

**Erie County Fiscal Stability Authority
Minutes of the March 27, 2008 Directors' Meeting**

(Note: the following is a draft copy of minutes of a meeting of the Erie County Fiscal Stability Authority ("ECFSA"), which was held March 27, 2008. These minutes will not become final until approved at a subsequent meeting of ECFSA Directors, and may be amended before approval)

Present: Anthony J. Baynes, Chairman, Stanley Keysa, Secretary, Director John Johnson, Director Kenneth Kruly, Director Joseph Goodell, and Executive Director Kenneth Vetter

Chairman Baynes: "Good afternoon. I'd like to call this meeting of the Erie County Fiscal Stability Authority to order. I welcome my fellow Board members and public officials, interested members of the public and press and media in attendance today. Thank you for coming."

"Before we get started I wanted to send a prayer and our condolences on to our board member Secretary Keysa whose brother passed away yesterday. We are very sorry that that occurred and Secretary Keysa, still being a dedicated servant that he is found time to come here today since this is an emergency for the County and took time out of his day to attend this meeting. You are in our thoughts and prayers."

Secretary Keysa: "Thank you very much."

"Our first order of business is Commissioner Weiner, who on Tuesday delivered a contract for immediate consideration to the ECFSA office. I ask Commissioner Weiner to come to the microphone and discuss the proposed contract. Are there any questions from anybody for the Commissioner? Welcome Commissioner. Thank you for attending."

Commissioner Weiner: "Thank you for allowing me to be here today and dominating your agenda. Also let me say thank you for the special consideration. Secretary Keysa, for you to come here and respond to an immediate request for consideration is recognizably appreciated."

"If you have a minute, I will give you a chronology of what this is all about and why we are where we are. I take full responsibility for a situation that puts you in a position as a control board to have to convene immediately and to respond to an urgent situation

around a contract approval. We have had non-secure detention services operating for many years, for eight years in Erie County. Most recently we have been criticized for not rebidding this particular program and for eight years we have operated with the same vendor and in addition there have been a lot of reform efforts underway to now address this in general. Erie County is at the forefront of helping to reform the way which we support the needs of youth who are touched by the juvenile justice system.”

“We are very proud of some of things that we are able to do to date but we think there is a lot of opportunity. So what we did was, last year we made a commitment that we would rebid the non-secure portion of our detention services. What we were going to do was to reform/redesign the entire program. We were going to downsize the number of beds that we were going to purchase and we were going to introduce some alternative community assets in the form of foster care detention beds. We added five of those level of care beds for the purposes of reducing lengths of stay once you are placed in non-secure or using it as a form of diversion; less expensive and it keeps kids closer to family and community. In addition we added two licensed social workers to do more community outreach and linkage. We really worked on redesigning this but the most important thing was that we wanted to reduce from 28 beds to 16 beds for this particular program. We felt that we did not need as many beds as we were paying for historically; there was some under-utilization. So there were some inefficiencies associated with the cost of doing business.”

“So what we did was established an RFP process for a competitive bid. Eight panel members were reviewing applications. We put that RFP out in October of last year. Our hope was and our goal was that before the end of the year we would have a selected vendor and we would be ready to transition into a new vendor relationship beginning in 2008. What we found was that there was a very cumbersome and complicated review process. We needed to do a bid process; there were a lot of questions raised. We did that in mid-November. We asked that bids be submitted on November 21st and then we found that in the review process and in the scoring of the applications we were running out of time. So by mid-December, we were beginning to appreciate that we were not going to be able to identify a vendor who was going to be able to acquire and operate the program, do start up that including new building construction if it was a new vendor. One of the three vendors that applied was the historical vendor but we began to appreciate that if we go in a different direction and select someone else we are not going to have enough time in which to arrange a

transparent and seamless plan for transition of services from one vendor to another. That is why I looked at the data on December 1st and we went before your respectful body asking you to grant a three month extension so the Refuge Temple could continue to operate the service and maintain continuous service to youth while we work on the transition for the contract vendor. In retrospect, I have to say standing before you today, it was a mistake and I take responsibility for this in only committing to a three-month extension. There is so much bureaucracy and planning that goes in to a transition from one vendor to another that the three months that we have been working at this is not sufficient time. If we did a month-to-month extension contract with Refuge Chapel then I wouldn't be here before you today because you would have already approved a month-to-month extension and we would be going forward with another month extension because we do not yet have an operating certificate. There is still some building construction that needs to happen, there is recruitment of staff at Hopevale that the new vendor has to organize. We have some leadership changes. I have Thomas Willis here with me today. He is our Interim Deputy Commissioner for the Division of Youth Services and Social Services. He has only been at his job for three to four weeks now. Barbara Leary was the former Commissioner and she was the head and had the majority of the responsibility on this project. So there are a variety of reasons why we are behind the eight ball but let me tell you that if we do not have your support it is not a money issue. Let me tell you a couple of things about the budget. First of all by creating a reformed strategy for non-secure, we believe we are going to save a million dollars this year alone, half of which is local share savings by downsizing the number of beds that we commit in contract. So it is no longer paying for 28 beds as we did last year. We are now going to commit to 16 beds as well as some community support that will be probably be about \$1 million annually. We have already budgeted over \$2.5 million historically for this program. So there is going to be substantial savings there as we are really excited about that.”

“The downside is that, without your approval today, we have a contingency plan that I am not even proud to present today. We have 12 kids who are currently housed in non-secure detention. Mr. Willis and his staff will have to arrange for the temporary relocation of these youth to other district non-secure beds. It is going to cost more money, it's going to abstract these children from our community, it is going to be cumbersome in that, when they have court hearings, you are going to have to go pick them up and bring them downtown to Family Court and this is not the way we want to proceed. So by requesting an extension of the Refuge

Temple contract, we think we need at least another month although you will see that we have cast the language of this extension so that it is month-to-month so that, if we run into any further challenges, let's say the State Office of Children and Family Services is still reluctant to issue an operating certificate, we will be able to have a buffer of more time to extend the contract even further on for another month but I am hopeful and my staff is telling me that maybe one more month should do so that by May 1st we will be able to present to you the new Hopevale contract well in advance, maybe even at your April meeting so that it will have your approval and we can actually do a planned transition by the end of the month and hopefully maintain the continuity of services to the youth. That is why we are here today and I will entertain nay questions if you have them.”

Chairman Baynes: “Does anyone have any questions for the Commissioner?”

Director Goodell: “Yes, I do. If this board was not able to meet let's just say, until next Friday for example, what would have happened?”

Thomas Willis: “Thank you. I am Thomas Willis, the Interim Commissioner of Youth Detention in Erie County, and it would be my responsibility to come up with this alternate plan if we don't have your approval. As Director Johnson will tell you as the former head of the State Office of Children and Family Services, children in non-secure facilities can only be placed in group homes that are certified by the Office of Children and Family Services. We would not have those bed available within Erie County and we have to have the children in certified beds so it is conceivable that our 12 children could be as far away as Central NY to be in certified beds and it is very disruptive to families and very disruptive to the children who are troubled children to begin with otherwise we would not have them in our custody. Not to mention the transportation cost would be borne by Erie County and there is a premium rate for housing children out of County beds so we would have to effect that “disaster plan” so to speak in order to be in compliance with State regulations.”

Director Goodell: “Who would make the decision to move the children?”

Thomas Willis: “That would be my responsibility in order to be in compliance with the State.”

Director Goodell: “Who in the State do you go to for compliance issues?”

Thomas Willis: "I understand, Theresa Portelli is the State Director for Child and Family Services. That is New York State Office of Child and Family Services."

Director Goodell: "Let's just suppose that we could not have met today and we could have only met next Friday, wouldn't Mr. Collins call that person and say please don't drag these children out for a week, we think we are going to have this thing all set up, things got late, etc and this women at the State level would have been happy to extend an informal okay?"

Thomas Willis: "I believe our current County Charter and the ECFSA Charter will not allow us to proceed to reimburse any vendor for service for which there is no contract. The contract with Refuge Temple ends the end of this month so there would be no binding way for us to continue the process and let me tell you something that we could have done and I was not comfortable doing this. We probably could have asked Refuge Temple if they would agree to a week to week, maybe two week arrangement so that we could stay under the \$50,000 guideline that we have that subjects us to review by your honorable body. I was not comfortable doing that. We have been asking for \$100,000 plus dollars a month for the first three months and I felt more comfortable asking the ECFSA to continue to treat this process in the exact same way but quite frankly there were some ways around this. I wasn't even comfortable taking them to the County Executive because you have committed to this vision, you do see the dollar savings we intend to accomplish by years end with the exception that we are in the end of a holiday weekend and this is not something that was scheduled. It seems to me that this is a no brainer. It seems to me that there is no reason why anyone in the community would not want to support keeping these kids in the community in the current supervised setting that they are in while we come up with a future strategy that will further reform our efforts to keep kids in our own community rather than elsewhere. I hope that answers your question."

Chairman Baynes: "Commissioner I think that helps and there is no way that this board would want to displace 12 children in any circumstances, so again we thank you. Does anybody have any further questions?"

Director Kruly: "What is the status of the other agencies providing non-secure detention? Do they have contracts in place?"

Commissioner Weiner: "Technically there is only one agency in Erie County that is certified to provide non-secure detention services and that is just Refuge Temple."

“We are redefining the landscape in many ways including going to a new vendor who has a more competitive bid, who appears to be based on our review process, better position and expand the kind of services and support and meet the milestones that we have established in this RFP process. So that is why we shifted to a new vendor and that is what has created the additional disruption in continuity because when you switch from one vendor to another you don’t have that history of the physical plant, the staffing and meeting the policy and performance standards that are mandated by State OCFS so that is in essence why we have no other recourse. Fortunately, I have to applaud Refuge Temple. At any time they could have said to us we no longer want to continue to sustain, even on a highly temporary basis, this service but they have been a very committed organization. We have been blessed with having them available as resource. They continue to cooperate fully, they are willing and we have already consulted with them to extend by another month if not longer the continuation of services to these 12 youth until such time as we can make a formal and seamless transition to the new vendor. So my hat goes off to them.”

Chairman Baynes: “Any further questions? Commissioner again, thank you very much. May I have a motion to approve the contract Commissioner Weiner has just discussed.”

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

Resolution No. 08-39

APPROVING CERTAIN CONTRACT SUBMITTED BY THE ERIE COUNTY
DEPARTMENT OF SOCIAL 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 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 non secure detention services contract with Refuge Temple for Erie County Social Services.

Department	Description	Amount
Erie County Social Services	Refuge Temple-Non-secure detention services	\$758,933

This resolution shall take effect immediately.

Executive Director Vetter: “Mr. Chairman if I could, at about 12:15pm this afternoon, a second contract the County has indicated requires our immediate attention was hand delivered to the Authority regarding the purchase of vans for the Senior Services through the Community Services for the elderly grant. The letter in front of you indicates that if these funds are not encumbered prior to April 1st that the County will lose \$83,212 and we will not be able to purchase these vans and we will have to return any funds already received for this to the state. The County has asked for immediate consideration to day for this item as well and I believe Mr. Pfaff is here to discuss this particular item.”

Director Kruly: “Mr. Chairman you should note that the County Legislature approved this three weeks ago. So it is kind of absurd to think that we are in an emergency situation when the Administration or the Senior Services Department sat on it for three weeks.”

Chairman Baynes: “When was this sent to us?”

Executive Director Vetter: “This was just hand delivered to me at about 12:15 this afternoon.”

David Pfaff: “I am here to answer the questions. What happened was and I am actually in charge of the contracts for Senior Services. It was brought to my attention yesterday by our fiscal unit that the purchase order could not proceed without approval by the control board. I had not been aware of that prior to yesterday. When I was consulted with the purchase department they indicated that it would need control board approval so I made contact with the County Executives office and did all the necessary paperwork. The dilemma here is that the actual contract with NYS that they had with the vendor ends today. We physically have to tell them we have a purchase order or we don’t get the money or we cannot buy on the state contract. The County share is ¼; there are four vans. We are replacing the older aging vans quite frankly if you had no meeting we would have brought 2 vans, keeping under the \$50,000 threshold and we would have returned half the money. As it is because you were meeting took the opportunity to come in and try and get all four vans. Quite frankly the fact that Social Services had an emergency worked to our advantage and based on that we are asking for approval.”

Chairman Baynes: “Does anybody have any questions for Mr. Pfaff?”

Director Goodell: “Yes, I find that being a senior citizen myself it is a lot easier to beat up on senior citizens than children. It strikes me as very curious that the state draws this line so tightly and if somebody couldn’t have made a call to the State whoever they are and said “Hey could you give us four or five days because this is...”

David Pfaff: “Director Goodell, I would agree and I think we would have done that. We would have done anything to try and convince the State. I think the sticking point of this is that Detroit doesn’t really care because they will have a new contract and probably have a higher bid on the value of the vans. If we are getting the vans from Detroit for \$19,000 this year the bid might be for \$22,000 per van next year. I don’t think they really care. They are businessmen and are not concerned whether Erie County Senior Citizens get their vans or not be it at \$19,000 or \$22,000.”

Director Goodell: “That is your hypothesis that the price will go up, though that flies in the face of what is going on in the real world. I am just upset that these two are one of many insurances were the County has insisted that there was a dire emergency at stake because if something didn’t happen by whatever it is; Friday night that the world would come tumbling down or the State would do something terrible to us. I just don’t feel the system works that

well I think there are many times and probably some that we are not aware of telephone calls can be made and questions asked “well could you give us another week here?” If the first phone call doesn’t work, then you get a boss or bosses boss to make another phone call and I just think that this Board, I am going to encourage this Board to get in a position of calling some bluffs on these kinds of requests and just insist that somebody take the consequences of missing something or that somebody has to suffer the embarrassment of calling someone, the appropriate person or whoever they may be and beg for a favor. I just want to set the record straight on that. I think all of us are a little frustrated on these emergency requests.”

David Pfaff: “I certainly understand that.”

Secretary Keysa: “I understand fully well the frustration that Director Goodell has on this. On the other hand in my own experience having been a Town Supervisor and Chair of various organizations along the way is that State and Federal governments often use these as opportunities. If you miss the deadline it is a way for them to bring their own budget under control and if they have difficult choices to make and you have failed to make a deadline you have made a choice for them where they don’t have to make that choice. I circulated an example today where in 1977 if we had not gone outside the process and brought \$100 in paper for the County we would have lost \$12 million in Federal aid and \$2Million in State aid to allow the construction to most Erie County Sewer District #4.”

“I have watched repeatedly since then the federal FEMA dollars where if you did not respond to the deadline in a certain point you lost the money and they were happy that you missed the deadline because then they did not have to answer to anybody. Now for a political process it is why they did not provide it; if you don’t meet the deadline than you don’t get the dollars. I regret the fact that we have to be nimble on this Board for the County to be able to provide its services especially when you are dealing with funds coming in from the outside. I jokingly suggested providing you a kneeling chair earlier but maybe we ought to offer sag clothes and whips for the department heads also as they come before us but nevertheless there is a reality. I think to the requests of departments and we encourage them to be in here more timely for us but I recognize having been in an executive position in government that there are times when you can do that and you must react quickly. For that reason I would move to approve the request.”

Director Kruly: “I think that being said Secretary Keysa, there is no excuse for them sitting on it for three weeks.”

Chairman Baynes: “The Legislature approved this three weeks ago?”

David Pfaff: “Well we received it on April 13th.”

Director Kruly: “It was approved by the Legislature on the March 6th.”

David Pfaff: “We received a copy of it on April 13th. I have talked to our Commissioner who is also new about changing the way we process things. The dilemma here for me is that I prepare things for the control board and the purchase orders go through the fiscal unit in my department. Quite frankly, I looked through all my e-mails, everything and I was never was given a copy of this so I didn’t know we had to do it. We have changed that process. I talked to the Commissioner today. Whenever a request is sent to the Legislature, I will get whenever it is sent; quite frankly by the end of the day we will have a document ready to go upstairs for the County executive’s approval so that once the Legislature approves it we are ready to roll.”

Secretary Keysa: “We expected some management changes were going to happen and I’m glad to hear that they are.”

David Pfaff: “I certainly don’t enjoy bringing things to you at the last minute. It’s not the way I try and operate.”

Chairman Baynes: “Thank you we appreciate that. Does anybody have nay other questions?”

David Pfaff: “Thank you.”

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

Resolution No. 08-40

APPROVING CERTAIN CONTRACT SUBMITTED BY THE ERIE COUNTY
DEPARTMENT OF SENIOR 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 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 Going Places Transportation purchase contract for Erie County Senior Services

Department	Description	Amount
EC Senior Services-Purchase contract	Purchase of 4 new Vans-Going Places Transportation Program	\$83,212-\$20,803 Local share

*EC- Erie County

This resolution shall take effect immediately.

Chairman Baynes: “There being no further business today, I would entertain a motion to adjourn.”

Director Kruly moved to adjourn, Director Goodell seconded, and the Directors voted unanimously to adjourn the meeting.

Respectfully submitted,

Stanley J. Keysa, Secretary
April 11, 2008