE, BE IT RESOLVED that the ECFSA approves the contract submitted by the Erie County Department of Public Works for the purchase and installation of a dishwashing machine through D&M Refrigeration.

Department	Description	Amount
EC Public Works	Purchase Contract – D&M Refrigeration ; Purchase & Installation of Dishwashing machine	$104,792.59 – capital funds

*EC- Erie County

This resolution shall take effect immediately.

Executive Director Vetter: "Mr. Vice Chairman, item #5-5 regarding Administrators Agreement at ECC, we have been working with the ECC Administration to go through an analysis of the benefits and costs in that agreement. I believe we are getting closer to that becoming representative but that we are not there yet. So I would suggest at this point tabling this once so that we can finish up the analysis with Mr. Reuter and his people and than bring that back. Once we do have a representative document than a reasonable decision will be made on this item."

Vice Chair Glaser: "That is fine, I don't think we need a motion on it do we?"

Executive Director Vetter: "Well if we are tabling, I do believe there needs to be a motion to table."

Director Goodell moved to table the AAECC labor agreement, Secretary Keysa seconded and the Directors voted unanimously to table the item.

Executive Director Vetter: "Mr. Vice Chairman, the last item numbered 5-7, I believe Comptroller Poloncarz is here regarding an item that we received on general obligation bond issuance."

Comptroller Poloncarz: "Good Afternoon, first off, before I talk about this issue, I am not sure the members of the Fiscal Stability Authority are aware that my office issued our third quarter report two days ago on the status of where we believe Erie County to be in 2007. Yesterday, we also issued a report on the budget and four-year plan. I would be glad to answer any questions you may have on those. Our office believes especially with regard to 2007, due to very high sales tax rates, that we are trending not only towards a potential balanced budget, a potential small surplus."

Secretary Keysa: "I'd like to just note that I read the report on the budget proposal. I thought it was very thorough and I appreciate the detail that you went into on the report because it also talks about the sales tax currently. I did an analysis as to the sensitivity of the sales tax to the crossings on the various bridges between Canada and the United States. I wish I could dig it out and if I find it from that old WANG that I left at the County, that was in 1992. That was another period when the Canadian dollar was up, not necessarily at the level it is at now, but there was a definite relationship between the cross-border travel, and in terms of what we saw in the sales tax. It was brief at the time and what I suspect, as I think your report suggests, that this may be brief also."

Comptroller Poloncarz: "That's correct. First of all thank you for reading my report. It is nice to know that someone actually reads them. We know that in 2007 alone we may generate more in sales tax then what is actually budgeted for in 2008 because sales tax growth has been so good. You can basically make direct correlations to the strength of the Canadian dollar as compared to the American dollar. We have no control of that, it could continue for years and could end in a few months. We really don't know; those are forces beyond our control."

"Moving onto the topic at hand, before you I believe you have a packet of materials which was forwarded from our office in regard to a request from our office to perform and close on behalf of the County approximately $52 million in a capital obligation borrowing. Our office has been in contact with the Fiscal Authority as well as Mr. Vetter for many months now in regards to issues with the borrowing, the costs associated with the borrowing, the items to be included in the borrowing. When I say items I mean projects. Projects included in the borrowing and the cost of issuance. We have been working on this matter for some time, as I know the Fiscal Authority has."

"On July 17, 2007 it was requested that we provide the ECFSA our projected cost to do the County borrowing which we complied with on July 25, 2007. These were hypothetical costs at the time. We requested that the ECFSA extend the same courtesy to our office and share the data that you had for the cost of borrowing, at that time we did not receive anything. On July 19th our office issued an RFP for underwriting on the borrowing. We sent the RFP out to almost 30 firms, an RFP that generated 15 responses from financial service firms which are up from last year which was only 8 responses. We shared all 15 responses immediately with the Fiscal Stability Authority. Based on the cost of the response to the RFP as well as the experience of the parties that responded, our office would like to use City Bank as the Senor managing underwriters and Stern, Agee and Merrill Lynch as co-managing underwriters under the transaction of the County effectuated. As I know the Fiscal Authority is fully aware, for approximately the past two months, our office has engaged in an in-depth discussion with the NYS Division of Budget as well as the Governor's Office. We have talked to the Governor's office in regards to a comparison of the costs of an approximate $52 million bond sale in 2007 and whether the County did the borrowing or whether the ECFSA did the borrowing. We have had many many phone conversations with members of staff as well as having phone conversations when both parties are on. Our office has been up front and transparent in these discussions and has fully shared our cost data with the state as well as the ECFSA. We provided our last set off requested data weeks ago. To my understanding the ECFSA still owed some data to the State. Regardless of that fact we believe that it makes financial sense for the County to do the borrowing in 2007 than the ECFSA."

"Let me go into some of the reasons why. First of the cost of the County underwriting this is actually lower than the cost for the ECFSA. We received over 15 responses to our RFP, absolutely great responses. Well some of them, some of them weren't good and we discounted those. We chose in the end to go with Citibank as the senior managing underwriter which costs of underwriting and additional expenses involved are based on a per bond basis of $2.65 per $1,000 of bond sold. So the ECFSA commenced an RFP process, I think you had limited number of responses and had a cost of $3.75 per $1,000 of bond sold. So there is approximately $1.10 in savings per bond that goes to the County, based on the size of the deal it is approximately $50,000 in savings on underwriting alone. According to State Division of Budget, and Mr. Vetter was on this phone conference, our cost of underwriting is actually better that the quotes that the State is receiving at this time. Our office has provided, as I stated, the full amount of information on the borrowing issuance. We may have even overestimated the cost of issuance just to cover everything, for example we included the fees associated with three rating agencies rating our issuance. I know there was a question whether we needed the three agencies to look at our issuance. We put it in just to cover all potential costs that may arise. I know that Mr. Vetter has questioned that and if that is the case we can actually reduce some of the costs by only going with two rating agencies, perhaps even one although it is better going with two ratings on any issuance. The underwriter costs show that Wall Street believes that Erie County is a very good risk. We are stable and credible in the markets. Wall Street wants to sell to the County debt, is willing to do so at very competitive prices and it is evident from the responses that we received to our RFP."

"If there is any one area that the ECFSA can do a transaction a little cheaper than Erie County it would be in the costs associated with bond insurance. Our office has estimated that based on discussions we have had with bond insurers that we could at least obtain bond insurance based on a basis point of transaction of approximately 40 basis points. We opined that and provided the State Division of Budget which than shared that with the ECFSA who are analyzing that cost. During the process with the State on a conference call with State members, the Division of Budget, the Governors office as well as representatives from the ECFSA and my office. We learned that ECFSA's financial advisor Rich Tortora from Capital Markets, a financial advisor who responded to my 2006 RFP, that we did not select because he had a higher cost, had contacted bond insurance companies behind our back and deliberately undermined the County to drive our bond insurance costs up. Instead of being pleased that the County received a reasonable rate, the ECFSA's representative attempted to increase the Counties cost. He admitted it on the phone conference."

Executive Director Vetter: "That is absolutely not true. Mr. Poloncarz, stop this, and stick to the facts, please!"

Comptroller Poloncarz: “Well if I can stick to the facts, I do believe Mr. Tortora on that phone conference specifically said the facts speak for themselves.”

Executive Director Vetter: “And they do.”

Comptroller Poloncarz: “If I may, because this is an issue with regard to issuance and I am not certain if any of the members of the ECFSA are aware other than Mr. Glaser, who I did have a conversation with about this on the phone. If you aren’t aware, I think it is fair that you know it. Mr. Tortora is with your financial advisors. I have a financial advisor; his name is Steve Canter;Kantor he works for Southwest Financial. Advisors are suppose to go to represent the entities that represent them on bond issuances; say this is what we believe this is what the true value of this entity is, this municipality and we believe this is the cost on that transaction. We received a number of estimates, four estimates, in which we believe the best cost was 40 basis points. Mr. Tortora admitted on the phone conference that he went after he saw those numbers thinking that they weren’t accurate and spoke to the bond insurance companies to which he said two bond insurers will no longer bid on Erie County’s business and one will increase it. The State Division of Budget as well as the Governors representative Laura Lefebvre asked my office to go back and contact the bond insurers about what is the current status. We spoke to the major four ones and said they will no longer bid on Erie County’s business. One has increased their cost from what was around the 40-50 range to 80 -100 basis points, which would drive up our costs by hundreds of thousands of dollars. FGIC is still retaining the original estimate but has raised it and say they will potentially give us a 40 to 55 basis points. These are actions that we just couldn’t understand happened. Knowing that our original projection was much cheaper than probably the advisor anticipated, he went out and individually contacted the bond insurance agencies on Wall Street without informing us that he would do that; to talk about Erie County, not the ECFSA, but Erie County. He deliberately engaged in actions that led to two insurers saying they will no longer provide bond insurance and the third saying they will raise their cost and as I said the forth is still willing to issue us the rate that they originally said it would be. This interference is unprecedented. The action directly undermines the Counties attempt to borrow and is antithetical to ECFSA reason for being here which is to help the County not to hurt it. I am not blaming any of the individuals here because I don‘t think you went out there and said do this. To tell you the truth, I don’t think most of you were aware that this happened but it did. There were members of the State Governors office, member of the State Division of Budget on that phone conference who heard it. It almost ended the phone call but thankfully the State’s representative allowed us to move onto another aspect of the transaction. Additionally after this information had been provided as you may know some member of the legislature at the Finance Meeting that Mr. Glaser and Mr. Vetter attended asked for a comparison spread sheet to be provided to them so that they could look at the true cost of borrowing. Mr. Vetter did provide that letter to them on October 23rd which informed the County

Legislature that my own offices projections for bond insurance would be 75 basis points which at no time has ever been correct. I have the letter to show that. We estimate forty the most it can be is 55. We really estimate that we will be 40 basis points. Even after we provided that information and the Sate confirmed it, Mr. Vetter still sent a letter over to the Legislature saying that our estimate was 75 basis points. This is very important because when you look at the cost of the debt especially in the life of the bonds, I don't think the ECFSA's cost of borrowing are greater than the counties they actually are more. We do admit that based on the 40 basis points estimate that we have and supposedly has been received by the ECFSA, the ECFSA can procure bond insurance of approximate savings of about $160,000. When you amortize that over the life of the bond and right now we are working off a 20 year amortization schedule it comes out to a little more than $400,000 over the life of the bond; $20,000 a year. My office believes that whatever savings were created are negated by the annual costs that the ECFSA have in just having to hire one individual to maintain the debt service. To go out there on a daily basis, invest the capital, maintain the debt service, do the arbitrage rebate forms and the like."

"If ECFSA borrows, the Authority must remain in existence for the life of the bonds. That is exactly what happened in NYC and their control board, NYS Financial control board and MAC, which was created in September of 1975 and which still exist today to a tune of taxpayers dollars in NYS of $3.4 million, even though it has been in an advisory dormant status since 1986. The only reason that the Municipal Assistance Corporation and the NYS control board exist is because they borrowed back in the 70's."

"The Yonkers control board which was created back in the late 70's early 80's did not borrow for Yonkers. It was created and had a long term life span. Mr. John Spender you may remember, who ran for Senator just recently but was Mayor of Yonkers after the fiscal authority had been in creation for a number of years in Yonkers but they hadn't borrowed, requested that Governor Pataki as well as the Senate and Assembly look at the financial situation in Yonkers and if they believed it was appropriate actually to disband the Fiscal Authority. They did end the Fiscal Authority before its life span because that Authority did not borrow, saving Yonkers taxpayers probably millions of dollars in the long run in potential cost and fees associated with the continuation of that entity."

"The ECFSA's 2008 projected budget is $980,000. Even if we conservatively estimate your costs at only $500,000 a year, over the next 20 years that is $10 million in cost associated with ECFSA to save at most $400,000 over those 20 years. That is not savings additionally the county will incur substantial additional costs in the future years if it stops borrowing now, leaves the market and tries to reentered in the future. We know that is actually happening right now with the BFSA. BFSA has borrowed for a number of years and is now allowing the City of Buffalo to go out there and do a RAN this year and having spoken to Comptroller

SanFillipo their underwriting costs have increased by a lot; $2-3 per bond and that is just because they have been out of the market even though theoretically they should be in a better financial situation because they have had a financial control board there for some time."

"Without a doubt if we are out of the market and don't close the transaction this year, next year or whenever, our underwriting costs will go up significantly when we do eventually reenter the market; whether that is 2009, 2010 there will be an increase in cost. A decision needs to be made very soon or projects will not be conducted. Entities in the community are being put at risk. One of the reasons I sent this request over now is because it took some before we finally received the $15 million bond resolution approval from the Legislature with regard to ECMC appropriation. We now have a complete package of items to be borrowed under this. We still have not borrowed the ECMC portion of this and I would be willing to talk about a little bit of that in detail. A decision has to be made fairly soon on this because, number one, if you approve today, I can go out and cash advance on behalf of the entities that are expecting money under projects on behalf of Erie County but it is still going to take some time to do the borrowing. As I am sure Mr. Kruly and Mr. Vetter will agree and Mr. Keysa, you just don't approve a borrowing and close it over night. There is 30-45 day window and if I am to close a borrowing at the end of 2007, I need approval from this entity fairly fast because I cannot close it unless I have your approval. I don't know if I can do this borrowing at this point. As of now I have approval to do a bond resolution but under NYS local finance law that give me the power to cash advance if I do the borrowing. If I do not do the borrowing I can't cash advance. As you may have heard the zoo is facing a financial crunch because it is $4 million short on construction costs. I know Donna Fernandez and Jim Smitten sent a letter to Mr. Baynes, Mr. Giambra and Ms. Marinelli, Madam Chair, requesting immediate assistance in this matter indicating that they would have to go to the banking community and take out short term loans at a cost of thousands of dollars in interest that they didn't expect. ECC has sent a letter to the County saying that they are in an emergency situation saying that in some areas especially on North Campus that they need $3 million to conduct those repairs or otherwise they have to close some classrooms at ECC basically due to steam leaks and other factors. It was in the newspaper today saying that the Buffalo Bills had been talking to us for some time saying that they would not be able to change over their scoreboard with Mitsubishi so that they could conduct the Ice Bowl unless they were paid the full amount due them on the scoreboard. While we were able to provide them half of the amount, we were told they want the full amount and, according to today's paper, Mitsubishi is willing to defer on that which is good but it doesn't stop the other obligations that exist including the road projects that are far passed now because we are passed the road season in Erie County. If the Authority approves the borrowing, I can cash advance and provide those entities their dollars immediately, go forth and close the transaction and move on. If you don't approve the borrowing I cannot do that. I talked to Ms. Fernandez, I should say I left a message for Ms. Fernandez and talked to people on the Board of Directors of the Zoo; they understand it. I would love to be able to provide everybody who is entitled to their capital project dollars but I can't unless I know that I am going to be doing the borrowing. If I don't do the borrowing then under local finance law I don't think I can do the cash advance."

Because of the alleged savings that maybe incurred by the ECFSA doing the borrowing and we still do not know the full borrowing costs savings of the ECFSA because they have not been provided to the State Division of Budget, but if they do materialize at all, the long term cost of the ECFSA far outweighs the potential savings and the negative impact this Authority is having on our community institutions that we are seeing now, we respectfully request the ECFSA approve the contract that you have in front of you now for my office to perform the capital borrowing for 2007. Thank you and I will be glad to answer any questions."

Vice Chair Glaser: "I guess I would start by saying first of all that your report back on the County budget was excellent. I think you did a very nice job. It compliments the work that we put together a little bit later."

"That said, your arguments that the cost of borrowing should include the cost of this whole board forever, I would say to you that that is a disingenuous argument primarily because that is not the only reason that we are here. The borrowing, if it can save $20,000 a year or some other number, we could argue what that number would be, but I did hear in the EC Legislature the other day, that if we could save $25,000 that is what they thought would be a significant savings. Using their number of what is significant or not significant, I really do believe that we can save more than $25,000 in terms of what Mr. Vetter talked about $600,000 worth of savings from the borrowing. Let me just put that aside for a second because I would like to just comment, one of the reasons that we are here is not just the borrowing, but it really reflects the sad fiscal condition of the County in terms of we'll get into the details and I won't do it here but do it when we get into the finance area, but that fact that our revenues are over-stated, our expenses are understated and there are many speculative items in the budget. That is why we are here. There are a significant number of issues, the borrowing costs are just one of them. So to say that the cost of this control board or to say the only reason it is here is to borrow and therefore all the costs should be associated with that is like saying the Comptroller's Department is only here for that purpose. I don't believe that for a second because you have many other responsibilities that you do and carry out well. So I just don't buy into that argument. As it related to the cost of the borrowing, Mr. Kruly, I think you had some thoughts on the savings of the borrowing?"

Director Kruly: "Yes, I have some comments. Let me just introduce these comments by saying since the Comptroller is interested in projecting out over 25 years the cost of us staying around. I just did a little quick math and at current rates of spending the County Legislature will cost about $65 million over the next 25 years and your office will cost $85 million. I will leave it to someone else as to whether that is a good use of money."

"As we reviewed the 2008 budget that we have in front of us and the four year plan it is clear that the numbers don't add up. The fiscal crisis persists. This Board has repeatedly offered solutions to resolve some of the Counties problems particularly its out of sight growing debt; we have talked repeatedly about a debt diet which has fallen on deaf ears. Last summer this Board proposed handling the RAN sale. The Executive, the Legislature and the Comptroller all resisted the end result of that was tax payer lost $115,000. We also proposed the refinancing of some existing bonds. The Executive, the Legislature and the Comptroller resisted that. The end result of that is the taxpayers have not saved the $4 million that was on the table. Now we have on the table another opportunity to use the Boards good bond rating to save the County money. The State Budget department has independently determined that there is $600,000 to be saved if the control board does the borrowing. I think after looking at the amount that the Comptroller spends on bond insurance that the savings might be higher than that."

"On this proposal, and the Executive agrees, that the Comptroller and at least some members of the Legislature continue to resist. Also, then these bonding proposals will save the taxpayers of Erie County over $5 million, and the beauty of the savings is that no one needs to be laid off or no services have to be cut because of this."

"Over the past few days we have heard about issues concerning the Zoo project, the college and even the Ice Bowl. I think it is shameful for County officials to try and use these institutions and events as part of a political power play to maintain the status quo. We cannot afford the status quo any more. I am suggesting today that the Chairwoman of the Legislature use her authority to call an immediate special meeting of the Legislature to permit the board to do the borrowing and save the tax payers $600,000. If the Chair declines to call a special session I suggest to the other members of the Legislature to call that they exercise their prerogative under the rules of the Legislature to circulate a petition which needs eight signatures to call such a meeting. This board and the elected officials of the County have a fiduciary responsibility to the taxpayer to do all we can to keep costs down and it is time to get to work.."

Comptroller Poloncarz: "I would like to respond to that. Although I have a great deal of respect for you Mr. Kruly, what is shameful is that a representative from the ECFSA has gone behind our backs to try and increase or costs on bond insurance. You are saying you can come up with $600,000 in savings that is if you go with the highest estimate which would have been lower if your representative had not poisoned the well. It is as simple as that. If you look at the numbers straight out the most you can save on the flat amount of the transaction is $150,000 on the initial cost which if you amortize and include the interest costs over the 20 years is a little over $400,000. However, it is shameful that a representative of the ECFSA contacted the bond insurance agencies which are key players on Wall Street and said things that then resulted in two entities to no longer bid on Erie County's business at least for this year, have had one that we had last year increase their costs almost double. That is shameful; we can disagree on certain things like what is the impact of this discussion on the community and I agree on that however I thought this Authority was here to help us not drive up our costs and that is what your representative attempted to do."

Director Goodell: "Was the truth told to those agencies or was it a falsehood?"

Comptroller Poloncarz: "I have no idea what was told, because when I asked Mr. Tortora what was told to those rating agencies he would not tell me. When I went back to talk to them they said that they were reached out to by Mr. Tortora, he said some things that made them question the bond insurance cost and that as a result two of them were no longer bidding and one of them was increasing the cost.

Director Goodell: "You would have a very valid argument if a falsehood was involved."

Vice Chair Glaser: "I would like to just put this aside for just a second because you have made this as an accusation. I think at a minimum, we will investigate that and we will look into this to get the facts. I always think it is important to have the facts and then move from there. That said we will move to instruct someone from our law office to actually start a small investigation and find out the facts."

Comptroller Poloncarz: "I would appreciate that."

Vice Chair Glaser: "I can assure you that on behalf of the folks at the table and our board here that they are not trying to drive up costs by using back door methodologies to raise the cost of the County borrowing or anything of that matter. I just want to make that as a point and I am not sure you really believe that."

Comptroller Poloncarz: "I don't; think anyone up here onstage is trying to drive up the County's costs. Fiscal agents are paid based on the transactions that are closed and I do know Mr. Tortora. There is another issue that I have to admit and state that Mr. Vetter is aware of. When we bid for our financial advisors we put out an RFP, we received a number of responses. Mr. Tortora is not based in Buffalo although I think he had an office here and I believe Mr. Rick Ganci shows up to your meeting many time and Mr. Michael Neumeister who is here. They are from Capital Markets Advisors. When we did not chose Capital Market Advisors and chose First Southwest and called all non-winning bidders to say we were sorry that we did not chose their bid but we did not chose their group, everyone was gracious except one individual, Mr. Tortora. He yelled at me over the phone and said I was making a dumb decision and that I would live to regret this some day. Well I don't think he did it with that authority of any of you at this stage but he did something to make me try to live to regret that decision. I said that on the conference call and, as Mr. Vetter will agree, I asked him Mr. Tortora isn't that the case and he responded the facts speak for themselves."

Vice Chair Glaser: "As I said, we will investigate and take a look into that and find out what that fact is. With that said here we are with what we know to be the facts of what the cost of the borrowing would be however they got to be there as outlined by Director Kruly and I think that is an important issue."

Comptroller Poloncarz: "One issue though, if I may and I apologize for interrupting, there are still debatable costs on the side of the ECFSA including trustee, state fees and paying agents that might have to be paid on an annual basis but I do know Ms. Lefebvre from the Governor's office has been requesting, sent an e-mail around with everybody copied, to Mr. Vetter saying that they were still waiting for those numbers. To my knowledge they have not been provided to the State. So I am going on the numbers based on the estimates that they are today even though your cost may be higher. What I am talking about in total, I am talking about your cost of issuance could be higher than was projected at this point. We have been working on this for months now. We are done. We know what our costs are. Of course, when you go to market you find out what your interest rates would be the day you close and do your pricing. In some ways, this discussion has been good for Erie County taxpayers because no matter what, we have seen a reduction in the interest rates in the bond market lately because of what has happened on Wall Street. If we had closed this deal 3-4 months ago it would have been more expensive because interest rates were higher in the bond market so it is a good thing that it has lasted this long but it has to get resolved now. It is as simple as that!"

Vice Chair Glaser: "I understand and understand that we can have legitimate differences. My understanding is that the information has been forwarded to all parties that need the information form our stand point."

Executive Kenneth Vetter: "Correct, we have forwarded all material information."

Vice Chair Glaser: "That said, the big picture is that ECFSA bond rating is seven levels higher than the County's right now. It boggles my simple imagination that the borrowing cost could be less. In issuing those bonds for the County rather that the control board, which has a seven point higher rating, otherwise why would they have ratings. Wall Street uses those ratings or they wouldn't have them. Second piece of this, in terms of getting back into the bond market, and I am not familiar with the City of Buffalo's and their costs and so forth, my point would be that the County gets into a strong financial potion I don't think they will have any trouble selling their bonds. I think everybody will want to buy bonds, that is what Wall Street is all about. Someone will come to the table. That is kind of an argument that says well what is it going to be in the future and we could argue all day long. I still come back to the point that the control board is here not just for the bonds. The control board is here for a lot of other reasons and whether a representative or person of enounced to the control board said something or heard something I would probably say that there are probably a lot of people out there related to the County that are performing actions that may be costing the County money maybe not on purpose but that is the whole purpose of the control board to try and oversee that and create that oversight."

Secretary Keysa: "I think it is disingenuous to think that it is going to cost the $500,000 in inflated costs over that time period. As a lawyer I know that I have dealt with trying to get a mortgage that was held by a federal agency created back in the forties. It took a while to find the man, but I did find that there was one individual who had about five or six of these different corporations that he had been delegated the responsibilities as they phased out. He had the seals in his desk and the records available to him and there was one individual, one individual for about 6 of these federal agencies to take care of the residual aspects of their existence. There is no reason that, if a bond was issued by this Authority, that at some future date, as the oversight responsibilities of the board have disappeared ,and I truly hope that they do, those responsibilities with regard to those bonds there can't be some state agency or other bureaucracy who can readily take over the final transaction?"

Comptroller Poloncarz: "May I address that issue because I have spoke to members of the State on this? In theory you are correct; and in reality, no. It has been attempted but the cost involved would be far greater than whatever savings that could be materialized because what you are talking about are State Authorities. NIFA is a state authority; the New York State control board for New York City is actually a division of Budget. The Municipal Asset Corporation that issues the bonds for NYC is a state authority; the same thing with Troy and the same thing prior with Yonkers. I have spoken to the Executive Director of MAC, Nancy Henzy and she said that they have looked at this for years. They tried to do it, they tried to eliminate the underlying entities that did the borrowing on behalf of the distressed municipalities at the time and they were unable to do it because it requires three things. Number one it requires the entities themselves to agree to do that, which is not always the case. Number two it requires the redemption of the bond that is issued by that state authority because if the state authority goes out of existence you cannot just transfer that debt to the State. Your payment of bonds is not dependent upon State proceeds; it is dependent upon Erie County proceeds. The State does not back up the bonds that you issue. The bonds would be repaid out of the sales tax as well as some other items that you receive from the State that is then remitted to Erie County. It is not the state proceeds that are used to pay off those bonds it is the County proceeds. The same thing with MAC and I have their financial statements here. In the end the bonds are paid for with the MAC in New York City. NIFA and BFSA those are paid out of the proceeds of the entity so to change and transfer the debt out of the State would require redemption of the bond. The creation of a new State entity which would then issue its own bonds and then pay for it out of whatever proceeds it had at that time. I spoke to Ms. Henzy and she said that it is attempted but it is just not feasible."

Secretary Keysa: “That is not what I said. I said that the staffing requirements can be transferred. I did not say that the State would take on the bonding responsibility. I am saying the staffing requirements can be transferred.”

Comptroller Poloncarz “And budget does not think that that is feasible.”

Vice Chair Glaser: “There are two things that can happen here. Possibly you might refinance them in years out. That would be one way of getting rid of those bonds. Number two, if we are only talking administratively, if the only reason the control board is here whether it is hard or soft. If the only reason the control board was here was because those bonds have a life than administratively everything can be subcontracted back to the County or some other place. We wouldn’t need any staff.”

Comptroller Poloncarz: “I agree and I am not saying that there are no other requirements for this control board but if you do the borrowing, and the MAC is a perfect example. They have done the borrowing for the State. It is going out of business next year. Do you know why it is going out of business because the bonds are finally being paid in full. The last issuance of bond was 1984, they are paying of the final bonds in 2008 when that happens MAC goes out of existence.”

Vice Chair Glaser: “We are dealing with one single issue right now and I bring this back to the fact that to get out of the control status; to go from hard to soft to going out which are the three steps. The County has to do some things to turn around and I submit it is not going to happen in the next couple of years and probably not in the next five years. There are tremendous issues in front of this County that this control board can help with and quite honest your office can help and be a big part of it. Many of these problems are complex solutions they are not simple fixes. The reality of it is and we talked about this earlier we not only have shortfalls in this current budget but we have almost a billion dollar problem to fix with GASB 45 which are the health care costs for current retire employees that have to be dealt with.”

Comptroller Poloncarz: “Which we do not have to fix a billion dollar basis now, but we do have to address it.”

Vice Chair Glaser: “That is right, but they have to be addressed, all in all, but at the same time, while we are trying to eek out any dollars that we can for infrastructure changes that are so desperately needed in this area. That is why the control board is here it, it is not just a single issue; this is not the control board saying we are trying to usurp this power so that we can stay around longer. The control board is here to help the County and this is one of the ways that it can and it is really what I call a no-brainer.”

Comptroller Poloncarz: “Well I agree and I think you noted that you didn’t understand why ratings would be in play and what the difference would be. I note there is a difference in our ratings. If you were ever going to see additional costs as a result of ratings there would be two areas and that would be bond insurance and underwriting costs. Wall Street knows the value of

Erie County and that is on of the reasons the we have a better underwriting cost than the Fiscal Stability Authority. The ECFSA has not financed any borrowing. Because it is a new entity Wall Street still has some questions about it and it responded in so with its underwriting proposals. Wall Street does not have serious questions on Erie County. It understands Erie County's financial issues we are ending up this year with a surplus. I hope, well I shouldn't say that. We ended up in 2005 with a surplus, we ended up in 2006 with a surplus it is trending like we will end up with a surplus in 2007. My office believes that the 2008 budget is attainable probably because sales tax receipts are underestimated in the 2008 budget. The issue areas I agree on the expense line and we do have serious problems with the four year plan. But Erie County at least is headed in the right direction and they are not like the City of Buffalo or NIFA which issued deficit bonds. They are discussing the same thing in the City of Buffalo now. They'd like to truthfully end the BCFSA. A number of people who are on that Authority stepped aside because they thought that it would be eliminated. They can't do that and they brought in new personnel to take over and meet on a quarterly basis like I am sure even if you went into an advisory status you would have to do under your statute. What we are talking about in my eyes are savings that are so negligible on an issue that is not only impacting the County's roads and bridges but is impacting entities in our community that I am sorry to say are stuck in the middle of this debate on what are best negligible savings. When you look at the long term costs associated with the borrowing and you have to hire someone to maintain debt service. You have to hire someone to do that."

Vice Chair Glaser: "Mr. Poloncarz, honestly the community, the prices whatever that you are referring to. The County Executive has asked the Legislature to approve a resolution that we have had there for several months now. We have gone along with that and the County Legislature has not approved that. I don't know why not. I still believe that we may have a disagreement in what you think that number to be but we believe that number to be at least $600,000."

Comptroller Poloncarz: "And I disagree."

Director Johnson: This question is to Mr. Poloncarz but let me say, before I present the question, there are a lot of very genuine things that can be said by individual members of this Authority on behalf of the Comptroller's Office but I don't want to prolong this discussion. My question gets back to the single issue that we are dealing with here today and that is primarily about the borrowing. We need to move out of the triple threat syndrome of I, me, my. What the Comptroller will do, what the Administration will do and/or what the Fiscal Stability Authority will be engaged in."

"My question is why is it that you think that the tax payers of Erie County would not be interested in savings whether it is $20,000, $50,000 and up over the period that is going to in the long run save a lot of money because your underwriting is a lot cheaper than what ours are right now.

The actions that we would take today could bring about some immediate savings for the taxpayers of Erie County. Forget about what is down the road none of us are expected to be around in the next 20 seconds."

Comptroller Poloncarz: "I hope some of you are around in the next 20 seconds."

Director Johnson: "Well I have faith and I know what that faith brings but it is not guaranteed. The point that I am asking you about is why is it that we are stuck in a position of who is going to do the borrowing versus what is going to be the best benefit for taxpayers and like today the costs of the ECFSA doing the borrowing is a lot less cheaper than what your responsibility would be. What moves us from that point?"

Comptroller Poloncarz: "In the end, when you do a borrowing, you have to look at the costs associated with that over the life of the borrowing. We are talking about a $52 million borrowing. When you include all the interests, all the costs of issuance which are amortized over the life of the transaction, we are talking about over $70 million deal when you include the interest and the costs. History shows, and I am not lying here, history shows when a state authority, like a fiscal control board, borrows on behalf of its underlying entity that, it has existed for the life of the borrowing. There is one example where a State control board had not borrowed on behalf of its underlying entity and it was eliminated prior to the lifespan of that entity. If you do it to assure dollars and cents, is there savings on the strict cost of issuance. I have never denied the ECFSA could probably come up with savings on the cost of issuance alone. What I have said and I think some people in the community agree because I have talked to people in the business and every day mom and pops is what our goal here is to ensure Erie County gets on its fiscal feet as soon as possible so that we don't need and ECFSA. The is what we are all working for; my office and your office and if you take an action that requires the ECFSA to exist for at least 20 years or longer, sewer bonds are typically 30 year bonds. You create a being that is going to have costs for that life, even if it is only a receptionist and an individual like the MAC has three people in NYC monitoring the debt service and investing on a daily basis. They still have a budget over $1 million in costs that run easily $800-900,000 a year. How do you justify spending $800,000-900,000 a year to save potentially $150,000 on the initial transaction, $440,000 once amortized over 20 years. I don't see the fiscal sense in that. We can disagree on it."

Vice Chair Glaser: "I do. I would venture to say that whoever is sitting on the control board at whatever time in the future is trying to do good things in helping the county. I would venture to say that most taxpayers are glad to have the control board here based upon what has happened over the last four or five years in Erie County in providing some stabilization and sometimes some adult supervision which at one point in time was necessary. I don't know if I need to use that phrase with the current group of people but that is what this body provides. Whomever are sitting in these spots and I think going out in the future those people will be doing more than just the bonds and helping the County. So I think we share your view that we will work our way out of this; it is not going to be easy, there are complex problems ahead and it is going to be hard work."

Director Goodell: "I just have two observations here. One is the County's bond rating is the lowest of any County in the United States."

Comptroller Poloncarz: "That is not true. We have proof to show it isn't and I will be glad to get you the data."

Director Goodell: "That is the data we have and to say that we can't borrow cheaper than that just doesn't make sense. Furthermore, if the County was to look at refinancing a lot of the debt they have right now they would find, if they are honest, about $7 million that could be saved."

Comptroller Poloncarz: "That is a new number that I have not heard."

Director Goodell: "If that is the case, there would certainly be considerable savings in the County Comptroller's Office, because there would be redundant folks that wouldn't be needed to manage some of the existing debt. So it is a specious argument to charge all the costs the of control board against the debt. It just doesn't make sense."

Vice Chair Glaser: "Mr. Kruly you had some questions?"

Director Kruly: "I have just a couple of things Mr. Vice Chairman, thank you. An example of trying to cut back on cost, the Urban Development Corporation, under the new leadership that Governor Spitzer, was appointed earlier this year and their subsidiary, the Economic Development Corporation, by the stroke of a pen eliminated 50 subsidiary corporations and authorities and they rolled in whatever was left of those things into a conglomerate so if there is a precedent there and it is not that hard."

"The other thing that I am curious about and Mr. Poloncarz is certainly concerned about is our budget as a "Johnny One Note", and it is only on borrowing, but let me give you a comparison and let me know what you think about it. You are saying that we cost $980,000, which is more than we will spend next year but that is what is listed in the budget. My calculations show that the district offices of County Legislators in rent and staff cost about $830,000. Do you think that is a good expense over the next 25 years?"

Comptroller Poloncarz: "That is up to the Legislature. I don't know, I am not talking to the people or calling those offices."

Director Kruly: "You're the Comptroller. Do you really think that that is a good expense; is it something that is serving the public? Is a service that is provided that is essential to the taxpayers?"

Comptroller Poloncarz: "It may or may not."

Director Goodell: "This is the most expensive Legislature in the State."

Comptroller Poloncarz: "My office has looked at this and there is a possibility that it could be an excessive cost. There is a possibility that when you look at the services that are provided by the district offices that that it is a bargain. I don't know. I'd be glad to look at it. I only have right now three auditors and one deputy per audit on a $1.4 billion budget. When I talk to people in the private sector, and Mr. Glaser you will know as an accountant, four people auditing a $1.4 billion budget is exceptionally low. I would like to look at a lot of other things but we just can't. We just got a request with regard to the computers that are missing. There has been a request from our office as well as the District Attorney's office to assist in that investigation. We will once we finish out audit on ECMC. There are a lot of costs out there that you can look at. When Ms. Smolinski was Comptroller they had over 100 employees in the Comptroller's office. Before the financial crack down there were approximately 60 employees. The low was some where in the mid-20's; we are now up to 40. We are one of the only departments to be cut in the 2008 budget and we lost two more jobs. I would love to be able to go out there and find more cost savings in Erie County."

Director Kruly: "I would make a motion that we approve this item. I will vote against it but we need a motion to act on. I would propose that we resolve this and move on."

Vice Chair Glaser: "Do we need a motion to approve?"

Secretary Keysa: "We need a motion but I would make a motion to disapprove."

Secretary Keysa moved to disapprove the general obligation borrowing on behalf of the Erie County Comptroller, Director Goodell seconded and the Directors voted unanimously to approve the following resolution:

Resolution No. 07-107

COMMENTING ON AND DISAPPROVING GENERAL OBLIGATION BORROWING AND RELATED CONTRACT REQUEST SUBMITTED BY THE ERIE COUNTY COMPTROLLER

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, section 3961 of the New York Public Authorities Law ("Public Authorities Law") permits Erie County (the "County"), pursuant to a request made by and through the County

Executive after authorization by the County Legislature, to “undertake a financing of costs” through the ECFSA; and

WHEREAS, section 3962 of the Public Authorities Law empowers the ECFSA “to issue bonds, notes or other obligations . . . to pay any financeable costs;” and

WHEREAS, over time, through various capital project resolutions, the County Legislature has authorized the issuance of bonds to finance capital expenditures and has delegated the power to issue those bonds to the County Comptroller; and

WHEREAS, by adopting Resolution 07-23 on March 26, 2007, Resolution 07-58 on June 15, 2007, and Resolutions 07-82 and 07-83 on August 30, 2007, the ECFSA urged the County Executive, the County Comptroller, and the County Legislature to seek opportunities to fund the County’s capital expenditures with proceeds of bonds issued by the ECFSA, upon considering the fiscal benefits that will result; and

WHEREAS, on July 19, 2007, the County Comptroller issued a Request for Proposals seeking qualified financial institutions to underwrite Erie County’s 2007 general obligation borrowing in an amount not to exceed $50,930,000; and

WHEREAS, the County Comptroller received responses to this request from 15 financial institutions and reviewed the responses parallel to a review by First Southwest Company, the County’s financial advisor; and

WHEREAS, on August 29, 2007, First Southwest Company recommended that the County select Citigroup Global Markets, Inc., to act as senior managing underwriter, and Sterne Agree and Merrill Lynch to act as co-managers for an Erie County general obligation borrowing to fund the County’s 2007 capital needs/requirements; and

WHEREAS, by adopting Resolution 07-83 on August 30, 2007, the ECFSA gave its preliminary approval for the issuance of its tax exempt and/or taxable bonds, for the benefit of the County in an amount not to exceed $52,000,000 including costs of issuance; and

WHEREAS, on October 4, 2007, the County Executive requested County Legislature approval of an ECFSA general obligation borrowing on behalf of the County, as required by section 3961 of the Public Authorities Law, in order to enable the ECFSA to realize savings for County taxpayers; and

WHEREAS, the County Legislature has yet to act on the County Executive’s request; and

WHEREAS, section 3959(2)(i) of the Public Authorities Law mandates that during a control period no proposed borrowing by the County shall be made unless first reviewed, commented upon and approved by the ECFSA; 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 renewed and continued the control period by adopting Resolution 07-04 on January 11, 2007, as required by section 3959(1)(e) of the Public Authorities Law upon finding that the County had violated section 3957(1) of the Public Authorities Law; and

WHEREAS, on October 26, 2007, pursuant to section 3959(2)(i) of the Public Authorities Law, the County Comptroller requested ECFSA approval for issuance of $51,930,000 in Erie County general obligation bonds to fund the County's 2007 capital needs/requirements; and

WHEREAS, also on October 26, 2007, the County Comptroller, a "Responsible Official" as defined in Resolution 07-10, submitted a "Contract Approval Request" as required by Resolution 07-10 to enter into any and all contracts and agreements with Citigroup Global Markets, Inc., to act as senior managing underwriter for the borrowing, Sterne Agree and Merrill Lynch to act as co-managers, and any other party (bond counsel, underwriter's counsel, paying agent, etc.) as necessary to effectuate the closing of the borrowing; and

WHEREAS, in accordance with the Public Authorities Law, the ECFSA has reviewed the County's proposed borrowing; and

WHEREAS, the County Comptroller has yet to assure the ECFSA that the County can obtain terms for a bond issuance by the County that are equal to or better than those available to the ECFSA as set forth in Resolution 07-83; and

WHEREAS, the County's financial circumstances and anticipated future financial circumstances should cause the County, in the interest of responsible fiscal management, to request pursuant to Public Authorities Law that the ECFSA undertake a bond issuance to fund capital expenditures;

NOW, THEREFORE, BE IT RESOLVED that the ECFSA disapproves issuance of $51,930,000 in Erie County general obligation bonds to fund the County's 2007 capital needs/requirements; and

BE IT FURTHER RESOLVED that the ECFSA disapproves the related request to enter into any and all contracts and agreements to effectuate closing of Erie County's 2007 general obligation borrowing; and

BE IT FURTHER RESOLVED that the ECFSA reiterates its prior recommendation, that, in the interest of responsible fiscal management and to take advantage of the ECFSA's bond rating, County officials take all the steps necessary to request pursuant to the Public Authorities Law that the ECFSA undertake a bond issuance to fund the County's 2007 capital needs/requirements; and

BE IT FURTHER RESOLVED that certified copies of this resolution be forwarded to the County Executive, the County Comptroller, the County Legislature, the Director of the State Division of the Budget, the New York State Comptroller, the Chair of the State Assembly Ways and Means Committee and the Chair of the State Senate Finance Committee, as required by section 3959(2)(i) of the Public Authorities Law.

This resolution shall take effect immediately.

Vice Chair Glaser: "Mr. Poloncarz before you leave, I would like to say something and that is this. I would repeat again that I thought your office did a great job in putting together your review of the budget. I think that as far a honest differences between honest men I think we have a situation here and that is that and we need to move on and get something done. I say that to you in that vein and I would also second what you have said. You can be a tremendous example of a good leader of the County so far and prove so by the things that you do in the comptrollers office and you need to continue to do them and probably have some more support around you because the comptrollers office is going to play a key part in trying to figure out how to get the County out of a control board and some day maybe you will get rid of control board but it may not be in the short term. Thanks for all your comments and your assistance."

Comptroller Poloncarz: "I am disappointed in your decision today but, of course, my office will continue to work with the control board as we have in the past."

Vice Chair Glaser: "Absolutely, we have encouraged the Legislature to move on with the motion that is before them because the ball is really in their court. With that are there any other contracts?"

Executive Director Vetter: "No, Mr. Vice Chairman, I believe the next agenda item is a report form the finance committee."

Vice Chair Glaser: "Okay the next agenda item is a report from the finance committee. Mr. Goodell, do you have a report to the board on that?"

Director Goodell: "The finance committee has met twice to deal with the proposed budget and the four-year plan. We have asked approximately 30 questions of the County and we got responses to those, not all satisfactory. I wanted to just talk about how I react to this. It is really very disappointing for us to see these proposals with increased taxes for the next four years with very little attention to cost reduction. Only one new cost reduction proposal over the next four years and tax increase amounting to what I recall something in the range of $40 million. That is just Mr. Vice Chairman, extremely disappointing and during our meeting Mr. Kruly pointed out that the property taxes and the citizens of the County have risen approximately 80% since 2002 is what I believe it was or 2007 to 2012 and I just ask the citizens of the County to take a look at what have you gotten for that nearly doubling in taxes? So it is my recommendation and other members of the committee will speak to it also that we reject the budget and financial plan as being unrealistic."

Vice Chair Glaser: "Okay, is Mr. Bucki here?

Executive Director Vetter: "Yes he is here."

Vice Chair Glaser: "Mr. Bucki would you like to step forward and talk about the responsibilities required at this point in time?"

"Mr. Bucki thanks for coming forward. We are going to be discussing budget and the four-year plan if you would like to bring us through from your standpoint and the items that we need to take into consideration."

Craig Bucki: "By all means. As the authority has said my name is Craig Bucki along with David McNamara from the law firm of Phillips Lytle. We are counsel to the ECFSA, Mr. McNamara could not be here this afternoon and so he asked me to speak briefly about the Authorities responsibilities with regard to the 2008-2011 four-year plan that was submitted to the Authority by the County on October 15th, 2007. Pursuant to the New York public Authorities law in which the ECFSA creation was codified within 20 days of the County's submission of a proposed 2008 budget and a proposed 2008-2011 four year plan to this Authority, the Authority needs to determine whether that financial plan is compliant with the enabling statue that created this authority. Just to give an example of what happened last year in 2006 when the 2006-2010 four-year plan was presented. The Authority passed a resolution, resolution number 06-49 dated November 3, 2006. In which the Authority for various reasons determined that the four-year plan did not contain actions sufficient to ensure with respect to major operating funds for each fiscal year of that plan that annual aggregate operating expenses for such fiscal year would not exceed annual aggregate operating revenues for such fiscal year and because this authority made that determination and because the portion that I just read to you is a part of the ECFSA act that created this honorable body as a consequence the Authority made the determination that the County had violated the ECFSA Act in submitting a four year plan for which expenses exceeded revenues and because of that violation this authority was able to impose a control period upon Erie County pursuant to section 3959(1)(e) of the Public Authorities Law. Similarly today, what the Authority needs to do is look at the four-year plan, consider observations that have been made by the finance committee and other members of the Authority to determine number one whether or not the plan is compliant and as a subset of that determination also determine whether for the 2008-2011 whether revenue in fact do not exceed expenses. If the Authority determines that expense do exceed revenues with respect to the major operating funds than the statute would require the re-imposition of a control period at this time. So know I would leave it to the finance committee to talk about their observations and then I would be happy to discuss a resolution that would fulfill your responsibilities under the statute."

Vice Chair Glaser: "Thank you. Were there some observations from your finance committee meeting?"

Director Kruly: "Mr. Vice Chairman, there are a number of problems that with both the 2008 budget and the four-year plan. We have identified, and there are some highlights in the report from the Comptroller actually has significantly more highlights or maybe lowlights would be a better term for it. The 2008 budget is not structurally balanced, the four-year plan is defective in many ways. The 2008 budget, even with what is there, is increasing property taxes levy by 5.5% almost $12 million that is collecting, an extra $11 million in sales tax that is reduced because of contract, there is $8 million in ECMC expenses and makes no provisions for union contracts so there are some things that don't repeat themselves every year and that certainly send up red flags aside from a lot of the other things, a lot of the smaller items that are reported in the Comptrollers report. So I think what we have here is a structural budget that is not balanced. The Legislature still has a month to deal with it but since the Legislature has not taken a position on the four year plan. I think that we are left with the document that is in front of us and as Mr. Goodell has pointed out there may be some changes for the next Administration."

Secretary Keysa: The only question I have, and I am not a member of the committee, is, the original document was filed on the 18th of the month, is that correct?

Executive Director Vetter: "The original was on the 15th of October. Last year's was October 18th."

Secretary Keysa: "Making the fourth of November the time frame in which we have to act; which means we have to act today?"

Executive Director Vetter: "Yes this is the last business day given that the limit is 20 days to accept or reject."

"Mr. Vice Chairman again this is really, the review that was made by staff and shared with board members, really indicates that in the 2008 budget and four-year plan there are significant items that do not appear to have sufficient substantiation. Number are numbers and debits equal credits but doing a sensitivity analysis on the numbers to determine how the potential achievability and the documentation that is structured in place could achieve potentially intricate savings does not accrue true to the numbers that are there and this report highlights some items on the revenue side and on the expense side and really treated them in four different categories; revenue items that we believe there will be some difficulty in achieving. One being the tax lien proceeds, where it is being reviewed by the Legislature's finance committee approximately two weeks ago that the current tax lien sale would be off the table as of October 30th. It seems reasonable to assume at this point that since there is no agreement in place and that the provisions for that agreement approved by this Authority have not been met and that incremental tax lien proceeds will not be forthcoming and there is no reasonable assurance of it."

"The second largest item is with regard to circular revenue. This item over the aggregate; over 2009, 2010 and 2011 $1 million, $2 million and $3 million for $6 million total, in the documentation we received from the County there is no detail, marketing plan, there are no contracts; this is an item with ECC that has come to us in the past where ECC has derived some revenue but know where near the amount of revenue that Erie County could achieve at this point."

"Also, as with last year's property assessments, the County stated there would be a 4% increase in property assessments and that the County would increase the levy without increase the rate. We had asked for justification accordingly. There was no justification from any outside agency forwarded only a chart of what the increases had been and actually the increases over the ten year period were under 2.4 %. There is also the State Comptroller's report that references for Erie County a 5 year increase; a historical increase of 2.5%. So again looking at this County with a 4% increase, because at some point a number of municipalities in that assessment will at some point…they'll catch all the properties or a significant number of properties that have been reassessed."

"Significant items on the expense side include the initiative to eradicate over $35 million in the Medical Center, debt service as a result of outcomes from the Berger Commission and at this point the documentation provided was a memorandum from the County Attorney indicating a reference to the Berger Commission and the legal system without outside substantiation of any kind from an outside entity. Also related to ECMC in the BMR report for Erie County, there is an amount listed in potential significant liability in the amount of $8.9 million as the County's share of intergovernmental transfer monies that the County has expected from ECMC but ECMC is not expected to give back to the County. The documentation received on the question raised to the County is that they are seeking relief of this item through the court system but there was no outside substantiation given as to the reasonableness of this item."

"The third major item on the expense side is the Sheriff's road patrol that there is a total of almost $13 million in the out years of the financial plan that have been given for that. There have been attempts, and one significant attempt in the last year or two, to try and implement this item which did not occur and that also, given the political will and the environment out there, it does not appear to be achievable at this point particularly given the stance of the two candidates vying for County Executive next year, both have indicated that they will continue this service without reimbursement in the foreseeable future, and I believe one of the candidates has indicated that he would expand the service at this point."

"Items from last year: the integrated case management and the subset of blueprint for change, we talked about it at the finance committee meeting and that being a noble cause but the structure and wherewithal to make that occur and to have savings is not in place. Two items related to roads and the borrowing. The road fund for this year, as of December 31, 2006 financials, there is a $6.9 million deficit and there have been persistent deficits since 2000 which still transfers $10 million out of that fund to either primarily or solely the general fund so it is down almost $7 million and this is a persistent condition that really the net result appears to be that the road fund is experiencing a deficit that brings up the general fund.

"The last item is regarding CHIPs borrowing. This plan shows improvement over last year wherein there was $4.8 million in CHIPs borrowing. This year it is only $3.6 million. We looked at this item and felt that this is a practice that needs to end sooner than later. There is no net impact of this ending sooner than later but this is still something that is an anomaly to Erie County and are really recommending upon review that it should be addressed soon. There are a series of items that in reviewing, the staff and at the Board level considered speculative wherein there is some merit to these items but the order of magnitude in savings appears to be doubtful. So these are items, if I could paraphrase the individual comments of members of the board, they are very much worth pursuing but in sensitivity analysis they should be discounted significantly because there is no reasonable assurance they will accrue the saving that are necessary. Those include collective bargaining savings, alternatives to incarceration and recently Information Technology to perform grant application and the recently approved risk management application and that they do have some merit but those items do not appear at this point to have a high level of confidence that they would generate the kinds of savings that are indicated in the four-year plan."

"The last item to consider and there are additional items to consider and speaking with the board members on the finance committee on going forward. One item is going through all the steps for the passing of the 1% sales tax in an extremely short time frame, with the new administration in the first quarter this year. If that is not passed in a timely basis the County could lose 10/12th of its 1% sales tax revenue next year. That is almost $130 million."

"Second, Mr. Vice Chairman you referred to the GASB 45 liability that is out there. That, for the County, the actuarial, as of December 31, 2006, indicated that there is in excess of $980 million, which is approximately 90% of the County's general fund. The last item, and it is an item of concern, are the potential retroactive settlement of labor agreements. All the County labor agreements have expired, some as early as 2004, and there are a number of items in front of the County Legislature, an arbitrator which could afford retroactive pay raises to County employees and to our knowledge have not been included in the budget. Mr. Chairman I would submit that as our collaborative intelligence on the budget."

Vice Chair Glaser: "Thank you, just to summarize, it appears to me that based upon your analysis, that the budget for 2008 could be having a gap of the structure budgeted by over $20 million."

Executive Director Vetter: "Yes Mr. Chairman, assuming these questionable items do not occur, yes."

Vice Chair Glaser: "Unless something is done and the out period for the next three years, cumulatively the gap there is in excess of $100 million?"

Executive Director Vetter: "Yes, almost $120 million."

Secretary Keysa: "I assume that in both cases that assumes that the 1% sales tax is approved. If that is not approved, we are talking about much more and much worse?"

Vice Chair Glaser: "That is correct."

Budget Director Hartman: "We're not going to argue. You did send me a letter asking me to appear but I do have a question and that was the one I posed in the letter left outside. Is there any set of written analysis that summarizes these numbers?"

Executive Director Vetter: "Yes, right here. We will hand out copies"

Budget Director Hartman: "That would be good because I think that is appropriate procedure because I am not sure where you just came up with that $20 million and I don't know what the other number was for the out years; some $100 million, don't quote that because it is not a true number, the way it is being used. We don't want to argue, but I would just like to offer a response; then I will sit down. .

"The EC budget is in a structural balance. It has been in structural balance since 2006. Before that, admittedly it was not, but in 2005 the elected officials made the difficult decisions. They took $80 million out of the expense base and they fixed the problem that had been created in 2000 with the irresponsible cut of the real estate tax by raising the property and sales tax. We ran a surplus in 2006. In 2007 we will balance the budget despite the fact theat you have denied us the tax lien revenue that was originally assumed in that budget. Your analysis of 2008 is completely incorrect, the budget is solidly balance and you should not be including CHIPs, you should not being including the road fund. What you are doing is incorrect the 2008 budget is balanced and if I were here as budget director it would run a surplus because we budget conservatively and we manage expenses. Then let's talk about the out years. We are talking about gaps that are less than 1% of the budget and even if we take your base line assumption that assessment growth is only going to be 2.5 and not 4% we still have gaps that are only about 1% of the budget. Those gaps can be managed and let me tell you how. This is not complicated. As the Comptroller suggested to you, let's take for example, sales tax. We have so conservatively budgeted sales tax for next year that we are probably going to end 2007 with more sale tax than we have in the budget for 2008. So let's get conservative. We assumed that the base this year would be $370 million of sales tax and that next year we would have $380 in 2008. Let's assume that it is just $375, just be conservative at this point going forward than at a 2.5% growth rate that gives us an extra $4-5 million a year which cuts those gaps in half and then the only other thing that we need to do to balance the budget is to get an agreement from the judge that we don't need to make an additional capital payment to the hospital of $23 million. We don't have it but I am certain it is forthcoming because the hospital can't spend the money; why should we give it to them they are still sitting on the $32 million we gave them last year. They are legally not able to spend it; we will get relief. Those two things the higher sales tax and the relief from the debt service will balance these budgets going forward.

This board was wrong about the 2007 budget. You said we were going to have a $15 million deficit and in fact, if it were not for your withholding the tax lien sale, we would probably be at this point (and I am not even talking about the 2006 tax lien sale), we would be $10,000 to the good. So I highly question your judgment. Then let me just make this final statement. You have been a hard control board for one year; what is it that you have accomplished for the County? The only thing that I can see that you have accomplished is to obstruct the strategy that we developed to rebuild fund balance. Were it not for this board, we would be in a position at the end of this year to add over $30 million to fund balance and our goal of getting to the 5% strategic goal would be achieved. We still have the opportunity to add $15-20 million but what you have done in your September 28th resolution is to now throw that into question. I advised you at the Legislature two weeks ago that the 105% rate does not exist. That rate; I don't know how much longer we can hold onto that and the longer this goes on the chances are we are going to have to go back to the Bear Stearns credit committee and if you look at what is happening in the credit market that 105% rate is probably gone. That is going to cost this County millions of dollars and in order to save and I just had a big debate with the Comptroller about $600,000 by linking these things you will have cost this County millions of dollars."

Vice Chair Glaser: "I think that you did say that at the Legislature."

Hartman: "And I am saying it again here."

Vice Chair Glaser: "And that was a different position than the Erie County Executive had. It is the Erie County Executive that made the proposition for the resolution that we agreed to so you are in disagreement with he County Executive over the fact that this Board should do the borrowing. That is stating the fact and it may sound a little like Hillary Clinton when she says that she is for this she is against this. I am not sure what you are for. I gave you the opportunity to speak and I hear your comments but those comments are coming form the same Administration that put us into this problem in the first place. You may not like the analysis that we have put together and honest men can disagree and I will give you that but the reality of it is, there is analysis and you can take a look at it but at this point in time which his today, when this control board is here we have to make a decision here. The decision is that this budget and the four-year projection does not hold water with where we believe it needs to be. I think it needs work, maybe it can be fixed but it is not being fixed and this is what we have in front of us. So I appreciate your comments and that honest men can disagree."

Budget Director Hartman: "This will be the last time that I will be in front of the Control Board. So, thanks for the memories."

Vice Chair Glaser: "You're welcome, thanks for your efforts."

"With that said, could I ask Mr. Bucki to come up again? Based upon this budget being of concern to this Board and out of balance in our mind both in the current and out years, we have instructed our attorney's to draw up a resolution. Could I get a motion?"

Director Goodell moved resolution 07-108 rejecting the 2008-2011 four-year plan and the budget which will continue the control period upon Erie County and Director Keysa seconded.

Vice Chair Glaser: "There is some discussion that I would like Mr. Bucki to take us through."

Craig Bucki: "Certainly. Again, Craig Bucki from Phillips Lytle. As we just moved and seconded you have before you resolution number 07-102 and the resolution first of all goes through all of the observations that Mr. Vetter and Mr. Goodell already discussed in regard to the 2008 proposed budget and the 2008 -2011 four-year plan and just to run through those points in outline format again:

"First of all, as the finance committee has pointed out, the four-year plan overestimates revenues for the out years of in 2009-2011 with what the finance committee has observed to an excessive estimate of the annual increase in property values in Erie County and also with respect to revenues that are anticipated from the lease of space on cell phone towers."

"In the estimation of the finance committee there is an underestimation of expenses in the out years of the four year plan of 2009 – 2011. Those would include among many other things a lack of reasonable assurance that the County will no longer need to make debt service payments on behalf of ECMC, a lack of reasonable assurances that the County will not need to make intergovernmental transfer payments to ECMC, a lack of reasonable assurances that the sheriff's department road patrols will no longer be subsidized by the County and also a lack of reasonable assurances to savings in integrated case management, collective bargaining, the alternative to incarceration program, information technology reform and improvements in risk management."

In addition the finance committee has observed that the 2008 budget as it has been proposed is not balanced as submitted to this authority for several reasons. Namely for failure to account for intergovernmental transfer payments to ECMC in 2008, a lack of reasonable assurances as to revenue from the sale of County property tax liens, borrowing to subsidize the consolidated local streets and highway improvement program or the CHIPs fund, and also the deficit that is ongoing with the road fund. For al these reasons, pursuant to the resolution that you have adopted you would resolve that, in your determination, that the four-year plan as submitted on October 15th violates the ECFSA enabling statute because it does not contain actions sufficient to ensure, that with respect to the major operating funds for each fiscal year of the plan, that annual aggregate operating expenses do not exceed annual aggregate operating revenues and because this is a requirement under law for any financial plan that is submitted by the County to this Authority therefore because that requirement is not met the County has violated the ECFSA enabling statute and pursuant to Section 3959 of the Public Authorities Law the ECFSA does not have the discretion to impose a control period, it MUST impose a control period and you may recall for those directors that were here on November 3, 2006. That in resolution 06-49, this Authority agreed that within one year of adoption of that resolution that it would reconsider the circumstances that would permit the continuation of a hard control period status and provide those; circumstances in writing. So by adopting this resolution you will state that once again the four-year plan for 2008-2011 is out of balance and as such violates the enabling statute and so long as the county is in violation of the statute the control period must continue. The language in the resolution is that it will continue for another year or until such time that the conditions would require its imposition to no longer be present. So if those conditions would go away in March or April or any other time in 2008 this Authority would have the duty, the responsibility to no longer be in a control period but at the very latest one year form this time the control board will reconsider its status as imposing a control period over the County and I should add just one more point and that is that the control board entered into a control period for very much the similar reasons as last year when it adopted resolution 06-49. The County then sued the control board in an Article 78 proceeding and in January of this year the NYS Supreme Court and Erie County Justice Diane Devlin ruled that the control board properly entered into a control period and did so within its prerogative within the enabling statute and so pursuant to that court decision which was not appealed and which has binding and preclusive effect of the Authority adopting resolution 07-108 today would reaffirmed renew the control period initially adopted last year for another year and to be reconsidered in November 2008."

Vice Chair Glaser: "Are there any other questions, comments, conversation or observations?"

There being none, the Vice Chair called the roll, and all Directors voted in favor of the resolution:

Resolution No. 07-108

REJECTING THE 2008-2011 FINANCIAL PLAN, AND CONTINUING THE CONTROL PERIOD UPON THE COUNTY OF ERIE

I. The Erie County Fiscal Stability Authority's Original Imposition of a Control Period

WHEREAS, Chapter 182 of the New York Laws of 2005, as amended, 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 financial stability;" and

WHEREAS, from its creation by enactment of Title 3 of Article 10-D of the New York Public Authorities Law (the "ECFSA Act") on July 12, 2005, through November 3, 2006, the ECFSA functioned in an advisory capacity; and

WHEREAS, on October 18, 2006, the County of Erie (the "County") submitted to the ECFSA its proposed budget for fiscal year 2007 and a proposed 2007-2010 four-year financial plan (the "2007-2010 Plan"); and

WHEREAS, the ECFSA determined that the 2007-2010 Plan violated Public Authorities Law section 3957(1), because such plan failed to "contain actions sufficient to ensure with respect to the major operating funds for each fiscal year of the plan that annual aggregate operating expenses for such fiscal year [would] not exceed annual aggregate operating revenues for such fiscal year;" and

WHEREAS, Public Authorities Law section 3959(1)(e) mandated imposition of a control period on November 3, 2006, because the County had violated Public Authorities Law section 3957(1), part of the ECFSA Act, upon submitting the 2007-2010 Plan to the ECFSA; and

WHEREAS, on November 3, 2006, the ECFSA adopted Resolution 06-49, and duly imposed a control period upon the County; and

WHEREAS, the County subsequently commenced an Article 78 proceeding in New York State Supreme Court, Erie County (the "Supreme Court"), to challenge the ECFSA's imposition of a control period; and

WHEREAS, after reviewing written submissions and hearing oral arguments by the County and the ECFSA, the Supreme Court (Hon. Diane Y. Devlin, J.) issued on January 26, 2007, an order (the "January 26 Order"), inter alia, upholding the ECFSA's imposition of the control period; and

WHEREAS, no appeal was taken from the Supreme Court's January 26 Order, and therefore that Order is final and binding; and

WHEREAS, the control period first imposed on November 3, 2006, remains in effect; and

WHEREAS, pursuant to Resolution 06-49, if this control period were to remain in effect as of November 3, 2007, the ECFSA would "determine the circumstances that [would] justify continuation of [the] control period, and enumerate those circumstances in writing," within sixty (60) days thereafter; and

WHEREAS, the ECFSA shall terminate a control period only when it ascertains, pursuant to Public Authorities Law section 3959(1), that "none of the conditions which would permit the [ECFSA] to impose a control period exist;"

II. Requirements for the Erie County Executive's Submission of a 2008-2011 Financial Plan

WHEREAS, Public Authorities Law section 3957(1) requires the Erie County Executive to "prepare and submit to the [ECFSA] a four-year financial plan and the county executive's proposed county budget, not later than the date required for submission of such budget to the [Erie County] legislature pursuant to the county charter;" and

WHEREAS, the four-year financial plan, as defined by Public Authorities Law section 3951(14), is a “financial plan of [Erie County] and [its] covered organizations”; and

WHEREAS, pursuant to Public Authorities Law section 3957(2)(b), “[n]ot more than twenty days after submission of a financial plan . . ., the [ECFSA] shall determine whether the financial plan . . . is complete and complies with the provisions of [section 3957] . . . .;” and

WHEREAS, the County Executive duly submitted his proposed budget for fiscal year 2008, and a four-year financial plan (“Plan”) for fiscal years 2008-2011, to the ECFSA on October 15, 2007; and

WHEREAS, fiscal years 2009 through 2011 constitute the “Out Years” of the 2008-2011 Plan; and

WHEREAS, Public Authorities Law section 3957(2)(b) therefore instructs the ECFSA to determine on or before November 4, 2007, whether the 2008-2011 Plan complies with the provisions of section 3957; and

WHEREAS, Public Authorities Law section 3957(1) requires that the 2008-2011 Plan “contain actions sufficient to ensure with respect to the major operating funds for each fiscal year of the plan that annual aggregate operating expenses for such fiscal year shall not exceed annual aggregate operating revenues for such fiscal year;”

III. <u>Overestimated Revenue Sources in the Out Years of the 2008-2011 Plan</u>

WHEREAS, the 2008-2011 Plan also assumes that real property values in the County will grow at an annual rate of 4%; and

WHEREAS, the Office of the New York State Comptroller has noted a historical annual growth rate averaging only 2.5% for County real property values over a five-year period; and

WHEREAS, from 1998 through 2007, County real property values grew at an average annual rate of 2.36%; and

WHEREAS, assuming 2.5% annual growth in property values, the County would realize $17,818,808 less in property taxes than it has projected to collect during the Out Years; and

WHEREAS, the ECFSA consequently lacks reasonable assurance that the County will receive $17,818,808 in projected real property tax revenues during the Out Years; and

WHEREAS, the County has projected receiving $6 million in revenue during the Out Years from the lease of space on cellular phone towers situated on property owned by the County; and

WHEREAS, the County has failed to submit a marketing plan for generating such revenue; and

WHEREAS, in the absence of such a marketing plan, the ECFSA lacks reasonable assurance that the County will receive $6 million in revenue during the Out Years from the lease of space on cellular phone towers;

IV. <u>Underestimated Expenses in the Out Years of the 2008-2011 Plan</u>

WHEREAS, a Consent Decree issued by the New York State Supreme Court requires the County to make debt service payments on behalf of the Erie County Medical Center Corporation ("ECMC"); and

WHEREAS, the 2008-2011 Plan does not provide for the County's continuation of these debt service payments during the Out Years; and

WHEREAS, the 2008-2011 Plan would project such payments to equal a combined $35,155,000 during the Out Years; and

WHEREAS, the ECFSA consequently finds that the 2008-2011 Plan fails to account for $35,155,000 in County expenditures for ECMC debt service payments during the Out Years; and

WHEREAS, the 2008-2011 Plan also does not provide for intergovernmental transfer ("IGT") payments by the County to ECMC; and

WHEREAS, the County's May 2007 Budget Monitoring Report indicates that IGT payments to ECMC would equal $8,874,200 in 2008; and

WHEREAS, assuming annual 2% growth in the County's IGT payments to ECMC, they would equal $9,051,684 in 2009, $9,232,718 in 2010, and $9,417,372 in 2011, for a total of $27,701,774 during the Out Years; and

WHEREAS, a letter dated October 26, 2007, from the ECFSA Executive Director to the County Director of Budget, Management and Finance (the "October 26 letter"), requested a rationale for the County's failure to account for IGT payments to ECMC in the 2008-2011 Plan; and

WHEREAS, in response, the County cited its pursuit of litigation to terminate its obligation to make IGT payments to ECMC; and

WHEREAS, the ECFSA lacks reasonable assurance that such litigation would be pursued, or that it would achieve the projected savings; and

WHEREAS, the ECFSA consequently finds that the 2008-2011 Plan fails to account for IGT payments amounting to $8,874,200 in 2008, and $27,701,774 during the Out Years; and

WHEREAS, the 2008-2011 Plan has also estimated that the continuation of road patrols by the County Sheriff's Department in certain municipalities would cost $12,961,542 during the Out Years; and

WHEREAS, the 2008-2011 Plan assumes that municipalities would reimburse the County for such cost; and

WHEREAS, the County Legislature, and both the Democratic and Republican candidates for County Executive, have supported the continuation of Sheriff's Department road patrols as subsidized by the County; and

WHEREAS, the ECFSA lacks reasonable assurance that the County will not subsidize Sheriff's Department road patrols during the Out Years; and

WHEREAS, the ECFSA consequently finds that the 2008-2011 Plan fails to account for an expenditure of $12,961,542 for County Sheriff's Department road patrols during the Out Years; and

WHEREAS, the 2008-2011 Plan has also estimated savings of $7,200,000 during the Out Years, due to implementation of integrated case management; and

WHEREAS, the October 26 letter requested the County to substantiate such projected savings; and

WHEREAS, the County has not provided any models by which other counties have achieved such savings due to integrated case management; and

WHEREAS, the ECFSA still lacks reasonable assurance that the County will achieve those savings; and

WHEREAS, the 2008-2011 Plan also projects the following savings for the County during the Out Years:

(a) $19,747,123, due to anticipated outcomes of collective bargaining;
(b) $8,760,000, due to implementation of alternatives to incarceration;
(c) $4,078,294, due to information technology reform; and
(d) $2,304,630, due to improvements in risk management; and

WHEREAS, the ECFSA regards these projections as speculative, and lacks reasonable assurance that the savings will materialize; and

WHEREAS, assuming a 50% discount of those speculative projections, the 2008-2011 Plan consequently underestimates expenditures by another $17,445,024 during the Out Years; and

WHEREAS, the overestimated revenues and underestimated expenses cited in sections III and IV of this Resolution contribute to a deficit of over $118 million for the Out Years of the 2008-2011 Plan;

V. <u>Structural Imbalance in the County Executive's Proposed 2008 Budget</u>

WHEREAS, structural imbalance in the County's proposed 2008 budget, which forms the basis for the first year of the 2008-2011 Plan, contributes to deficits greater than the 2008-2011 Plan expects in 2009, 2010, and 2011; and

WHEREAS, on September 28, 2007, the ECFSA adopted Resolution 07-90, by which it approved a Purchase and Sale Agreement for the sale of County property tax liens to Plymouth Tax Services, LLC, subject to several conditions; and

WHEREAS, those conditions included the following:

(a) that only the portion of the tax lien sale budgeted in the County's 2007 general operating fund budget (and related financial plan) remain in the general fund, and that any excess be transferred to the capital fund to be used as pay-as-you-go revenue for 2007 capital projects currently designated for bonding;

(b) that capital borrowing for fiscal year 2007 be reduced by the amount of the tax lien sale dollars transferred to the capital fund;

(c) that a consistent accounting of the current amount budgeted for the tax lien sale in the 2007 County budget and in the 2008 County financial plan be completed jointly by the County Comptroller and by the County Division of Budget, Management and Finance, and be forwarded to the ECFSA prior to final execution of the Purchase and Sale Agreement;

(d) that the County Executive propose, and the County Legislature approve, appropriate legislation to authorize the transfer of excess tax lien sale proceeds from the operating fund to the capital fund; and

(e) that the County Executive propose, and the County Legislature approve, appropriate legislation requesting that the ECFSA perform capital borrowing on behalf of the County for fiscal year 2007; and

WHEREAS, pursuant to Resolution 07-90, the County may not execute the Purchase and Sale Agreement, unless and until it satisfies all five of these conditions; and

WHEREAS, to date, the County has not satisfied the conditions, and has not executed the Purchase and Sale Agreement; and

WHEREAS, the ECFSA consequently lacks reasonable assurance that the County will realize $4,646,827 in budgeted revenue in fiscal year 2008 from the sale of property tax liens; and

WHEREAS, pursuant to the proposed 2008 budget, Erie County would also borrow $3.6 million in order to subsidize the Consolidated Local Streets and Highway Improvement Program ("CHIPS") fund, and to facilitate payment of operating expenses; and

WHEREAS, such borrowing renders the proposed 2008 budget structurally imbalanced, in that recurring CHIPS expenditures would exceed recurring CHIPS revenue; and

WHEREAS, the proposed 2008 budget also permits the County Road Fund to operate at a $6.9 million deficit; and

WHEREAS, the proposed 2008 budget also fails to account for IGT payments of $8,874,200 to ECMC; and

VI. <u>Additional Concerns Regarding the 2008-2011 Plan</u>

WHEREAS, the 2008-2011 Plan also assumes continuation of an 8.75% sales tax rate in the County throughout the four-year period; and

WHEREAS, the overall 8.75% sales tax rate includes a 1% sales tax (the "extra 1% sales tax") levied by Erie County, and whose authorization shall expire on February 29, 2008;

WHEREAS, the County may continue to levy the extra 1% sales tax beyond February 29, 2008, only after:

(a) the New York State Legislature introduces a bill to reauthorize the extra 1% sales tax;

(b) ten (10) Erie County legislators approve a home-rule message requesting the bill's enactment;
(c) the New York State Legislature votes in favor of the reauthorization bill already introduced; and
(d) ten (10) Erie County legislators subsequently vote to enact the extra 1% sales tax; and

WHEREAS, the legislative actions necessary to re-enact the extra 1% sales tax have not yet taken place; and

WHEREAS, failure to re-enact the extra 1% sales tax would create a deficit of over $426 million in the Out Years of the 2008-2011 Plan; and

WHEREAS, the County also has commissioned an actuarial report, which evaluated the cost of supplying medical and dental benefits for retired County employees; and

WHEREAS, that report estimated the present value of such benefits at over $981 million, as of December 31, 2006; and

WHEREAS, retroactive settlement of collective bargaining disputes with bargaining units representing County employees could create further expenditures that the County does not anticipate in the 2008-2011 Plan;

VII. Resolutions

NOW, THEREFORE, BE IT RESOLVED that, having reviewed the 2008-2011 Plan submitted by the Erie County Executive, the Erie County Fiscal Stability Authority hereby finds, for the following reasons, that the 2008-2011 Plan does not "contain actions sufficient to ensure with respect to the major operating funds for each fiscal year of the plan that annual aggregate operating expenses for such fiscal year shall not exceed annual aggregate operating revenues for such fiscal year":

(1) The 2008-2011 Plan does not reasonably assume the County's collection of revenues from the sale of property tax liens via a Purchase and Sale Agreement with Plymouth Tax Services, LLC.

(2) The 2008-2011 Plan does not reasonably assume a 4% annual increase in real property values in the County.

(3) The 2008-2011 Plan does not reasonably assume the County's realization of revenue from the lease of space on cellular phone towers.

(4) The 2008-2011 Plan does not reasonably assume that the County need not make debt service payments on behalf of ECMC.

(5) The 2008-2011 Plan does not reasonably assume that the County need not make IGT payments to ECMC.

(6) The 2008-2011 Plan does not reasonably assume that the County need not subsidize Sheriff's Department road patrols in certain municipalities.

(7) The 2008-2011 Plan does not provide sufficient fiscal data, trends, or other reasonable and appropriate assumptions based in documentary evidence to justify the savings that it projects to result from the implementation of integrated case management.

(8) Bonding to subsidize the CHIPs fund, the deficit in the County Road Fund, the unreasonable assumption of the County's collection of revenues from the sale of property tax liens, and the failure to account for IGT payments to ECMC would contribute to a structural imbalance in the proposed 2008 budget and in the first year of the 2008-2011 Plan.

BE IT FURTHER RESOLVED that, as a consequence, the Erie County Fiscal Stability Authority hereby finds the following:

(1) Because Public Authorities Law section 3957(1) mandates that the County's 2008-2011 Plan, as submitted by the County Executive to the ECFSA on October 15, 2007, "*shall* . . . contain actions sufficient to ensure with respect to the major operating funds for each fiscal year of the plan that annual aggregate operating expenses for such fiscal year shall not exceed annual aggregate operating revenues for such fiscal year" (emphasis added), the 2008-2011 Plan violates section 3957(1).

(2) In submitting the 2008-2011 Plan, the County has violated a provision of the ECFSA Act.

(3) Public Authorities Law section 3959(1)(e) mandates the ECFSA to impose a control period at any time that the County "shall have violated any provision" of the ECFSA Act.

BE IT FURTHER RESOLVED that, pursuant to Resolution 06-49, the ECFSA finds that the County's violation of the ECFSA Act in submitting its 2008-2011 Plan constitutes a condition that justifies continuation of the control period that the ECFSA originally imposed upon the County on November 3, 2006; and

BE IT FURTHER RESOLVED that the Erie County Fiscal Stability Authority rejects the 2008-2011 Plan as submitted, because it violates Public Authorities Law section 3957(1); and

BE IT FURTHER RESOLVED that the ECFSA renews and continues the control period upon the County, as Public Authorities Law section 3959(1) requires; and

BE IT FURTHER RESOLVED that this Resolution constitutes the ECFSA's comments concerning the 2008-2011 Plan as submitted; and

BE IT FURTHER RESOLVED that the ECFSA regards renewal and continuation of this control period, and the careful scrutiny of Erie County's finances has resulted since its imposition, to be in the best interests of the citizens of Erie County; and

BE IT FURTHER RESOLVED that the ECFSA pledges to continue to work cooperatively with the County's elected officials toward returning fiscal stability to County government; and

BE IT FURTHER RESOLVED that the ECFSA shall terminate this control period when it ascertains pursuant to Public Authorities Law section 3959 that "none of the conditions which would permit the [ECFSA] to impose a control period exist;" and

BE IT FURTHER RESOLVED that, if this control period remains in effect as of one year from the date of this resolution, then within sixty (60) days thereof, the ECFSA shall determine the circumstances that justify continuation of a control period, and enumerate those circumstances in writing.

This resolution shall take effect immediately.

Secretary Keysa then moved to adjourn, Director Johnson seconded, and the Directors voted unanimously to adjourn.

Respectfully submitted,

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Stanley J. Keysa, Secretary