ECFSA
Full Board Meeting
November 3, 2008

Present: Chairman Robert Glaser, Vice Chair Joseph Goodell, Director Kenneth Kruly, Secretary Stanley Keysa, Director Louis Thomas, Executive Director Kenneth Vetter

Chairman Glaser: "Good afternoon everyone. Welcome to the November 3rd meeting of the ECFSA. We have a lengthy agenda so we will get right into it. Before we have approval of the minutes I would like to thank Joe Goodell and congratulate him in his new role as Vice Chairman. Thanks for agreeing to do that. I also welcome my other Board members."

Vice Chair Goodell: "We thank you for assuming the position of Chairman.

Chairman Glaser: "Thank you. With that I will move it over to Stan to discuss."

Secretary Keysa: "First of all I think congratulations are in order."

"You have the minutes before you. They have been previously circulated and submitted by e-mail and if there are no changes to those, I would request the Board approve them."

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

Resolution No. 08-95

APPROVING MINUTES AND RESOLUTIONS FROM THE SEPTEMBER 29, 2008 MEETING

BE IT RESOLVED that the Erie County Fiscal Stability Authority approves the minutes of its September 29, 2008 meeting and ratifies and affirms eleven resolutions numbered 08-92, 08-93 and 08-94 that were approved on September 29, 2008
This resolution shall take effect immediately.

Chairman Glaser: "With that I think we have a resolution before us to extend our professional services through December 31, 2008. This is because of the nature of things that we are doing and what has transpired on the Wall Street market and also in conjunction with working with the County to get some financing into the County which they need at this point in time. We would move to keep our professional services through December 31, 2008. I believe there is a resolution in your packet to extend the ECFSA's

> professional services for our bond counsel, our underwriters, our legal counsel and our financial advisors. Could I get a motion relative to that?"

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

Resolution No. 08-96

EXTENDING PROFESSIONAL SERVICE CONTRACT

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 3954(4) of New York Public Authorities Law grants the ECFSA the power to make and execute contracts or agreements necessary or convenient to carry out its purposes; and

WHEREAS, the ECFSA issued a request for proposals for financial advisory, legal advisory, bond counsel and underwriting services in October 2007 and, upon receiving responses to the request, a selection committee of ECFSA Directors and staff evaluated proposals received and selected Capital Markets Advisors, LLC, Phillips Lytle LLP and pre-qualify Roosevelt & Cross, Inc., Loop Capital, Merrill Lynch and Alexandra and James as senior managing underwriter and co-managing underwriter and Keybanc Capital Markets as co-managing underwriter respectively as the most capable of providing professional services to the ECFSA on an as-needed basis for a period of one year;

WHEREAS, each company has performed their duties to the full satisfaction of the ECFSA;

WHEREAS, the one-year agreements with Capital Markets Advisors, LLC, Phillips Lytle LLP, Roosevelt & Cross, Inc., Loop Capital, Merrill Lynch and Alexandra and James and Keybanc Capital Markets expires on October 22, 2008 and Phillips Lytle LLP for legal advisory services on July 26, 2008;

WHEREAS, the ECFSA re-issued a request for proposals for financial advisory, legal advisory, bond counsel and underwriting services in October 2008;

WHEREAS, ECFSA Directors and staff have not yet had an opportunity to evaluate proposals received in response to the request for financial advisory services;

NOW THEREFORE BE IT RESOLVED, that the ECFSA engage Capital Markets Advisors, LLC, Phillips Lytle LLP, Roosevelt & Cross, Inc., Loop Capital, Merrill Lynch and Alexandra and James and Keybanc Capital Markets, LLC to provide previously administered services on an as-needed basis until ECFSA directors and staff have had a reasonable period of time to evaluate proposals received in response to the request for financial advisory services, which shall not be later than December 31, 2008. Such services shall be undertaken for such amounts and on such terms as agreed upon by the Chairman or ECFSA Directors; and

BE IT FURTHER RESOLVED that this resolution shall supersede any previous resolutions of the ECFSA with regard to contracting for financial advisory, legal advisory, bond counsel and underwriting services.

This resolution shall take effect immediately.

Chairman Glaser: "Next item on the agenda is to go through the contracts that we have received from the County. I will turn that over to you."

Executive Director Vetter: "Thank you Mr. Chairman. There is a revised matrix in front of you that encompasses nine pages. Items 1-1 through 8-8; the first eight pages there had been some questions previously that have been answered to the approval of Board and staff. It is recommended at this time that those items; 1-1 through 8-8 be considered as a slate by the Board and staff would recommend approval of those at this time."

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

Resolution No. 08-97

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
Board of Elections-Grant funds	HAVA grant funds-SOE software corporation	$616,226-no local share
Buffalo and Erie County Library-purchase contract-Toshiba and ICON solutions	Purchase of coin operated copiers for the library	$69,466- local share
Central Police Services-purchase contract-Global Quest	Purchase of computer software to enhance CPS records	$113,050-no local share
County Clerk-grant funds-local government rewards met improvement fund	Hire outside vendor to scan and create images and master microfilm for Clerk's registers	$59,513- local share
DISS-purchase contract-Hewlett Packard	Annual software maintenance and license fee	$750,000-450,000 local share
DPW-Construction contract-Frey electric construction	Video and other security upgrades at the County Holding center	$402,700 232,700-local share
Enviro and Planning-Purchase contract-Graymont Inc	Change order for high calcium hydrate	$15,000-local share
Enviro and Planning-Purchase contract-Kemiad Watersolutions	Change order for Ferric Chloride	$30,000-local share
Enviro and Planning-Purchase contract-Allied waster –modern disposal	Sewer sludge removal	$50,000-local share
DPW-Service contract	Foit-Albert Associates –construction in Old County Hall-window repair and clock tower roof repair	$115,000- local share
DPW-purchase contract-Trane	Cooling system for the Erie County Holding Center	$275,940- local share
DPW-service contract	Change order for the relocation of the DMV	$40,000-no local share
DPW-ECC	Flickinger Roof and HVAC equipment	$3,500,000-1,750,000 local share

DPW-ECC	ECC campus security and safety-DASNY 2009 bond issue	$1,400,000-$700,000-local share
DPW-ECC	City Exterior renovations-DASNY 2009 bond issue	$1,200,000-$600,000 local share
DPW-ECC	City exterior renovations-DASNY 2009 bond issue	$800,000-$400,000-local share
DPW-ECC	Elevator upgrades-DASNY 2009 bond issue	$650,000-$325,000-local share
DPW-ECC	City Exterior renovations-DASNY 2009 bond issue	$1,400,000-$700,000 local share
DPW-ECC	City exterior renovations roof and gutters-DASNY 2009 bond issue	$1,600,000 $800,000 local share
ECC-Buffalo Psychiatric Center-DASNY	ECC will rent 840 square feet of office space at 45 Oak street	$13,392-revunue annually through 2013
ECC-purchase contract-Com Graph services Inc	Two color off set press for the Graphics department	$57,000-no local share
ECC-Buffalo Public schools	Pathways to Success program	$2,050,871-no local share
ECC-service contract-NFTA	NFTA to provide passes to ECC full and part time students-100 passes	$150,000-no local share
ECC-purchase contract-SUNY	ANGEL online coursework	$50,550-no local share
Emergency Services-purchase contract-Motorola	Radio system infrastructure and expand into Southern Erie County by replacing low band radio fire radio infrastructure with a 400 MHz system	$1,598,353.51-no local share
Emergency Services-Purchase contract-Motorola	Purchase order for Motorola Analog Conventional Simulcast Systems	$1,598,353.51-no local share
Environment and Planning-service contract	Meals on Wheels of Western New York	$85,000-no local share
Environment and Planning-Federal grant-Rural transit services	Rural Transit service-to include the purchase of two replacement vans (56,000)	$294,849-local share
Environment and Planning-Basil	2 utility trucks for 2 sewer districts	$68,716-sewer funds
Health Department-Grant funds-NYSDOH	HIV surveillance and partner assistance	$211,787-no local share
Health Department-Grant funds-Federal HUD office of Healthy Homes	Lead Hazard control	$3,000,000-no local share
Health department-Grant funds-NYSDOH	Lead primary prevention pilot program	$434,119-no local share
Health Department-Grant funds-NYSDOH	Healthy neighborhoods within the City of Buffalo	$269,169-no local share
Health Department-Grant funds	Women’s health service –family planning services	$629,909-no local share
Health Department-Grant funds-NYSDOH	Rabies prevention	$397,592-no local share
Health Department-Grant funds-NYSDOH	Enhanced drinking water	$250,000-no local share

Health Department-Grant funds	MJW Corporation to provide radiological event emergency training	$55,000-no local share
Health Department-Grant funds-NYSDOH	Prevention , control and elimination of Tuberculosis	$735,000-no local share
Health Department-Grant funds-NYSDOH	Partners in prevention-cancer screening for the uninsured	$312,620-no local share
Health Department-Grant funds-NYSDOH	ESAP syringe access and disposal project	$56,812-no local share
Mental Health Department	2008 consultant contract with Dr. Evelyn Coggins	$80,000-no local share
Senior Services-service contract-Supportive services Corp	Supportive services-employment for older persons	$1,230,671-$86,146,97-local share
Senior Services-service contract-Supportive services Corp	Senior Aides program-training and employment for the elderly	$1,225,189-$85,763.23-local share
Senior Services-service contract-American Red Cross	Long term care ombudsman program	$64,942-no local share
Senior Services-service contract-Supportive Services Corp	Senior Community service employment program	$315,444-18,926.64 local share
EC Sheriffs Department-purchase contract	Purchase of 2 Ford Explorers Police Vehicles-West Herr	$60,500- local share
EC Sheriffs Department-purchase contract	Uniform allowance-United uniform	$159,750- local share
EC Sheriffs Department-purchase contract	Laundry services-Tenney Coin Laundry	$10,000- local share
EC Sheriffs Department-PBA Arbitration Award	Arbitration award	$102,086.46- local share
Social Services-settlement of legal claim	Martin v Weiner	$179,177.50- local share
Social Services-Grant fund	Energy services packaging project-low income homes energy case management services	$67,906-no local share
Social Services-Grant fund-Federal Government HEAP program	HEAP grant	$6,000,000-no local share
Social Services-Grant fund	Long Term Care point of entry program	$205,000-no local share

This resolution shall take effect immediately.

DISCUSSION:

Vice Chair Goodell: "On the version that I have of that, item 1-5 does not have a "yes" on it."

Executive Director Vetter: "I'm sorry Vice Chairman Goodell that is a typo. This is for the Microsoft Word and basically all of the software that the County uses. It is a basic licensing agreement that the County can't avoid."

Chairman Glaser: "Is there any further discussion?"

Executive Director Vetter: "Mr. Chairman there are on page nine, items 9-1 through 9-4 a series of settlements for which there may questions and there is a representative from the County Attorney's office here, Christine Kline. I'm not quite sure given the legal nature of these issues that the Board might consider going into executive cession to discuss the legal item?"

Chairman Glaser: "Let's hear from Ms. Kline is she could come up?"

Vice Chair Goodell: "Do we need to address all of them in Executive Session?"

Chairman Glaser: "I think right now we want to discuss the approach and the process that we are going through."

Christine Kline: "Good afternoon, my name is Christine Kline, the First Assistant to Cheryl Green. I am the head of the litigation department at the County Attorney's office. The items that have been submitted to you are the subject of litigation and some of them are subject to confidentiality agreements. If you have any questions I would be happy to answer them in executive session which is authorized by the open meetings law to discuss litigation."

Director Kruly moved to enter into executive session and Director Thomas seconded and the board voted unanimously.

BACK FROM EXECUTIVE SESSION

Chairman Glaser: "Okay everybody we're back. Mr. Keysa?"

Secretary Keysa: "Yes, we are back in session and would note that the Board met in executive session. No votes were taken in that session. Briefings were held with the Deputy County Attorney."

Chairman Glaser: "Okay with that, Mr. Vetter would you like to take us through our final four settlements."

Executive Director Vetter: "Yes Mr. Chairman, given the conversations that we had in executive session, I would move that we approve item 9-1 the settlement for the Estate of Patience Lucas."

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

Resolution No. 08-98

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
County Attorney-Settlement	Estate of Patience A. Lucas	$75,000- local share

This resolution shall take effect immediately.

Executive Director Vetter: On the item 9–2; Fanaro v. County of Erie and based on the discussions that we had there is a recommendation to approve this settlement.

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

Resolution No. 08-99

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
County Attorney-Settlement	Fanaro v County of Erie	$86,000- local share

Executive Director Vetter: "On item 9-3 we appear to need additional information and would suggest a recommendation to table this item until further information is provided."

Vice Chair Goodell moved to table item 9-3, Director Thomas seconded, and the Directors voted unanimously to approve the item.

Chairman Glaser: "Just to mention that if this is something that is time sensitive before we end to day you can bring us the additional information or you can wait for the next time that we meet."

Executive Director Vetter: "Mr. Chairman, item 9-4 a settlement to LoTempio and Brown, I would suggest a motion to approve that."

Secretary Keysa moved to approve, Vice Chair Goodell seconded:

Chairman Glaser: "Before I role call on this, you had mentioned that this is a confidential matter that is kept confidential."

Christine Kline: "Yes Mr. Chairman it is a confidential personnel matter."

Chairman Glaser: "Is there any additional discussion on the item? All in favor?"

The Board vote unanimously to approve the following resolution:

Resolution No. 08-100

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
County Attorney-Settlement	LoTempio and Brown PC v County of Erie	$155,000.00- local share

This resolution shall take effect immediately.

Chairman Glaser: "The next item on the report is the Finance Committee report. Vice Chair Goodell would you like to take us through that?"

Vice Chair Goodell: "Thank you. The Finance Committee met on October 22nd to question the County regarding a number of elements of the budget and the four year plan. We received some answers than and then more answers on a later date; October 24, 2008. Those responses were somewhat brief and we were somewhat concerned with transparency the transparency that we would like. We reviewed key revenue items such as sales tax, property tax, fees, that sort of thing. We reviewed staffing issues, debt, obligations to the medical center and raised questions that are difficult for anybody to answer and that is the impact that will occur as they relate to the economy and County revenues as well as State. We have concluded that the budget and four year plan appear to be overly optimistic. The property tax assessments are assumed to continue at a high rate. The sales tax revenues we do not believe take into consideration sufficiently the sluggish economy and the value of the Canadian dollar which has been helping us. There are a number of ECMC liabilities and there had been a lot of public discourse on this and we agree with the County Comptroller that there is a defect in the budget and the plan because of the ways the county has handled. Again we feel some of the staffing reductions will be difficult to achieve. We are concerned that the cuts in overtime proposed, this is something everyone budgets for and are rarely able to achieve. There are additional fees and the super majority necessary to pass those increased fees in the Legislature are a question to us. There are no contingencies with the whole budget and plan. It assumes that everything goes right and I don't think any of us has operated on a budget where everything goes right. To pick one or two the staff compared the projection for property tax values and the staff pointed out that property tax values would increase around 2.5% when a revised plan was presented to us in May and now that has increased to 4.5% a year. We think if anything those figures should be level or down. Again the increases in sales tax were projected in May at 2.5 % and now it is projected at 3%. Again, I think this is consistent with common sense and reasonableness along with a few other things that have been passed out to members of the Board. I should mention that those two items that I did elude to; the property tax change and the sales tax multiplier if the projection had been the same as May the additional property tax that would have to be in the budget to offset that would have to be somewhere in the range of 1.5% or perhaps a bit more. So rather than a 3% increase we might see something more like 4.5% – 5%. With that Mr. Chairman, I would ask that any other members of the Board here ask questions or perhaps we should have a motion here first? Mr. Director Kruly would you like to make a motion as to the recommendation for the Board?"

Director Kruly: "I agree essentially with what Mr. Goodell was saying. Some of his comments have paralleled some of the things that Comptroller Polancarz has said. The thing that I find most disturbing in these documents is the ECMCC issue; to leave holes deliberately in the budget that will have an impact in 2008, 2009 and in the three out years. I think this is a very serious problem. The County Executive has suggested using money from fund balance to plug holes if he is not successful with his efforts but the fund balance is relatively small to begin with so that is not a very good solution. So I think we are very much in order to reject the current proposal for the 2009 budget as being structurally out of balance as well as the four year plan. This is not the final step. We have to review and take final action after the County Legislature considers the budget. So we will have to revisit this next month to do something additional but at this stage we don't have a good plan or budget because of the out of balance stuff."

Director Thomas: "I had many opportunities to talk about the bargaining issue. There are over 4,000 unsigned contracts that need to be negotiated over the next year. I think that it is unreasonable to assume no provisions for that."

Chairman Glaser: "Well I think you all for your questions and comments from the finance committee in this area. I would also like to report that I did read through Mr. Polancarz's report on the budget and thought that was well done. I think the hard work is ahead for the County Legislature. They are going to have to weigh in on this budget and I think in all sincerity I know this is not an easy job. We do get to sit and criticize. The County Executive has to put a budget together and the Legislature has to manage this process. It's not easy but they have to do it; it's there job. I think that there are a lot of issues relative to the current economy, the Wall Street situation, the economy as a whole and the economy in WNY are all factors in making this even more difficult but as we said in May of 2008 when we had our other budget meeting for items relative to 2009. There were five main items in that budget that would have had to have clicked in to make that budget appropriate. We said at that point that it was not appropriate and we remain hard. At least three of those five things did not come true. One of those was ECMC issue, another was when the sales tax started going off and we don't have a casino. Not to be a Monday morning quarterback but these issues do not always go the way the County would like them to go or the way the taxpayers would like them to go. Before there is any discussion of property tax increases and the like all efforts should be put into looking at what expenditures can be curtailed and where we can cut back for the long run because we all don't know how long we are going to be in this current situation. With that if there is no further comment, I would like to ask Mr. McNamara our legal counsel to come up and take us through a resolution to reject the 2009 – 2012 financial plan finding structural imbalance in the proposed 2009 budget and continuing the control period on the County of Erie."

David McNamara: "Thank you as the Chair indicated, you have in front of you a proposed resolution that is based on the findings of the finance committee. I will just explain the various provisions in that resolution."

"Section number 1 sets forth the circumstances of the original imposition of a control period, the lawsuit that followed and the disposition of that lawsuit and then the continuation of the control period in 2007 by resolution earlier this year."

"Section II sets forth the provisions of the ECFSA act that are pertinent to the submission of the counties 2009-2012 financial plan to the ECFSA for its review and the circumstance and guidelines by which the ECFSA must review that plan."

"I'd like to focus your attention on the sixth whereas cause in section II that relates to section 3959 of the ECFSA Act. That is the section of the act that defines the control boards powers and responsibilities during a control period."

"Section 3959 (2)(a) defines that during a control period the ECFSA "shall approve or disapprove the financial plan and financial plan modifications of the County, . . . and shall formulate and adopt its own modifications to the financial plan, as necessary." The question arises under that provision as to whether or not the ECFSA must in all circumstance adopt its own modifications to the Counties financial plan. To give meaning to the words "as necessary" you would have to read those words as giving the ECFSA discretion to determine whether or not under the circumstances presented to it on any given occasion it is necessary and feasible for the ECFSA to impose its own modification to a financial plan. In exercising that discretion it would be appropriate for the ECFSA to consider the nature and extent of the deficiency in the four year plan and the political likelihood that its adoption of its modification to the plan would result in the adoption of a plan that would be feasible politically and actionable by the County given what the ECFSA knows about the Counties inclination in implementing any likely changes."

"So the answer to the question as to whether or not it is necessary in all circumstance for the County to impose its own modifications to the financial plan is "no." The County in its discretion to the control board, can decline under circumstances if it precludes that such action is unnecessary because of the absence of feasibility or the likelihood that the plan will be acted upon by the County."

"Section III of the resolution, sets forth the circumstances where in the plan the revenues are overestimated."

"Section IV beginning on page five sets forth the instances in the plan where the expenses stated in the plan, in judgment of the finance committee, are underestimated."

"Section V of the resolution beginning on page 6, sets forth the basis for the finance committee's conclusion that the County Executives proposed 2009 budget is structurally imbalanced."

"Section VI of the resolution beginning on page 6, identifies a series of additional concerns that are part of the basis for the finance committees recommendations; they are other aspects of the plan that the finance committee has identified as presenting issues or problematic."

"Section VII are the resolutions whereby if adopted, findings of the Board are made with respect to the deficiencies in the plan and the budget. The specific finding are that the plan as submitted constitutes a violation of the ECFSA Act because it is not structurally balanced and also resolutions concerning the continuation of a control period as originally implemented by this Board two years ago."

"The last two resolutions confirm that the ECFSA shall terminate the control period when it ascertains, pursuant to Public Authorities Law section 3959 that none of the conditions that permit the ECFSA to impose a control period exist and that can be at any time. This also confirms that if this control period remains in effect as of November 1, 2009 then with in 60 days of that date the ECFSA shall determine the circumstances that justify the continuation of a control period and enumerate the circumstances in writing. So with that I would be happy to entertain any questions you may have on the resolution in front of you."

Chairman Glaser: "Thank you Mr. McNamara. Are there any questions?"

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

Resolution No. 08-101

REJECTING THE 2009-2012 FINANCIAL PLAN, FINDING STRUCTURAL IMBALANCE IN THE PROPOSED 2009 BUDGET, AND CONTINUING THE CONTROL PERIOD UPON THE COUNTY OF ERIE

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

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, 2007 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, 2007 Order, which is therefore final and binding; and

WHEREAS, on November 2, 2007, the ECFSA adopted Resolution 07-108, rejecting the County's four-year financial plan for fiscal years 2008-2011 (the "2008-2011 Plan") because it also 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, Resolution 07-108 continued the control period upon the County of Erie on this basis, pursuant to Public Authorities Law sections 3957(1) and 3959(1)(e); and

WHEREAS, on January 4, 2008, the ECFSA adopted Resolution 08-11, upon determining pursuant to Public Authorities Law section 3957(2)(e) that a revised version of the 2008-2011 Plan "fail[ed] to contain projections of revenues and expenditures that [were] based on reasonable and appropriate assumptions and methods of estimations;" and

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

WHEREAS, pursuant to Resolution 07-108, if this control period were to remain in effect as of November 2, 2008, 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. <u>The Erie County Executive's Submission of a 2009-2012 Financial Plan</u>

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 2009, and a four-year financial plan for fiscal years 2009-2012 (the "2009-2012 Plan"), to the ECFSA on October 15, 2008; and

WHEREAS, fiscal years 2010 through 2012 constitute the "Out Years" of the 2009-2012 Plan; and

WHEREAS, Public Authorities Law section 3957(1) requires that the 2009-2012 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;"

WHEREAS, Public Authorities Law section 3957(2)(b) instructs the ECFSA to determine on or before November 4, 2008, whether the 2009-2012 Plan complies with the provisions of ECFSA Act, including section 3957; and

WHEREAS, pursuant to Public Authorities Law section 3959(2)(b), the ECFSA "shall approve or disapprove the financial plan and financial plan modifications of the County, and shall formulate and adopt its own modifications to the financial plan, <u>as</u> <u>necessary</u>" (emphasis added); and

WHEREAS, during the present control period, the ECFSA must therefore formulate and adopt its own modifications to the 2009-2012 Plan, but only "<u>as</u> <u>necessary</u>" (emphasis added); and

WHEREAS, such necessity does not exist so long as the ECFSA lacks reasonable assurance of the political will of the County, the County Executive, and the County Legislature to propose and adopt County budgets that would conform to any modifications that the ECFSA would make to the 2009-2012 Plan; and

WHEREAS, in the absence of such political will, there is no necessity for the ECFSA to modify the County Executive's 2009-2012 Plan, and it need not do so;

III. <u>Overestimated Revenue Sources in the Out Years of the 2009-2012 Plan</u>

WHEREAS, the 2009-2012 Plan assumes that County sales tax revenues will increase by 3% in each of the Out Years; and

WHEREAS, the July 2008 County Budget Monitoring Report ("BMR") indicates that annual County sales tax revenues would increase by only approximately 1.5% from 2007 to 2008; and

WHEREAS, a four-year financial plan modification submitted by the County in May 2008 assumed only a 2.5% increase in sales tax revenue in each of 2009, 2010, and 2011; and

WHEREAS, the County Executive's proposed Budget for fiscal year 2009 assumes that annual sales tax revenue will increase by only 0.5% from 2008 to 2009; and

WHEREAS, the median annual growth rate in County sales tax revenues for the past ten years has been only 1.6%; and

WHEREAS, since 1993, every year in which County sales tax revenues have increased by more than 5% over the previous year has been followed by a decrease in sales tax revenues or a decrease in the rate of growth of sale tax revenues in each of the succeeding three years; and

WHEREAS, stock market declines in September and October 2008, coupled with the recent credit crunch in the American housing market, portend an economic slowdown that will lead to lower County sales tax revenues than projected; and

WHEREAS, the ECFSA deems it reasonable to assume that County sales tax revenues will increase by only the median growth rate of 1.6% in each of 2009, 2010, and 2011, rather than by 3% annually; and

WHEREAS, the ECFSA consequently lacks reasonable assurance that the County will receive $16.59 million in sales tax revenues during the Out Years; and

WHEREAS, the 2009-2012 Plan further assumes that real property values in the County will grow at an annual rate of over 4.4%; and

WHEREAS, the historical annual growth rate of real property values in the County has averaged only 2.76% over the last ten years; and

WHEREAS, in eight of those ten years, real property values grew by less than 4.4%; and

WHEREAS, real property values in the County increased by 6.23% in 2007 and by 5.9% in 2008, but are projected by the County's own schedule to increase by only 3.66% in 2009;

WHEREAS, assuming 2.76% annual growth in property values, the County would realize $21.43 million 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 $21.43 million in projected real property tax revenues during the Out Years; and

WHEREAS, the 2009-2012 Plan further assumes that the County will collect new or increased fees for the use of shelters and camping lots in County parks, County golf courses, and primary care services, as well as other fees to be charged by the County Clerk and the County Department of Health; and

WHEREAS, an increase in fees charged by the County Clerk and the County Department of Health may take effect only after:
(1) the New York State Legislature introduces a bill to authorize the increase in fees;
(2) ten (10) County legislators approve a home-rule message requesting the bill's enactment;
(3) the New York State Legislature votes in favor of the authorization bill already introduced; and
(4) ten (10) County legislators subsequently vote to enact the proposed fee increase; and

WHEREAS, the County has not provided reasonable assurance that ten County legislators plan to support an increase in fees charged by the County Clerk's Office or the County Department of Health; and

WHEREAS, a super majority of the County legislators must approve the other fee increases contemplated by the 2009-2012 Plan; and

WHEREAS, the County has not provided reasonable assurance that the County Legislature will approve these other fee increases; and

WHEREAS, the ECFSA consequently lacks reasonable assurance that the County will receive $577,000 in revenue in 2009, and $1,766,000 in revenue during the Out Years, due to the imposition of additional and increased fees;

IV. Underestimated Expenses in the Out Years of the 2009-2012 Plan

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

WHEREAS, the 2009-2012 Plan does not provide for the County's continuation of these debt service payments during the Out Years; and

WHEREAS, such payments would equal a combined $16.16 million during the Out Years; and

WHEREAS, the ECFSA consequently finds that the 2009-2012 Plan fails to account for $16.16 million in County expenditures for ECMC debt service payments during the Out Years; and

WHEREAS, the 2009-2012 Plan also does not provide for intergovernmental transfer ("IGT") payments by the County to ECMC, even though the County expects to make $16 million in IGT payments over three years, beginning in 2009; and

WHEREAS, this $16 million liability does not include additional Acute IGT Payments that the County owes ECMC;

WHEREAS, the ECFSA estimates that the County's aggregate IGT payments owing to ECMC will equal $11.71 million in 2009, as well as $12.01 million in 2010, $12.01 million in 2011, and $6.67 million in 2012, for a total of $30.69 million during the Out Years; and

WHEREAS, the ECFSA lacks reasonable assurance that the County will successfully dispute these IGT payments, or negotiate them downward;

WHEREAS, the ECFSA consequently finds that the 2009-2012 Plan fails to account for IGT payments amounting to $11.71 million in 2009, and $30.69 million during the Out Years; and

WHEREAS, each year of the 2009-2012 Plan also budgets only $11 million in overtime wages across all departments in County government; and

WHEREAS, total overtime costs amounted to over $17 million in 2007; and

WHEREAS, in the first seven months of 2008, the County spent nearly $9 million in overtime wages; and

WHEREAS, if the County continues its present trend, overtime will exceed $15 million for 2008; and

WHEREAS, the County has reported to the ECFSA that it plans to save overtime costs through "vacancy savings generated by departmental operations during the course of business;" and

WHEREAS, the County has not provided reasonable assurance that such vacancy savings, even if they materialize, will reduce the County's overtime costs; and

WHEREAS, the ECFSA estimates that the 2009-2012 Plan underestimates overtime expenditures by $4.04 million in 2009, and by $4.1 million in 2010, $4.16 million in 2011, and $4.23 million in 2012, for a total of $12.49 million 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 $99 million for the Out Years of the 2009-2012 Plan;

V. <u>Structural Imbalance in the County Executive's Proposed 2009 Budget</u>

WHEREAS, structural imbalance in the County's proposed 2009 budget ("2009 Budget"), which forms the basis for the first year of the 2009-2012 Plan, contributes to deficits greater than the 2009-2012 Plan expects in 2010, 2011, and 2012; and

WHEREAS, the 2009 Budget overestimates revenues from additional and increased fees in the amount of $577,000; and

WHEREAS, the 2009 Budget also fails to account for IGT payments of $11.71 million to ECMC; and

WHEREAS, the 2009 Budget further underestimates the cost of overtime wages by $4.04 million; and

WHEREAS, the overestimation of fee revenues, the failure to account for IGT payments to ECMC, and the underestimation of overtime costs combine to create a $10,987,000 deficit in the 2009 Budget;

VI. <u>Additional Concerns Regarding the 2009-2012 Plan</u>

WHEREAS, the impending American economic slowdown and New York State's multi-billion dollar budget deficit may yield cuts in State aid and financial support for programs and projects presently undertaken by County government; and

WHEREAS, the County has not commenced concrete discussions with labor unions representing County workers to achieve savings in collective bargaining; and

WHEREAS, the 2009-2012 Plan calls for no retroactive or prospective salary increases for County employees, beyond the 1.5% raises allocated for step increases and longevity pay; and

WHEREAS, settlement of collective bargaining disputes with bargaining units representing County employees could create further expenditures that the County does not anticipate in the 2009-2012 Plan;

WHEREAS, the 2009-2012 Plan also assumes that the County will achieve significant savings through the elimination of 150 full-time positions – 4% of the County's workforce – without specifying which jobs will be cut, or a method of eliminating services or allocating workload among remaining employees; and

WHEREAS, a decrease in 300 full-time positions in County government, assuming regular state and federal position reimbursements would reduce the County's full-time staff to approximately3,925, below the 3,988 full-time employees working for the County immediately after budget cuts that resulted from the County's 2005 fiscal crisis; and

WHEREAS, the 2009-2012 Plan also assumes continuation of an 8.75% sales tax rate in the County throughout the four-year period; and

WHEREAS, this 8.75% sales tax includes an extra 0.75% sales tax enacted by the County in 2005 upon New York State authorization; and

WHEREAS, the County may continue to levy this extra 0.75% sales tax beyond November 30, 2009, only after:
(1) the New York State Legislature introduces a bill to reauthorize the extra 0.75% sales tax;
(2) ten (10) County legislators approve a home-rule message requesting the bill's enactment;
(3) the New York State Legislature votes in favor of the reauthorization bill already introduced; and
(4) ten (10) County legislators subsequently vote to enact the extra 0.75% sales tax; and

WHEREAS, the legislative actions necessary to re-enact the extra 0.75% sales tax have not yet taken place; and

WHEREAS, the 2009-2012 Plan further assumes that County pension costs will increase by 1% from 2009 to 2010, and by another 5% for 2011 and 2012; and

WHEREAS, it has recently reported that the New York State pension fund has lost 20% of its market value in the last year; and

WHEREAS, the impending American economic slowdown and continued stock market declines may cause County pension costs to increase even more than projected over the life of the 2009-2012 Plan; and

WHEREAS, the 2009-2012 Plan also assumes that health insurance costs for covered County employees will increase by 10% each year, whereas prior four-year financial plans have estimated that such costs would increase by 12.5% each year; 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 $736 million, as of December 31, 2007; and

WHEREAS, in recent fiscal years, the County has borrowed millions of dollars to subsidize the Consolidated Local Streets and Highway Improvement Program ("CHIPS") fund, and to facilitate payment of operating expenses; and

WHEREAS, such borrowing has rendered prior County budgets structurally imbalanced as a result, in that recurring CHIPS expenditures would exceed recurring CHIPS revenue; and

WHEREAS, the ECFSA renews its call for the County to end this practice;

VII. Resolutions

NOW, THEREFORE, BE IT RESOLVED that, having reviewed the 2009-2012 Plan submitted by the Erie County Executive, the Erie County Fiscal Stability Authority hereby finds, for the following reasons, that the 2009-2012 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 2009-2012 Plan does not reasonably assume that County sales tax revenues will increase by 3% during each of the Out Years.

(2) The 2009-2012 Plan does not reasonably assume a 4.4% annual increase in real property values in the County.

(3) The 2009-2012 Plan does not reasonably assume that the County Legislature will approve new and increased fees as an added source of revenue.

(4) The 2009-2012 Plan does not reasonably assume that the County need not make debt service payments on behalf of ECMC.

(5) The 2009-2012 Plan does not reasonably assume that the County need not make IGT payments to ECMC.

(6) The 2009-2012 Plan does not reasonably assume that the County needs to budget less than $11 million annually for the cost of overtime wages.

(7) Overestimation of revenues from additional and increased fees not yet adopted, the failure to account for IGT payments to ECMC, and the underestimation of overtime costs would contribute to a structural imbalance in the County Executive's proposed 2009 budget and in the first year of the 2009-2012 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 2009-2012 Plan, as submitted by the County Executive to the ECFSA on October 15, 2008, "*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 2009-2012 Plan violates section 3957(1).

(2) In submitting the 2009-2012 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 07-108, the ECFSA finds that the County's violation of the ECFSA Act in submitting its 2009-2012 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 2009-2012 Plan as submitted, because it violates Public Authorities Law section 3957(1); and

BE IT FURTHER RESOLVED that it is not necessary for the ECFSA to modify the 2009-2012 Plan, because the ECFSA lacks reasonable assurance that the County possesses sufficient political will to implement any such modifications in its fiscal policy; 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 and recommendations concerning the 2009-2012 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 November 1, 2009, 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

Chairman Glaser: "We have two other brief items before we move to adjournment. Fr the first one we would like to bring Kristine back up. She did get some additional information for us for the one item that we tabled. Before you begin I think I need a motion to take it off the table?"

Secretary Keysa moved, Vice Chair Goodell seconded and the Directors vote unanimously to take item 9-3 off the table.

Vice Chair Goodell moved to approve, Secretary Keysa seconded

DISCUSSION:

Christine Kline: "Item 9-3 discusses the Hyatt inter creditor agreement. This is not a settlement. It is a contract between the County of Erie and Emigrant Bank who refinanced the property of the Hyatt. Previously the County had held the mortgage with respect to the Hyatt property. Emigrant Bank came in and did a $16 million refinancing to the Hyatt and refinanced all the debt except that owed to Erie County. The agreement is between the County and Emigrant to keep the counties mortgage in the first place priority position and basically states that in the case that the Hyatt defaults on the mortgage the County will notify Emigrant Bank first before it forecloses on the Hyatt. We are not paying any sum of money. The amount that is depicted in the contract is the amount of the mortgage that is owed to the County and it was submitted for approval because the contract exceeds $50,000."

Chairman Glaser: "With that in mind, are there any further questions?"

The Board voted unanimously to approve the following contract:

Resolution No. 08-102

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
County Attorney-agreement	Hyatt Hotel inter-creditor agreement	$173,536.06

This resolution shall take effect immediately.

Chairman Glaser: "One last thing that I would like to ask Mr. Vetter. How will we proceed on working with Mr. Polancarz to find some additional financing for the County so we can move forward? I know it has been on everybody's mind these days. If you could make some comments relative to that."

Executive Director Vetter: "Yes, Mr. Chairman given the loosening of credit in the credit market, we have reactivated our financial advisors, our underwriters, our bond counsel and are looking to go to pricing in the market in the very near future. We have been notified by out financial advisors that a school district that they work with in NYS, recently went to market and got a 1.5% rate. So we are looking forward to getting the information from them. They are getting us detailed information and we are looking at having something by the end of the week to the Administration and to Mr. Polancarz on getting to the market and getting money for the County through necessary means."

Secretary Keysa: "Do we need any motions or anything at this point?"

Executive Director Vetter: "I believe at this point, assuming that we can go to the market that the resolutions that were passed previously were wide enough in scope that we would not need additional approval."

Chairman Glaser: "With that is there any additional business to take care of? Then I would entertain a motion to adjourn."

Vice Chair Goodell moved to approve, Director Thomas seconded and the Board voted unanimously to adjourn.

Respectfully submitted:

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Stanley J. Keysa
Secretary

November 3, 2008