Minutes
Erie County Fiscal Stability Authority Finance Committee
October 9, 2009

(Note: the following is a draft copy of minutes of a meeting of the finance committee of the Erie County Fiscal Stability Authority ("ECFSA"), which was held October 9th 2009 in the Auditorium of the Buffalo and Erie County Library. These minutes will not become final until approved at a subsequent meeting of ECFSA finance committee, and may be amended before approval.)

Present: Committee Chairman Kenneth Kruly, Vice Chairman Daniel Oliverio, Secretary Stanley Keysa, Executive Director Kenneth Vetter

Chair Kruly: "I would like to call this meeting of the ECFSA finance committee to order. I would like to welcome everyone who is here today. Our plan today is to receive a budget presentation from Mr. Gach and Comptroller Poloncarz. We also have some have asked representatives from ECC and the Library to address a couple of things. So what we will do, because we have 20 days from receipt of the budget which takes us to October 22nd, we have a meeting of the full board some time before that either at the end of the week or the beginning of the following week to consider actions at that times. Today we are fact-gathering and have a few questions. To start the meeting, I would like turn it over to Secretary Keysa for presentation of the minutes of the previous meeting."

Secretary Keysa: "Thank you, Mr. Chairman. You have before you a hard copy of the minutes of the last finance committee meeting. I believe they were also submitted to the committee members via e-mail, so if there are no changes, I would recommend approval of the minutes."

Director Thomas moved, Director Oliverio seconded and the committee voted unanimously to approve the minutes

Chair Kruly: "Okay, now to the heart of the meeting. Without further ado, we will turn it over to Mr. Gach for a presentation on the budget."

Gregory Gach: "Thank you in having me here and thank you for having faith in this Administration by approving the adjusted 2009 budget and the 2009-2012 four-year plan despite the non-recurring revenues and despite the $63 million gap. We have had surpluses in 2008 and are on our way to a surplus in 2009. We are working on the August BMR which will update the projections in the July BMR which projected a surplus of $13 million. Yes, thank you, it is FMAP money that has saved us, but keep in mind that there are 60 other counties in the state that are receiving FMAP money and they are in much worse shape then we are. Many are resorting to furloughs, tax hikes, fee hikes and cuts, but we are not doing that. The latest information I have on IGT, despite a report that we are going to owe $9 million in October, is a letter that came in from the State that it is only going to be $6.4 million. Sales tax is also looking better. I haven't gotten the final revenue calculations from the Comptroller, but the number, but the State Comptroller's numbers look very, very good based on guesstimates of what the final reconciliation will actually be. It looks like for August that we are up roughly 3% which would take our year-to-date down from a 5% decrease to a 4% decrease. The undesignated fund balance is now $45 million for the operating fund as of 12/31/2008 and if things work out the way we think, we are going to be increasing the undesignated fund balance while also taking the road fund deficit down from its high of $7 million to zero at the end of this year and that was all funded out of the operating fund. In the 2010 budget we are continuing our reduction of CHIPS bonding; there is only $1.8 million being bonded in CHIPS in 2010 versus the $6 million high amount. This is in line with the reduction plan that the Legislature agreed to basically take it down $1 million a year so it will be another million in 2011 and the final $800,000 in 2012 so we will be out of bonding CHIPS."

"Continuing on the capital plan, our capital plan for 2010 is $77 million. Only $41 million is County bonds; the rest of it has to do with the state/federal reimbursements. We have some pay-as-you-go as well as a $2 million project that is being funded by PILOT payments from Geico as part of the swap for the development zone between Tonawanda and Amherst. We will be retiring $44 million worth of debt in 2010 and that means for the first time in a long time we will be authorizing and issuing less debt then what we are retiring, which is a good trend."

"The budget increases in spending from the 2009 adjusted budget and the 2010 is only 0.2%, in 2011 it is 4.9%, in 2012 it is 3.7%, and in 2013 it is 3.5%. The tax rate is remaining the same at $5.03. We had roughly a little bit better then 4% in the tax base. Our average over the years has been 5.12. The 2011 gap is $50 million as reported and can be broken down to a few simple accounts. A $32 million loss in sales tax if we were to have normal sales tax growth; $13 million in additional pension costs based on a 65% rate increase we received from State Comptroller DiNapoli; and roughly about $5 million in union contracts."

"FMAP money is roughly $76 million is in the 2009-2010 budget. That offsets that two-year drop in sales tax of $60 million, a $7 million increase in pension and creates a $9 million ECMC debt reserve, so we used the FMAP money not for new spending *per se* but for what it is intended to do: to offset the drops that we have all seen because of the recession. We are continuing since 2005 not selling tax liens. Monroe County recently sold theirs and I believe they only got 70 cents on the dollar. We are not doing that. As I mentioned earlier, we have new union contracts in the budget. The NYSNA contract has been approved and is through 2011; it is a seven-year contract eliminating retiree health insurance for new hires, cost-sharing for employee health insurance, lump sum payments for the past years. It was funded by the Authority in an efficiency grant with 3% annual increases. We also included in the contractual salary reserve line which you will see in the four-year plan as well as in the budget, the latest agreements with AFSCME and Teamsters. We put in the expense but did not put the offsets in. I realize it is speculative at this time, and Director Thomas has asked me on a number of occasions "What are you doing with union contracts." We put it in the four-year plan; it is roughly a $20 million cost over the four-year plan. Again, as I said, I have not put in the offsets. Each of those contracts by the Teamsters and AFSCME have been rejected the first time through by the members and our labor relations director Chris Putrino has been working with both outfits. I believe, and don't quote me on this, but I believe if we haven't we are close to having an agreement. I believe Director Kenneth Vetter has been sitting in on those meetings. It will then have to go to the membership again for a vote as well as come before this body to determine whether efficiency grant money would be used to pay those back years. They are similar contracts to NYSNA and that has become our blueprint for all contracts with unions. As I say, we have $20 million in the four-year plan for that."

"Outstanding issues? Has the sales tax recovery started yet? As I said, I got good news yesterday looking at the gross sales tax money that came in. We re now going to be comparing September through December against what was the beginning of the recession last year. So that fact that we are only 4% down during the recession against the period that was in a recession *per se*, bodes well. We had a 5% drop in sales tax in the 2010 budget but a 1% change in that multiplies it out to an $11 million over the four-year plan. Pension? In my original four-year plan that you approved, I had a 42% increase in the rates and that was over four-years. The rates we received from Comptroller DiNapoli averaged out 60%. It costs a lot of money and that will hit us in 2010 for the last three quarters and 2011 for one quarter. I just received on Monday or Tuesday the actual estimated bill from the State Comptroller's office based on those rates and their estimates. I based the 2010 budget and the four-year plan based on an estimate on that bill being $33.7 million. It came in at $33.8 million, so bad news being what it is, I think we have a reasonable number in there especially for 2010. The State Comptroller also issued his long-term outlook for the rates which were actually a little lower then the rate that we are going to be paying in this bill coming up. The average rate went up 65% but the rate where I pay the most on which is tier four was 11.2 in that bill, the long-term outlook we have is 11%. To give you some perspective on that, the rate we will pay in the bill that will be paid in February of next year was 7.2%. So it went from 7.2% to 11.2% in the long-term outlook it is still 11%. So the 65% built in the four-year plan seems reasonable. The other side of this is when the State DOB, when they did their first quarter report for the State, they projected out rates going up to 25% for our regular ERS and 33% for our uniformed police.. That is, some of you may have heard, 300-400%, that would be the rate. I don't have that in here but like I say, the State Comptroller controls the pension plan and depending on what happens with recent legislation, he is estimating 11% and that is what we have in here."

"ECMCC? I sound like a broken record when I talk about this but we are still negotiating; it is still going back and forth between the attorneys. I was just checking to see if anyone was here from the County Attorney's office. They have been meeting with Anthony Collucci and once they are done with that there are plans for the Chief Executive, Anthony Lamato and the County Executive to get together to get together with the Chair of the Board, Dr. Chihachi, to go over the final agreement with this thing. So at this point we don't have anything beyond $16 million in IGT upper payment limit and then continuing on with $8 million in IGT and $7-8 million for the payment of the debt that is outstanding on the bond that was issued to sell the hospital to the County. Albany? I have no idea. Last year we wound up with about a $5 million hit which is reflected in 2010-2013. They are now talking about a $3 billion deficit and the Governor is trying to bring the Legislature back to discuss it but we will do the same thing we did in 2009 where we finally had a State budget. We will take a look at it and determine whether or not we can live with it or what we have to do."

"Getting back to four-year plan, there are no gimmicks or smoke and mirrors. The $172.4 million gap for 2011-2013? If I were to change three estimates, we would be down to a $76 million gap and I will explain that. Thanks to the superior credit rating of the Authority, we issued a BAN for our capital needs for $103 million.

That expires next year and we would be looking at refinancing that, as well as the roughly $27 million that we did not borrow for the 2007-2009, plus the $41 million 2010 capital plan."

"The four-year plan assumes that we will be doing a bond, as well as the cost of doing a bond which is at a higher interest rate than what it would be with a BAN and kicking in principal payments on year two. I don't have any principal payments on the BAN for 2010. However, if we went to a BAN borrowing, which is out option and I am assuming that we may or may not be in the same standstill that we were in earlier this year between the Authority saying we are not going to let you do a bond and the County Executive, the Legislature and the Comptroller saying they do not want you to do a bond for us. So if we did this and kept rolling over BAN's for that period of time which legally we can do and factoring principal payment that we would have to do on a BAN, my gap shrinks by $65 million by just doing that. I want to give you the worst case scenario on these things. As I mentioned earlier, if sales tax goes up by 1%, the gap shrinks by $11 million in just four years. Union raises for contracts that have not been approved either by the union members, the Legislature or this body. If that is taken out, that is another $21 million. So given all that, it takes us down to a $76 million gap versus a $63 million gap. One other issue that I haven't been able to quantify but for your information and I know I shared with you the cost per case in case-load projections that we have been using. The 12 and 18 month trend in this recession has been downward in cases where we pay the most money. What I have done in the last two four-year plans and this four-year plan is basically, instead of continuing that, is forecasting higher case loads. As everyone knows, Erie County in a normal recession is worse off then any other county if not area in the Country. We haven't seen that with this recession. What we have seen is something different. And it has affected us on sales tax, on interest earning, it has affected us in recovery efforts by the DISS folks and that has impacted us on the revenue side and thanks to FMAT money that will cushion that blow. I haven't seen the big increase in case loads. I don't know when it is going to happen. Part of the answer to that question is that unemployment keeps getting extended by the federal government. There is talk of another 13-week extension of unemployment. Dual-income households are the norm now rather than the exception that they were in the 70's and 80's. So what I'm saying is that what you have in that $172 million is, God willing, the absolute worse case. As I said, it won't take many changes in policy decisions to soften that blow and make it more manageable. We have a $60 million gap for 2010 and forward.

We put together the 2010 budget with a reduction in FMAP for 2009, lower then usual sales tax increases, and we still managed to keep the tax rate the same. At this point, am I hoping that we have some good luck? Yes, but what we put in the four-year plan is what I think if everything goes against us that is what we have. Quite frankly, if everything goes against us, it is going against everything. I don't know what the economy will be and what governments will be doing, but we will be doing our best to give County residents the government and the services that they require at the lowest possible cost. With that I hand it over to you for any questions."

Director Oliverio: "First, thank you. I read the budget books and the executive summary made it hurt less. I have a few primary concerns. My first and most important relates to the revenue side. The sales tax revenue in this County is the largest component of the budget. There is an increase that is built in to this of x% over the next four years. What we need to believe is that the sales tax revenues are at the rates which are fairly substantial in this budget over the next couple of years. Everything that I read in business resources basically says consumer spending is not picking up at the rate that it should. Where and what is your justification for support of sales tax revenue growth in 2010-2013, because that too effects the gap significantly. By the way I hope you are absolutely right, but I am very concerned about that because it takes up such a large portion of the revenue stream. So I would like you to comment on that if you could?

Gregory Gach: "There was an awful lot of conversation on sales tax numbers. We were all over the ballpark from negatives to zero to going back to the 15-year average which is a little over 3%. One of the reasons that I led off with the report of the August sales tax and, whether it is "cash-for-clunkers" or a reconciliation month where the State had to own up to that fact that they were holding up money, it is a good snapshot. It is 3% over last year's August. It takes a year-to-date drop of 5% to 4%. As I said, we projected the 5% drop for 2009 and a 2% increase going forward. So the dollar is still not being supported by the federal government. It is still falling and is at one of its all-time lows which means Canadians should be coming here. They are, but is it as much as it was in the past? Anecdotally, no, but for whatever reason Erie County has been better during this recession then the rest of the State. I think a good reason for that are the Canadians. They are still coming; their dollar is getting stronger, we can hope. One of the back stops on that is our FMAP. We are still waiting for our reconciliation from the State. The letter that we received from the State Health

Department announced that, due to the higher unemployment rate, we will be the beneficiary of approximately $9 million in FMAP for their 2009-2010 fiscal year which would then carry forward to the 2010 payments. Since we didn't get any of that it wasn't included. What I am saying in a nutshell is that we are forecasting 2% growth in sales tax growth. A risk? Yep. It is roughly about $7 million. If we were simply to say "let's just keep it zero," we would lose $7 million. Again that multiplier effect throughout the four-year plan gets worse; it gets ugly. If sales tax doesn't come through, we have a lot bigger problems then what we can deal with at this point. There is more FMAP money coming, we just don't have the numbers on it. So that is why I am fairly comfortable budgeting a 2% increase in there and as far as the four-year plan goes, it is a plan that I share with you, Legislators and other people. Any government that estimates their expenses to go up by a higher percentage than their revenues are going up is going to have a gap. It is simple math and if you look at my expenses; Kids with Special Needs: 7.5%, Health Insurance: 10%, 25% pension. If you look at all of those things, and I am only doing 2% revenue and smaller increases on other revenues, it is a complex puzzle. What I'm hoping for is that sales tax comes in higher but if it comes in lower we will adapt to it."

Secretary Keysa: "I have made the comment before this probably is the most honest budget that I have seen since I have been here. I appreciate that and I think that is a personal compliment. You made the comment earlier that there are a few adjustments that could be made if you were going to sink the deficit in the three years going out. One of them would be the ECFSA doing the borrowing. The fiscal amount on that was how much?

Gregory Gach: "To do BAN's instead of bonds. It would be roughly $65 million."

Secretary Keysa: "There would be a $65 million savings over that time period. It almost seems like a no-brainer."

Gregory Gach: "It is not the most fiscally sound thing to do, I'm sure the Comptroller can comment on this. I was around in the 80's when they continued to roll over BAN's rather then do bonds because they were hiding deficits. The way the financial markets are tight now, you borrowed I believe at less then 1% on your BAN. Bonds at our rating we were looking at 3 - 4- 5 %. So on roughly $200 million, it adds up."

Secretary Keysa: "The risk is that the rate itself will be going up?"

Gregory Gach: "The long term risk. The fiscally prudent thing to do would be to sell a bond to lock in a rate but the way the rates are now and it doesn't look like the weirdness of the rates is going to clean up by June. Quite frankly I think doing a BAN next year makes the most sense rather then lock in a rate that is artificially high but again we want to basically paint the worst case on this thing. Again if we simply say we are going to BAN and roll those BAN's over for the next three years, we save over $60 million. These are estimates."

Secretary Keysa: "I have to make the adjustment between the County and my past experience with the towns. In the towns, if you do a BAN, it was for a maximum of five years. Are you saying that that is not the case with the County?"

Gregory Gach: "Well we would be within the five years in this four-year plan and the Authority has the ability to go beyond the five years."

Executive Director Vetter: "We are not covered under the Local Finance Law, so we can roll well past the five years."

Gregory Gach: "That is an option that is open to us. I decided, and the County Executive decided, to give the worst case. A simple policy decision to go to BAN's brings this down quickly considerably."

Chair Kruly: "Just a general comment and then some questions. You talked about the County has never been in a situation where revenues and expenses are growing at the same pace. I see that the local source of revenue and that is not sustainable without raising taxes or making cuts. You do not have the recurring expense. In a family you would cut, but the County has chosen to use it for account. As far as the questions I have, the plan calls for several options for closing the gap, considering that the gap is three times bigger "

Gregory Gach: "There is a lot of that has been hiding under the cloak of mandate. Breaking down all their programs and seeing if it was something like a PDF of the mandate, we are going to be reviewing every single one of those. A small one is the tax-mapping grant; this budget eliminates that position. You will not believe how many there are that are similar to this. There are going to be a lot of things that they will cut. One of the buzz words is passive parks; there is going to have to be some balance between services and there are many gaps."

Chair Kruly: "On the regular part-time, how many are operating on the regular part-time?"

Gregory Gach: “There is roughly a 40% increase in RPT.”

Chair Kruly: “If you could provide us numbers on that to us that would be great.”

Gregory Gach: “I know I can do the positions but I can talk to the Director of Real Property Services and see if he has rates yet; that shouldn’t be a hard thing to do.”

Director Oliverio: “Mr. Gach, it sounds like to me a lot of things have to break your way for this to work or even come close to working and I hope they do but if they don’t it’s not going to be real good. Frankly, I don’t share your confidence in those thinks breaking your way. One thing I want to follow up on is ECMC. You don’t sound like a broken record. It sounds like you are reporting on what is happening. This is like Jarrondis vs. Jarrondis, the case that lasted for years. Where are we with that, and what do you think about that or where we will be with that on the County over the next couple of years if it is settled up?”

Gregory Gach: “Again, I am not participating in them, but I do know that Judge Makowski ordered that starting in 2010 the County could be held responsible for any anticipated gaps in their budget. They did not present any gaps to date and I don’t know what their 2010 budget projections are and again I don’t know if you want to talk to the County Attorney to spread a little more light on the item. She might be able to shed some light on how those negotiations go.”

Director Oliverio: “I don’t know how those negotiations go. Those are way longer than any I am familiar with. I guess what my point is here is if there is a 1% shift in sales tax of $11 million that can disappear if this ECMC deal falls through. I would sure like to know where we stand in round about numbers and I’m sure my colleagues’ would like the same; that could be a huge deal-breaker here. Whatever you can find out about that, I would appreciate it because we need to know kind of, sort of where we are at this point. I don’t know how often negotiations are occurring and how extensive they are, but that is something that in the next four years surely has to be resolved. That is something that I am concerned about and I would like to know about it without betraying any confidences of course.”

Secretary Keysa: “Just one item. I noted in the newspaper the indication by one of the Legislative members that they were going to be looking at the budget to find places to cut. I assume that you would not be averse to finding places in the budget for places to cut?”

Gregory Gach: "That's the way the process works."

Secretary Keysa: "On the other hand, you have indicated that one of the places not to cut is to cut the tax rate; what will that do to the long term deficit?"

Gregory Gach: "It depends what the cuts are. If they are cutting the levy and cutting the comparable amount of expenses the impact could be nothing. If they are cutting things that are one timer's or resorting to smoke and mirrors in their cuts, then the deficit gets bigger."

Executive Director Vetter: "Just a couple of issues. One thing is overtime; in 2008 it was just under $14.8 million. In the plan it assumes $12 million a year with a small inflation factor going forward. Overtime has been an issue with the County for decades. What changed or what will change from 2008-2010 to reduce overtime by $3 million?"

Gregory Gach: "The actuals from full time in personnel went from 184 in 2008 actuals to 194 in 2010 budget despite step increases; I am talking bottom line personnel services total."

Executive Director Vetter: "It went up from 184 to 194. It went up to $10 million."

Gregory Gach: "Our overtime issues are at the Holding Center. For the last three years the Sheriff has managed the Holding Center to stay within his personnel services budget. In other words the vacancies that we have there cover up or saved him enough money to cover the additional cost of overtime."

"The other area is in Social Services. Again, in the past, what we saved on vacant positions offset the overtime. What I did in 2009 is we cut out a net of approximately 60 jobs. What I did in the 2010 budget is we increased their overtime by $1 million gross. We have fewer vacancies there and we increased the budget overtime there by $1 million to hopefully offset the issues in Social Services. The other areas that we have overtime quite frankly are from the emergencies; the Flight 3407, the Angola floods this year. Hopefully they are one-time issues but they kind of keep coming back. There was a hepatitis outbreak last year that cost a lot of money. I just received a letter from the State Health center stating that they would reimburse us 50%. So we are watching overtime the best that we can but on the 24/7 operations like the Holding Center, if someone calls in sick you do have to have another person work an extra 8 hour shift of overtime or, if they have vacancies that can be filled, then fill them. It's a revolving door over there with those jobs, but we have managed to stay within their budgets and that is what I'm hoping will continue. So we did increase overtime a little in places that we thought it was necessary. In other areas, rather than cut jobs and increase overtime because that just exacerbates the problem and it takes so long to fill the job, so those are the issues we look at with overtime."

Executive Director Vetter: "In that vein, the 2009 adjusted budget for overtime is $10.9 million. You are finishing off the August BMR at this point; what would you anticipate 2009 overtime to be?"

Gregory Gach: "I haven't looked at that number close enough to tell you. I can get back to you on that, but I don't have it right now. If you have our projection for July, there should be a projection for number. I just don't have it at the moment.

Executive Director Vetter: "The other question I have is regarding something the Governor has recently said, that the infrastructure is unaffordable in this area, which sounds like a preamble to cutting something somewhere. If he is being literal and transportation money coming here is cut, because a lot of the programs are federally and/or state reimbursed, would it be the plan of the Administration to fill in that money in capital programs with additional borrowing or pay as you go or would it be the other way, if say the reimbursement goes down there are programs and projects like road projects that we will not do?"

Gregory Gach: "Quite frankly, one of the reasons we approve as many projects that we do is because of the state/federal road reimbursement. In some cases we are talking anywhere from 0-50% local share. If you are telling me we had a $10 million project and our share is $1.5 million and it is really going increase by $8.5 million, I'm going to tell you there is going to be a lot of thinking on whether or not we go forward on that. I think it is really going to depend on where we are in the construction process. My understanding is that, typically, no contracts or construction are started until the state/federal money is in the bank. So what I'm saying is that, if I take an 85% cut in funding in a program, am I going to fill that program? I can't afford that."

Secretary Keysa: "More likely though, this is where the federal government continues to supply theirs and the State withdraws theirs?"

Gregory Gach: "Some programs are based on whether the State funding is there, some of them aren't. In some projects that State covers the local share, some they don't, so every one is different. We have to look at each one individually and see where we are in the process and what we are looking at. It's hard to answer hypotheticals on those types of things"

Executive Director Vetter: "Just two other semi-related items. In the plan, we pointed out back when the College submitted their plan that, on a cumulative basis, there was about a $5 million difference between what the College is expecting in support from the County and what the County is anticipating giving to the College. Have there been any discussions and follow up to reconcile that $5 million difference?"

Gregory Gach: "I have not participated in any of the discussions between the County Executive and the President of ECC. All I can tell you is that when I spoke with the County Executive and asked if there were any increases he said "no"."

Executive Director Vetter: "I guess that would be the same question for the Library because, at best, the plan assumes that the Libraries retain their current $2.2 million in dedicated property tax revenue. Under a worst-case scenario, they would lose 10% of that and I think Mrs. Quinn Carey is here to talk about what would happen under that scenario."

Gregory Gach: "I have had discussions with Ken Stone and have had discussions with the County Executive and it is again one of those issues of what can a taxpayer afford. We look at all of the numbers and realize that $2.2 million is what we can afford to do for them. If all of a sudden we are looking at a $50 million issue down the road are we going to be looking for $2 million from them? At least because I am going to looking for it from everybody; 10% is a nice round number for cuts. The Governor just announces an 11% cut on non-personnel services for all its departments. I would like to not have to go that route but if we have to we have to. I would prefer to basically eliminate programs rather then doing them on the cheap."

Chair Kruly: "Thank you very much, Mr. Gach. I would like to have Comptroller Poloncarz come up and offer his comments on the budget."

Comptroller Poloncarz: "Good Afternoon. As you know from past experience, my office has a report on the budget. Currently it is in draft form and not ready to be released. I will not go into great detail because it is some of the things that you have been speaking about for the last hour. That is, the budget itself on its face seems manageable but there are some potential problems, the largest being sales tax. The Budget Director was correct in noting that sales tax revenue did go up for August. We have been led to believe there are two reasons; number one, the State has holding back on sales tax throughout the year and we see big jumps in the reconciliation months. It has been talked about amongst county executives across New York State that the Taxation and Finance is deliberately holding back for their own cash flow purposes and then making up for it in the reconciliation months. The cash for clunkers was in the month of August. One of the downfalls is that it ended in August and what we were hearing anecdotally from auto dealers is that they had tremendous sales in August but almost none in September. So I wouldn't be surprised to see an offset in whatever we were receiving from the auto sales in the month of August. For sales tax, the decrease is not as great as it was; approximately 4% as Director Gach said. We hope that that will continue, but sales tax is one of those nebulous things that unfortunately we rely on but we can't control. With regards to the 2010 proposal, the 2% increase based on a 5% reduction is potentially manageable. We really don't know. It may be overreaching. It may be smart to come up with zero percent growth but we really won't know until the end of the year."

"The 2010 issues with regard to ECMCC are legitimate concerns because we really don't know when the consent decree ends and the law specifically states that that we make up the difference between profit and loss. The question that has always been in my mind is: when? When is that going to be determined? There is a general thought; if the hospital will go through the year and if they have a $20 million loss, they will send us a bill for $20 million, telling Erie County you owe us $40 million. It is very difficult to be saying when and the discussions are with ECMCC and the County Executive. My office has been kept out so I can't even state what is happening. At least from a County standpoint, having talked to people at ECMC, they will say discussions are on going but they don't seem to be going anywhere. As an attorney, I know what it feels like when discussions are just not working. In the private sector, you might just pack up and walk away. Here in Erie County, you can't pack up and walk away because we are still paying them millions of dollars in IGT payments and the like."

"So the 2010 budget, on its face, is manageable. There are a number of things that can be identified in our report. The goal is to release this by the end of next week so that everyone has the ability to look at the budget for what it is."

"The four-year plan is the problem. The $50 million shortfall starting in 2011 is large. This is much larger than any shortfall that this control board has had to look at going into the next year of the four-year plan. As long as I can remember, there have been shortfalls but they have not been this large. Considering last year that the Administration projected surpluses in the four-year plan, these are going to be very difficult decisions that will have to be made. The Budget Director is correct in noting that while the County Executive states that there will be no property tax increase, his four-year plan notes that one of his stop-gap measures is a property tax increase. It also notes potential use of fund balance. I would vigorously vote against that. One of the reasons that we went into the fiscal crisis on 2005, which really was a fiscal crisis that started in 2002, was because Erie County couldn't pay its recurring expenses with recurring revenues and started dipping into its fund balance. We had a $200 million fund balance that was almost reduced to $0. We had a $250 million settlement for tobacco that was reduced to $0. We can no longer do that; we have to be able to balance our budgets using the means that we have at hand. No matter what we can say about a job here, a program there, you are not going to be able to cut $50 million out of Erie County's budget by cutting programs that maybe mandated but we will need to look at. I think the Budget Director would agree with me but the one thing I would vigorously disagree with is raiding the fund balance. It is an easy thing to do for the one day but it doesn't solve your problems because your shortfall is just going to grow. Your doing one shots; the federal stimulus money is a one shot. I am not expecting the federal government to dole out more money in two years to cover the shortfalls that everybody knows will exist. The real difficult decisions will need to be made in 2011 and beyond, starting today. If we wait until October of next year we are all doing ourselves a disservice because it is very hard to come up with $50 million over night. This is where the tough decisions have to be made and now."

"In general, we believe there are few issues with budget which we will be noting in our report. On its face the budget seems manageable but the four-year plan is a problem. I was quoted as saying "There is a storm that is hitting Erie County right now but we are being protected by the federal stimulus money. Once the protection is taken away the storm will hit hard and we don't have anyway of addressing it. I would be happy to answer any question?"

Director Oliverio: "I have a couple, Mr. Poloncarz, and I agree with you whole heartedly on the storm that is coming and your sales tax concerns.

You mentioned that you think some action should be taken now. Tell me a little bit about that and what would you propose?"

Comptroller Poloncarz: "First of all the four-year plan proposed by the County Executive's office is no definitive; actually nothing in it just states two lines that say here is our potential budget gap closures. Six Sigma savings, which our office has looked at and really see no material savings as of this date, and potential use of fund balance, property increase. I think it is funny that there is argument about whether there is the potential of a 1% sales tax increase. In my discussions with Assembly members, that is just not going to happen. They are not going to pass a sales tax extension unless they have a sharing of the $12.5 million. They have no intention of letting that go because I think, as was noted by Director Kruly, that would just be passing it on to the towns who would then have to raise their property taxes. So I don't see the extension of the sales tax would then allow the County to pull back that money. It's kind of like the temporary 7/8's% sales tax; it was suppose to be temporary. Everyone knows it's not. It was permanent and ever will be. If the County could ever get back down to 8% sales tax, that would be great. So I don't see the County ever reducing the sales tax and neither do I see us getting the $12.5 million back. What I think needs to be done now and what I think has been done in prior four-year plans is a greater quantification of how you will be spending. In other words, if you say you are going to fix the screens, show how you are going to do it. You would have to draw up a sizable property tax increase to address the whole $50 million as well as cut programs. I don't think that is going to happen, I think it will be a combination. I know from a political standpoint why the County Executive does not want to go out there. He may say in his budgetary message that there is no property tax in this four-year plan. It is easy to say. If it were a $5 million shortfall, then he can easily say that, but when it is ten times that…? My office will look at whatever budget is provided next year and we will work with the Administration next year. I was a little shocked when the four-year plan came out to see such a limited amount of information. Kind of like: "We know it is going to be bad, we know we are going to have to do things," and at the back of their minds they know what they want to do, but they don't want to spell it out because it is the kind of thing that will scare people."

Director Oliverio: "Another thing. I take it you share my concern on ECMCC and that settlement? Historically, what do their gaps look like, assuming that consent decree falls off; what typically do those short falls look like over there?"

Comptroller Poloncarz: “Years before it was sold there were multimillion shortfalls. They ran deficit on an annual basis. They have claimed in past years that they have been able to balance their budget and even offered up surpluses. I know that they have been hit hard by some of the proposed cuts and received some aid with regard to stimulus as well but they were looking at potential large scale cuts with the federal changes in the programs. I would love to say that in prior years it was a $20 million deficit and in recent times they talk about surpluses, but those surpluses are based on the IGT dollars of anywhere from $5-12-15 million that they receive from Erie County. Even if they do agree to some kind of formula, what I have seen from the County is that the County will pay the IGT. The question is whether they are going to get anything back in reimbursement for it. Once again, unless some agreement is in place that I don’t know about and I don’t think ECMC knows about, at the end of 2010 if they end up with a $10 million shortfall, they are going to be looking right at Erie County to make up that difference. I am not sure what their plan is. I have spoke the ECMC COO and asked him what the plan is and he said “who knows?” They hope that if they can’t solve the problem this year, hopefully next year and hopefully without going on the backs of taxpayers. As I have said all along, it is nice to be able to run a facility knowing that if things go bad you have a fail-safe method. You can then pick the pocket of the County. There is no incentive to try and save taxpayer dollars and no incentive in case things go bad; at least we have to have a balanced budget. As was shown from the prior lawsuit when the County tried to avoid paying the subsidy to ECMC, the statute is pretty clear and there is already judicial opinion rendered on it, that if they lose a dollar we give them a dollar; if they lose $100 million we have to give them $100 million. I’m am hopeful that they don’t lose $100 million, but am not certain as cuts are Medicaid program with regard to the Home, they could lose a substantial amount going forward.”

Chairman Kruly: “We have in years in the past, have had a deficit of over $20 million, so who knows what we are obligated to?”

Executive Director Vetter: “Mr. Chairman, if I could? On the IGT money, there is also a multiplier effect. The County has to pay half of that. So if the County is coming up with $10 million and it disappears it means that ECMC is losing $20 million.”

Director Oliverio: “Who knows what the response to this is? It is very uncertain but it seems that we do know that the only response to the number that we talked about is to raise property taxes. You kind of know what you are going to get. Thank you, Mr. Poloncarz.”

Secretary Keysa: “Earlier you indicated that a significant savings could be realized going forward with regard to the gap if the ECFSA did BAN’s. Assuming that you had the differential that you did this time between the County’s rate and the control board’s rate, would think it is fair to go with the control board?”

Comptroller Poloncarz: “I think it is fair that, based on what is occurring with the RAN, if there is a substantial savings and it is a short tem savings, I have no problem with that. With this RAN we looked at it and there were significant savings, not as large as the ECFSA came out with but substantial savings, so we made the recommendation that the ECFSA issue a RAN. You can’t really issue a RAN. You can issue a BAN. So we are having a mirror BAN again that the control board issued. It all depends on the true value and if there are substantial savings there. The issue that will come up later is the one-year note rolls over and so on. There is a five year period when the note actually has to be paid out. That is the problem that has been shown and proven by the State, if the control board does a BAN it has to exist for the life of the borrowing. I think we can all agree that we don’t want this Board around until 2039 to clean up the mess of the Giambra red and green fiscal crisis. On a one-year note there could be substantial savings. As I have said, there may be a benefit to allowing the ECFSA to do it, but a long-term debt guaranteeing the existence of this entity and guarantees $500-750,000 in sales tax proceeds to keep the ECFSA in existence out of our budget to go to your costs.”

Secretary Keysa: “That is not really correct. The highest amount was when the County sued us to try and take us out of existence.”

Comptroller Poloncarz: “No, the highest cost was when you hired PFM and spent $2 million on a consulting report that was useless and a waste of taxpayer dollars. One of the reasons they dropped the subsidy for ECMC and ECC was because PFM suggested doing that which led to the lawsuit and has only proven that. The latest actions of the control board have been good. Past leadership led in a way that it shouldn’t, wasted taxpayer dollars and then there was a lot of grandstanding that went on with the prior chairman which I have no idea why that was in the best interest of the community and I have no idea what is going to happen 5 years from now. I think it is in the best interest to the community to see this control board disappear; it hangs as a pariah around the neck of Erie County and the City of Buffalo to be known as the only county with two control boards which automatically alerts anybody who is looking to relocate their business to question why they would move into that community if they can't manage their funds. I would hope that every one of you agrees that the long-term goal of this entity or even the short-term goal of this entity is that it is no longer needed and can disappear. If that is not the case them I am a little worried about the future of this community, because it should be the case that we have good elected officials that do the right thing and I would submit that we have done the right thing based on balanced budgets, and increased credit rating, increasing the fund balance and I am certainly not on my watch going to see that fund balance reduced so that they can quickly balance a budget in one year and in an out-year face a deficit over and over again."

Chairman Kruly: "I had asked you to comment on a remark the Budget Director made before. There is $9 million of additional bail-out money that is available to the County that is not included in the County Executive's budget. What is your opinion on how that is being done?"

Poloncarz: "I don't have anything in hand. Part of the problem is that my office is often left out of it and we are not aware of it until we receive a letter in the mail which is not good because it would be nice if our office was advised of what was going on some of the financial issues, whether it be Social Services or Health Department issues. I would love to be able to say that there is an additional $9 million amount that is coming. If that is so, then that is will help balance the budget for 2010, but also some of the shortfalls going forward. That might disappear next year and say they spent that $9 million on programs, then you will still be faced with another $9 million shortfall. I don't have any other way of commenting other than our office has been advised some things but we are kept out of a lot of discussions and negotiations. I don't know personally if someone else in our office has been advised of when or if that money is going to be received and if such then what their plans are for it. If it is going to be received and is based on a budget that already on its face is balanced, then we should seriously considering putting it in a reserve, although there are limits on what we can do with reserves for future days so that we can address shortfalls going forward."

"We have seen that in the past, especially with the Legislature setting up property tax reduction reserves, basically, rainy day funds to cover if the other areas don't come through. Because it is a one-shot based on stimulus money, it is not something that should be seriously considered for future budgets and future four-year plans, but I don't have enough data on it to say one way or the other."

Chairman Kruly: "Thank you very much, Mr. Poloncarz. Next, I would like a representative from the Library system to come up?"

Bridget Quinn Carey: "Good afternoon, gentlemen."

Chairman Kruly: "We appreciate your continued courtesy in providing the room at no charge to us. I asked that you come here today because there are a couple of items that are fairly significant in the budget and four-year plan and I am looking for a reaction on the impact of these things. One of them is that the four-year plan that the $22 million is the appropriation that will remain for the next four years and I think and I think that has been the case for 2-3 years now? "

Bridget Quinn Carey: "Yes."

Chairman Kruly: "That is point number one, and point number two on the other side of the equation. On the revenue side, the gap-closing side, the Library is the only department that I can recognize for a reduction if reductions are to occur with a 10% reduction in the budget starting in 2011; sort of a double-whammy. I know that, after the 2005, well part of the 2005 budget, there was a substantial reduction in the system which predated your arrival here, but I was just wondering, could you comment on the level of funding coming from the County Executive and the 10% cut in that funding going forward?"

Bridget Quinn Casey: "Certainly. We are, as you say, we are facing level funding for 2010 and the Library is in a position due to do sound financial management over the last few years to have a fund balance that enables us to maintain a level of service delivery even with a consistent level of funding. As we have discussed all afternoon, that is a one-shot. It has been a one-shot deal for us to continue to close those budget gaps because level funding is essentially a cut because our expenses do continue to rise. We have approached this in several different ways. Our funding over the past couple of years has been volatile; that is an understatement. We sustained a $5 million cut with the red/green budget. We were restored $500,000 in one year. We were given a one time $1.6 million fund transfer allocation that was not renewed this year, so we have been up and down over the last few years. Essentially, the tax support has remained level at the $22 million rate since 2005. So, looking at 2010 and the projected budget, we are still stable, we are not great, but we are still stable. Looking at 2011, because of the planning that we have done in restructuring, part of what your efficiency grant has contributed to, as well as planned reduction through attrition, we project barring any major change that we will be okay in 2011. That doesn't deal with the 10% projection that I will address in just a minute. It's not great but it is stable and what I mean by stable is that we don't need to lay people off, we don't have to eliminate hours, we don't have to eliminate programs nor do we have to close down buildings. It keeps us at a steady level but doesn't let us enhance much, but we do creatively through other types of partnerships that we can do without a lot of additional operating costs. So, that being said, everything remains the same without any significant changes or reductions. We are facing still a pretty considerable situation in 2012 because our costs will continue to go up with pension contributions and health care costs to the point that we just can't continue to manage at the same level rate over four years without having to look at cuts to close those gaps because our fund balance will be gone by mid-2011. Our fund balance will be exhausted. We are spending it in this current year and projected in the following year over $1 million in fund balance just to close our own budget gap. So an additional 10% reduction on top of this already critical financial situation is troubling, to say the least, but would be devastating across the system. Especially considering that our other major source of revenue is the State. The State is having its own issues, and we sustained a cut from the State this year and may see that happen again in the future so we are looking at a very dire situation. We have increased our level of activity in terms of seeking private donations and other sources of revenue. We will continue to do that. We have a very active development committee and are actively pursuing fundraising efforts that have been very good but that takes years and years to develop. It will be 6-10 years before we have a regular stream of the kind of donations that we can even think of that being a regular part of our ongoing revenues for ongoing expenses. That really leaves us two options. One is to downsize or reduce our service, and I can detail that into some of the scenarios, or to increase revenue and really the only option for us to increase revenue are by having the County give us more of the share. That is tough and we have heard more in the past two hours the strain there is already on the County's limited resources. They have a lot less flexibility with the small percentage that is actually discretionary and it would mean taking it from another program. Unfortunately for us, we are not a mandated program so, as popular as we are, as well used as we are especially now, our usage rates are off the charts, more and more people stream through our doors every day we are not required by the County to fund or provide. The other option is to raise taxes. This is not a popular idea with anyone. Would the public support taxes to go right to the library? I don't know. I don't know of an elected official that has approached me and offered to put that on the table on our behalf as if that would really be the answer for that. There are also additional fees for services but that really goes against the heart and soul of public library service which really exists to level the playing field. Charging additional fee for service is really something that we feel would have a long-term public service and use. We already do. And in the last financial crisis, we had to introduce a number of fees and increase fines and I must say it has had a chilling effect on people that just can not manage those kinds of fees. I think it will continue to have a chilling effect if we were to increase, so that is not something we want to consider during the 2010 budget process, knowing that it has this 10% cut in there for us. I asked every library and every department in their 2010 budget to give me a budget scenario and I will paint for you in broad strokes what that looks like right now. I am not going to be detailing specific libraries or positions because our staff is still recovering, morale-wise. So position-wise, from the cuts that we sustained a few years ago when we cut entire libraries and laid off hundreds of staff and downgraded people, we are still reeling from that and still recovering as is the public. They still feel very strongly about the libraries that they lost, so I will just be very general. To a library, every library would see staffing cuts in once sense or another. It would either be in time, hours, or downgrading positions; we would be looking at lay-offs, looking at furloughs in management positions and a hard hiring freeze. That would then require a reduction in our open facility hours and, in many cases outside the city, this would put our smaller rural libraries in jeopardy of maintaining their State charter. If that level goes down and there is no maintenance of effort, two things can happen; the library is in jeopardy of losing their State charter, and they are in jeopardy of losing State aid because they are not meeting their maintenance of effort. It is a double whammy and it is a triple in that scenario, as we requested a waiver for that several years ago. That was a one-shot deal. It would mean elimination in many cases or severe reduction in all programs in all libraries. Less open hours would mean less availability for our patrons, which is a pretty key service for sites within our system. We would have less material to purchase and when this occurs, the public gets upset. We are out of scale with what other libraries in other counties offer. I am not asking for the moon. I know the County does not have it to give and that is huge burden on the tax payers, but we need enough to keep us alive. Our people use us and we are a demonstrated service that people value and, as Mr. Gach said, where is the balance? Where is the balance between what the taxpayers want and what they are able to pay for and how do we balance that with all the other responsibilities and requirements that come through for the County to do? The way that we are dealing with it right now, our planning committee is looking to work on this very question and develop some strategies. The tax base is growing but our allocation is not growing at pace with that, so we have seen a reduction in the total amount and there is a lot more that the County should be paying for. I get that but when you look at it as a trend, it is pretty telling why we are hitting financial difficulties. I am not here to whine, complain or say that we have been mistreated. It is a very difficult situation and there is no easy answer. The County faces its own financial challenges so we need to be working with them and we do. I feel like I have a very good reputation with the County Executive, the Budget Director and I feel we understand the issues, but there is no easy answer That is where we are at and I think if we were to go through with these cuts we would see a huge public outcry. Thank you for inviting me and if you have any specific questions, I am here to answer those."

Secretary Keysa: "I would just note that every one of these steps pulls us away from the recognition that we are a county of neighborhoods. There are economies to be had in consolidation but every time you do that, you are stripping someone of their ability to access programs. Thank you for the comments."

Chair Kruly: "The purpose of you being here is to get on record some of what you offer. At least from my personal observation of what you have presented, the Library is one of the best run County operations that we have. I know that you will figure out a way to deal with things but we needed to get some information on the table. Thank you very much."

"The last thing that we have today is a presentation from William Reuter, the Vice President of ECC.

William Reuter: "Good afternoon."

Chair Kruly: "The primary reason that I asked you to be here is we have a discrepancy in the four-year plan. The County's four-year plan says they are not giving you anything extra in the next four years and it has been relative for a year or two. Your four-year plan and your budget last spring indicated an increase anticipated from the County. I think that this is a case where there are two different cases with the County's assessment of where we stand right now, so I am primarily concerned with what is the implication for ECC if the County continues to freeze the appropriation? I know your enrollment is up to record numbers, given the economy and other things. I would just like to have a few comments from you on what would be the implications if the plan goes forward as the County has presented them?"

William Reuter: "I really don't have a plan. We have been fiscally-prudent for many, many years and I think the statistics prove us out. Presently we spend 28th in the State of New York community colleges on what we spend on education. We have the second highest walk-in penetration rate. We currently have 94% of our students from Erie County. We have had a hiring freeze. We have maintained open positions. We have been operating on a shoe-string budget for many, many years and yes, we note the discrepancies in the four-year plan. We will continue to serve the students the best that we can; cut corners. Maybe we don't do as much as we can for the students. We are regulated by a number of entitles, not only our Board of Trustees, but we have the County Executive that approves our budget, the County Legislature, the ECFSA and SUNY. SUNY and our Board of Trustees are the only groups that can approve tuition and fee increases. We increased our tuition by about $113 which equates to $1 million of additional revenue."

"As you noted, we are up significantly on enrollment; we at are at our highest level. We are up 8%. We had projected 5% so that is good for next year. Not only is the County issue on the horizon but more importantly, the State budget. Right now the current year budget is balanced with a $2.5 million appropriation from federal stimulus funds. We actually had to submit a separate invoice to the State for those federal appropriated funds. We were on the cutting box for an 11% reduction in this current year reduction. It was sustained through federal stimulus funds. So we were facing a very real possibility of not only getting no increase from the County, but actually getting a decrease from the State or State aid. State is about 33% of our budget and the County supports us to the tune of about 18%. We continue to turn to students and SUNY has said that we cannot increase our tuition by more than the CPI or the higher education price index which was 4%."

"We have four unions: two County-wide unions and two internal to ECC. We are at whatever the County determines in terms of AFSCME and CSEA. The proposal right now for AFSCME is looking at a cost-of-living increase. We have not budgeted for that cost-of-living increase. There is also a bonus for that last four years that has been proposed of $1,000. That would be another $500,000 hit for us if the control board does not fund that as an efficiency grant. We have some big issues. We have nothing budgeted for CSEA. If that contract gets negotiated and that cost-of-living increase occurs, I am presently negotiating with our largest union the FACT Confederation. Their contract expired on August 31, 2009. This is a long answer to your question and I don't have answers to your defense in the four-year financial plan. We put together a projection and we refine our projection every year. Next year, knowing what State aid is going to do, we will refine our projection. Right now, the only thing I have that the County put in their budget is and what we have in our subsidy is about a $208,000 difference. We have budgeted $17.4 million and the County has budgeted $17.2 million dollars. So right now, I have a $208,000 difference for our 2009-2010 fiscal County budget. Right now, again, when we refinance for the four-year financial plan, I understand what the County has done, but we are required by Middle States to look out in the future years. Future years do not look good as far as funding from our two major funders: the County and the State."

Director Oliverio: "Thank you very much Mr. Reuter."

William Reuter: "I can remember the board passing a resolution to respond with in 90 days. Are you sill looking for that submission to the board?"

Executive Director Vetter: "Yes, on this current plan, because we have to reconcile the County and College plan because in theory they need to reconcile."

William Reuter: "Okay, thank you very much."

Chairman Kruly: "Okay, that wraps up what we needed to discuss for the four-year plan and budget and to get some comments from the Library and ECC. We will provide the Budget Department with a series of question similar to what we have consistently provided at this time. We will be asking a response back from the Budget Office by next Wednesday. I understand that we have firmed up a full board meeting for next Friday at 2:00pm. At this point we have no further business. Could I call for a motion to adjourn?"

Vice Chairman Oliverio moved to adjourn, Secretary Keysa seconded and the committee members voted unanimously to adjourn.

Respectfully submitted,

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Stanley J. Keysa, Secretary
November 30, 2009