Minutes
Erie County Fiscal Stability Authority
October 16, 2009

Present:	Vice Chairman Daniel Oliverio, Secretary Stanley Keysa, Director Kenneth Kruly, Director John Johnson, Director Louis Thomas
Absent:	Chairman Robert Glaser
Vice Chair Oliverio:	"I would like to welcome everyone. Today's primary agenda items that we are going to consider are the budget and financial plan submitted to our board on October 2, 2009. I recall that we had a meeting on October 9, 2009 where we heard from the County, the Library and there were some other speakers including the Comptroller. Prior to getting to our one substantive agenda item, I would like to turn it over to Mr. Keysa for the approval of the minutes."
Secretary Keysa:	"Thank you Mr. Chairman, you have before you a hard copy of the minutes from the last meting. I think you also had a copy that was sent via e-mail. If there are no corrections or amendments, they are ready for adoption."

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

Resolution No. 09-59

APPROVING MINUTES AND RESOLUTIONS FROM THE SEPTEMBER 21, 2009 MEETING

BE IT RESOLVED that the Erie County Fiscal Stability Authority approves the minutes of its July 23, 2009 meeting and ratifies and affirms seven resolutions numbered 09-55, 9-56, 09-57 and 09-58 that were approved on September 21, 2009.

This resolution shall take effect immediately.

Vice Chair Oliverio:	"We will now turn the meeting over to talk about the budget and financial plan. I think the way we would like to do this today with respect to the plan is, before we make any motion or address any resolution, I would like to hear from Mr. Kruly and Mr. Vetter concerning the plan and I will start with Mr. Kruly first."
Director Kruly:	"Thank you, Mr. Chairman. We went over a lot of this last week and we had some questions that we submitted to the Budget Office and have gotten some responses. Mr. Vetter has revised our report based on that which is available to everyone. I will not go into all the details but I think the board has some serious concerns about what we see in front of us. We have a situation where the 2009 budget will produce a surplus

but only because of the $43 million received by the County from the federal government. In 2010 the budget appears balanced, but again, it is balanced because of federal funds that will disappear at the end of next year. It is not structurally balanced and that is certainly cause for alarm. After that, the bottom falls out in 2011-2013 where the budgets are running deficits in each of those years of $50 to 63 million. I appreciate that the administration presented us with a reasonably up-to-date and accurate assessment of what the problem is. Frankly, I think it is probably a little bit bigger then the $172 million aggregate, but it is a number to start with. The more troubling thing is the gap closers. There are eight listed in the budget in about five lines of the document and I think we all agree that there is a suspicion about how valid most of those are and if the County has the will to really impose what it needs to do with this because the consequences are substantial in 2011. On that basis, we have been working with trying to deal with what we have been presented with. We would like to give the County a little more opportunity to come back and clarify some things but to, none-the- less, make very clear that we see serious problems with these documents and we do not accept them as living up to the rules of the law. Whatever we are doing today is strictly preliminary to what needs to be done when the budget is finally adopted by the Legislature in December and we have to come back and act on that document. With that, I would turn it over to Mr. Vetter and the other folks on the board."

Executive Director Vetter: "Thank you, Mr. Chairman and Mr. Kruly. Just to add very quickly to what Mr. Kruly has indicated, and in an eight-page report that was put together, the most representative line is in the introduction which indicates that, in addition to the lack of specificity of gap-closers, that is absence of concrete plans to close the gaps, there are a number of items of concern that the ECFSA will continue to monitor. The items that we have been concerned about have been consistent over a period of time and have shown up consistently as concern items; things like sales tax revenues. At the recommendation of this board, the budget for sales tax revenues for 2009 was reduced by 5%. That appears to be the case for 2009. The potential for them going up in the future is probably less then them going down or maintaining similar levels in the foreseeable future given the economic circumstances. We have also talked about property tax assessment. The issue that has been there forever, in terms of overtime, the actuals in 2008 budget are about $14.8 million; the plan in the first-year assumes $10.9 million without reasonable justification as to why the plan is going down."

"We have had ECC here to look through their budget and their plan. There is still $5 million discrepancy between what the College expects to get from the County and what the County expects to give to the College. That is something that has to be reconciled."

"ECMC. We know there are a series of issues including IGT money to the hospital, IGT money for the nursing home and really the expiring consent decree which could be a huge liability for the County in 2010 and going forward."

"In terms of labor agreements, I understand that there have been tentative agreements with two of the County's major unions. The County has included about $20 million in the financial plan for that liability. The largest County union, CSEA, has no raises accounted for or any kind of financial issues going forward. Again, NYS is always an issue for Erie County, given whatever the number is at the State at this point. I believe the Governor recently said it was $3 billion but there is a disagreement both ways on that number. One way or another we believe there will be an impact on Erie County to mirror what Mr. Kruly had indicated, particularly on the gap-closers. They are not very specific and they are very nebulous and are not programmed to any degree. That is something that is of serious concern. An entity the size of Erie County in excess of $1 billion, any kind of change in services or programs doesn't happen overnight, has community ramifications, has legal ramifications and I guess if there is a message in this report, it's that "the storm is coming, start addressing it now." Give us good information, good proposals, good implementation, now."

Secretary Keysa: "The only notation I have is that the Governor estimates $3 billion and the State Comptroller is estimating $4 billion deficit at the State level. I absolutely agree with the comment: "the storm is coming and we need to address it now." We need to have both the County Executive and the Legislature look at this seriously and start taking the steps now to be prepared for the deficits that are coming in the near-term."

Vice Chair Oliverio: "Thank you Mr. Keysa. We have a resolution today and it sets forth a number of concerns with some of these assumptions in the plan especially from our meeting on the 9th. Our resolution has 15 points that we have asked the County to address as completely and as thoroughly as possible by December 31, 2009, which is coincident with the budget process. At that time and after we have received that information, the resolution provides that, pursuant to our duty under the law, we will take a look to determine whether that the plan meets the statutory requirements. If it does not, we are prepared to, because we must, impose a control period and become a hard control board. With that, I know that everybody has a copy of the resolution and I would ask for a motion to approve."

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

Resolution No. 09-60

PROVISIONALLY ACCEPTING THE COUNTY EXECUTIVE'S PROPOSED BUDGET AND FOUR YEAR FINANCIAL PLAN AND REQUIRING ADDITIONAL INFORMATION WITH RESPECT THERETO

WHEREAS, Chapter 182 of the New York Laws of 2005 (the "ECFSA Act"), 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 fiscal stability;" and

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, 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, County Executive Christopher Collins duly submitted his proposed budget for Erie County (the "County") for fiscal year 2010 and a four-year financial plan ("Plan") for fiscal years 2010-2013 (the "2010-2013 Plan") to the ECFSA on October 2, 2009; and

WHEREAS, fiscal years 2011 through 2013 constitute the "Out Years" of the 2010-2013 Plan; and

WHEREAS, Public Authorities Law section 3957(1) requires that the 2010-2013 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 October 22, 2009 whether the 2010-2013 Plan complies with the provisions of ECFSA Act, including section 3957; and

WHEREAS, the members of the ECFSA Board of Directors have reviewed the 2010-2013 Plan and have concerns about the reasonableness of several assumptions therein, and, consequently, the ECFSA is looking to the County to address those concerns by providing the additional information as set forth herein; and

WHEREAS, the ECFSA has concerns regarding the reasonableness of the following assumptions underlying the Plan:

(1) That sales tax revenues will increase by 2.05% in 2010, and by 3% during each of the Out Years;

(2) That the County's proceeds from the collection of real property taxes will increase by 4.4% during each of the Out Years;

(3) That overtime expenses will decrease in 2010 and during the Out Years;

(4) That the County will not need to increase its annual financial contribution to Erie Community College ("ECC"), even though ECC has assumed that the County's contribution will increase by $500,000 during each of its next four fiscal years;

(5) That the County will not need to disburse or bond for $23 million in capital improvements at Erie County Medical Center ("ECMC"), notwithstanding the provisions of the County's binding consent decree with ECMC (the "Consent Decree");

(6) That the County will not need to make certain intergovernmental transfer payments ("IGT's") to ECMC;

(7) That the County will not bear liability for any operating losses that ECMC might sustain after the Consent Decree expires in 2010;

(8) That the County will make only $20.6 million in negotiated payments to employees represented by the American Federation of State, County and Municipal Employees ("AFSCME") and the Teamsters;

(9) That the County will cut property tax revenue payments to the Buffalo and Erie County Public Library by 10% by 2013;

(10) That the County will realize an increase in revenue from the collection of various user fees by $500,000 in 2010, $750,000 in 2011, and $1 million in 2012;

(11) That the County will use fund balance to close budget gaps during the Out Years, without accounting for the resulting negative impact on the County's credit rating, borrowing costs, or realization of revenue from investments;

(12) That property tax rates will not increase, even though the Plan anticipates that property tax hikes will close budget gaps during the Out Years;

(13) That the County will reduce the number of positions in its workforce during the next four years;

(14) That the County will realize meaningful savings from the implementation of Six Sigma initiatives; and

(15) That the County will repeal the sharing of sales tax revenues with its cities, towns, and villages; and

WHEREAS, the ECFSA requires additional information and plans of action substantiating the reasonableness of these assumptions;

NOW, THEREFORE, BE IT RESOLVED the ECFSA provisionally accepts the 2010-2013 Plan and remains in advisory status, as described by Public Authorities Law section 3958; and

BE IT FURTHER RESOLVED that the ECFSA directs the County to submit in writing, no later than December 31, 2009, additional information, action plans, and progress on and results of initiatives, or other documentation demonstrating the reasonableness of the fifteen assumptions enumerated above; and

BE IT FURTHER RESOLVED that the ECFSA will continue to monitor the County's progress in implementing the initiatives and achieving the objectives that serve as a basis for the assumptions in the 2010-2013 Plan and may, at any time the ECFSA deems necessary and appropriate, require the County to modify the 2010-2013 Plan, in such detail as the ECFSA may require, pursuant to Public Authorities Law section 3957(2)(f); and

BE IT FURTHER RESOLVED that the ECFSA shall impose a control period upon the County whenever the ECFSA determines that any one of the five circumstances listed in Public Authorities Law section 3959(1)(a) through 3959(1)(e) shall have arisen; and

BE IT FURTHER RESOLVED that the ECFSA shall evaluate these five circumstances, and adopt a resolution determining whether to re-impose the control period upon the County, no later than January 31, 2010.

This resolution shall take effect immediately.

Vice Chair Oliverio: "That is all the business we have to day and if there is nothing else I would ask for a motion to adjourn."

Director Thomas moved, Director Johnson seconded and the Directors voted unanimously to adjourn.

Respectfully submitted,

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Stanley J. Keysa

December 4, 2009