Minutes
Erie County Fiscal Stability Authority
July 23, 2009

Present: Chairman Robert Glaser, Vice Chairman Daniel Oliverio, Secretary Stanley Keysa, Director Kenneth Kruly, Director John Johnson, Director Louis Thomas

Chairman Glaser: "I'd like to welcome you all to a meeting of the ECFSA. We have left some documents in the lobby indicating what our role is as an advisory control board. They are out front and are basically put out for the world to see what we are doing in advisory rather than hard status. There are ten main items that are mandated to us.

"Those would be for efficiency grants, consulting with the County, commenting, review and commenting and assessing the collective bargaining agreements. We will perform many activities, some of which will be to consider reviewing the BMR. The cycle has started and we will be starting soon and have made a number of recommendations that were taken last year, some of which weren't taken, but we will continue to help and advise the County as we see fit, in a positive and cooperative manner. With that, a brief summary is in the lobby if you see fit but the brief matter of the fact is that we still need to meet at times and talk to the folks at the County. That said, any additional comment to be made before we move on?"

"The second item on the agenda is the approval of the minutes. Secretary Keysa, can I turn this over to you?"

Secretary Keysa: "Thank you, Mr. Chairman. Thank you for the hard work of Ms. Martin who has to translate the tapes for these meetings, we have before us the minutes of the last meeting. I reviewed them via e-mail and you have had a chance to read them and have a hard copy before you. I believe they are ready for approval, unless you have any revisions."

Director Thomas moved to approve the minutes of the meeting of June 2nd 2009; Director Kruly seconded and the Directors voted unanimously to approve the following resolution:

Resolution No. 09-51

APPROVING MINUTES AND RESOLUTIONS FROM THE JUNE 2, 2009 MEETING

BE IT RESOLVED that the Erie County Fiscal Stability Authority approves the minutes of its June 2, 2009 meeting and ratifies and affirms seven resolutions numbered 09-46, 09-47, 09-48, 09-49 and 09-50 that were approved on June 2, 2009.

This resolution shall take effect immediately.

Chairman Glaser: "The second item is to discuss and go through is the ECC Budget, and President Jack Quinn is here to go through this and talk about his financial plan."

President Quinn: "Thank you, Chairman Glaser. Here with me today is Mr. Richard Schott from our finance office who is here to answer any specific questions that you may have."

"Mr. Chairman, I would like to add my additional remorse in your opening remarks on former member Joseph Goodell, a former Hamburg resident and friend of all of us. I would like to add my condolences as well. Thank you for acknowledging him and his good character."

Chairman Glaser: "Thank you and we appreciate your comments. Joe was a great guy."

President Quinn: "If I may, to begin with, just a couple of brief comments in response to your resolution that is being proposed for today. One of the items is more of a housekeeping item. In your last "whereas" this afternoon where you talk about your board and staff that the Erie County budget document was adopted by the Board of Trustees at the college on May 6th and subsequently approved by the Legislature. We also would like to include in that "whereas" that we also got the approval of the County Executive, another one of the steps that we have gone though. We would like to note that."

"Then there is the discussion about page 110 in our budget and how it gets adjusted after we send our budget and the County determines what the final amount will be. I would just like to note that the data on page 110 is exactly that, a projection and part of the process that we go through every year. I point out that to the members here that during the course of any given year, we are in constant contact with not only the Legislature and the County Executive, members of the Legislature and their subcommittees but also many other departments like the County Attorney, Budget office and Personnel Office here. We are involved almost weekly if not more then that. We use a lot of tools to adjust those numbers and they are movable in any budget such as ours which is almost $100 million now but definitely in the high 90's. Some of the tools we use are that we continue to grow enrollment. Our formula from the State are determined by FTE's [full time equivalents] so when our enrollment increases, that FTE increases. We expand our academic degrees and programs. We are here to report to you today that at present, just back from SUNY, we offering 91 different degrees and certificate programs. So that helps us attract some of these students that help with the FTE's, our workforce development and some of our corporate partners help out through the course of the year in terms of funding with money for programs specifically and the money in general."

"We also pursue some grants and funding through things like green initiatives; you have probably read about the student housing initiative at the city campus. We have adjusted our tuition this year and we are up to $3,300 a year which was a slight increase but none the less an increase. I think you have to look at our fund balance and at the current time you will note that we are imposing a hard hiring freeze in place outside of faculty. We bring that to your attention just to say that we know those numbers are not set in stone and are susceptible to the Counties questions over the course of the year. That helps us make certain that after the final number comes that we are balanced and ready to go. I can answer any questions that you may have."

Chairman Glaser: "I have a question that kind of jumps out of that which is the near-year term plan. As you look out, you have a lot of years under your belt dealing with what has to be dealt with. Does the college have a contingency plan on the out-years relative to worse case scenarios and I am not even sure what the worse case scenario is but is there a plan to make sure we are still successful and in business at some level?"

President Quinn: "There is, and just because of the past NYS Budget exercise that we all went through we were forced to put an emergency budget in place because the discussion coming from Albany was that we would, at ECC, would lose the equivalent of $3.5-4 million depending on what budget was adopted, and we had a contingency plan right then and there so that we could limit some spending, hiring, purchasing and wait until we knew what was going to happen. We got lucky, as you may know, with the stimulus money that went to New York State. Governor Paterson decided that he would use it to make the community college sector whole. We did not get an increase but we were not cut, unlike our colleagues in the four-year institutions that got not only one cut but two cuts. That was helpful for us in a way because we put together that emergency budget that forecast out 2-4 year if that was to stay the same, if it was to increase, in fact if we were to incur the cuts. The budget is now in place and we talked about it with the Board of Trustees during our budget cycle which is now 3-4 months ago and because the uncertainty still exists with the State, Federal and even our local situation we think we are prepared in planning those years out."

'The other thing I mentioned in addition to that, and it is the long answer to your question, at the college we rely on funding from the State and funding from the County and in the last few year those numbers have stayed the same; they have not increase even though it costs us a lot of money with increases. We have planned in our projections for no increases from the State or the County. That is our conservative approach and we think that is a realistic approach in light of what is happening around the Country, the State and WNY."

Secretary Keysa: "So there are increases shown in the five-year projection that we have here but you actually have another projection that shows no increases from the State and the County?"

President Quinn: "That's correct, Mr. Keysa, and at the risk of offering different colored budgets, we would prefer to have our weekly discussion and we are lucky here as I talk to our colleagues around the State and there are about 30 community colleges. We are very fortunate, and I have said this in many different places, that the relationship with our County and you for that matter is very positive and it is not a show-up-at-budget-time but we are in weekly contact if not daily contact with most of the offices at County hall and other places. So it breeds familiarity. It breeds communication that we are hearing and are going to do that. It is very, very helpful. I have set of numbers that are not so positive and our department heads work on that week to week, month to month."

Director Kruly: "Your operating budget for the new year appears to have a few raises for management or those in the SCS category. You have a number of union employees with CFCS and AFSME who have been operating for a number of years without a new contract. What is the rationale for providing management folks with raises when the union folks have not been taken care of in years?"

President Quinn: "Thank you and I am happy to answer the question. The increase for the SCS staff folks are senior executive staff, they are about 14 folks and include one or two secretaries. The increase is about 2%. We were careful to take a look at what our unionized staff is at because we have four unions at the college. There is the FFECC which is the Faculty, the AAECC which is our administrators association and then of course the CSEA, then there is AFSCME while one of those contracts has been without a raise for, I think for three years now, the last to CSEA and AFSME are really larger contracts negotiated with the County. We then end up with the results of the negotiation. The one that has been sitting there for three years without a contract but I need to point out that even though there hasn't been an increase in three years, in our kinds of contracts between faculty and staff, there is what we call step increases that whether or not there is a contract with a basic salary there is in fact a step by number of years increase in salary that if you are there it is assigned. Some of the contracts after a certain number of years faculty member assignments may change and what we found Mr. Kruly that while we looked at that, is that there isn't an agreement in place for an increase in base salary, almost of all of our faculty or employees receive some kind of increase and we didn't think we wanted to penalize this group of executive staff just because they weren't represented by somebody we thought that a 2% increase was reasonable in light of a lot of other things like not receiving an increase the year before."

Director Kruly: "The faculty contract expires at the end of August. I'm not asking you to disclose anything that may be going on with negotiations but are you going into negotiations and have you figured out something in the coming year if something develops with that contract?"

President Quinn: "I could give you the very clear latest development that we received just yesterday. We have met with our team at the college, and Mr. Andrew Socrow who is the President of the FFECC and I have exchanged letters that we will begin negotiations and that is in the contract. Somebody needs to write the letter before August. I received my letter, I communicated back that we are going to meet publicly and in August we would begin some of those meetings. So I can't say we are in negotiations but we are in the planning stages to set them into motion. Without sharing specific information, and that is not that I don't want to be specific, but it is difficult to say but we think that we will accommodate."

Director Kruly: "If there is a settlement, I assume the college will absorb it in their budget because it is not impacting the overall County?"

President Quinn: "We're probably going to do that Mr. Kruly. Well one of the things we did in our original budget document that was sent over to the Legislature and the County Executive some months ago included a "whereas" just like you folks have today. We included in one of the "whereas" that if, in the County's deliberation, if there is an increase that the County negotiated, we would really like the County to help pay for that. "

"That County deals with the CSEA and AFSME, however, and the other two are negotiations between us, the County Attorney and others. We believe that wherever we end up we have a responsibility."

Director Kruly "That request has been around for ever and ever and I have never heard anything."

President Quinn: "That is why it is in this year."

Director Kruly: "The other question that I have is in looking forward to future four-year plan stuff. One of the main purposes of our law that created us is to deal with four-year plans. We have gone through that and dealt with a revised four-year plan with the County that we are going to look at in the next few minutes. That plan, among other things, includes an increase for EC over the next four years and yet you are looking in the four-year plan that you put together, $.5 million more in 2010/2011 and 2012 and after that, so that cumulatively is $5 million extra over the next four years. Do you know something that they don't know about what they are going to do?"

President Quinn: "Well we are cautiously optimistic, but no. I don't know any specifics, but I do no that we are operating a college that is the fourth largest in the system in SUNY. Today we are about 18,000 students, second only after the University of Buffalo, we are larger than Buffalo State, Canisius; larger then every one here except UB. The count is going up higher then the 18,000. I can tell you that, with these enrollment increases, that sooner or later we are going to run out of space to put these students or teachers to teach them. So while we can share with you all of the good things that are happening with community colleges in general and specifically what s happening here in your County, we have to always have an eye to the future. The Board of Trustees, whom I report to, have made it clear that we want to remain an open enrollment institution. We don't want to turn anybody away and we don't want to institute a minimum SAT score to get in. There are a lot of state colleges that have stopped applications; they won't take anymore but our mission is not to do that; so we remain open enrollment. If we are not going to turn away any students, it would be silly for us to project out 2-4 years and not have any increase. Our role then, with the County, the State, etc., we believe that with that number anticipated in a budget that is almost $100 million, with our corporate sponsors, increase in enrollment, the tools that we utilize, the hiring freeze, etc. we can get to those numbers."

Director Kruly: "Of course enrollment doesn't always go up in a straight line. A school many years ago did a study that was very relevant that stated that enrollment climbs when the economy is poor. I hope that and I assume that sooner than later, in the next two or three years, the economy will start to improve, which is great for the area but not necessarily for your enrollment. So that doesn't produce the tuition or state aid. You are also factoring into your four-year plan, I think $100 increase in state aid over a period of time. I have suggested in the resolution that we are taking into consideration today that we ask you to take a look at what happens if those things don't happen; if the County does not get an increase, if the enrolment perhaps decreases, the state aid does not come. . It is the same function that we have gone through with the County on their four-year plan to try and make sure that it is realistic and everyone understands the consequences of not getting the aid, without saying yes or no, to whether it is a good idea for you to get more and make the case better to show that there are consequences if it does not come. So hopefully we will adopt something today that that will ask you to take a look at that and come back to us an idea if that does not happen and putting some what if's on this thing."

President Quinn: "Absolutely, Mr. Kruly. Let me just say that the last "whereas" where you asked us to come back in about 90 days, not only do I think it is appropriate and legitimate but I think it makes a lot of common sense. We can't figure these kinds of budgets in a vacuum and we need help and advice from a lot of people. Some of the folks that we rely on are right here in this room. We would happy to get that back to you in less then 90 days, that's for sure."

Director Thomas: "The numbers of people that you are responsible for negotiating for, how many are they roughly?"

President Quinn: "Well it depends on what unions?"

Director Thomas: "The ones that you are responsible for. What I am trying to get at are the ones that you are responsible for and the number of people that the County is responsible for?"

President Quinn: "Could we get back to you on the specific numbers?"

Director Thomas: "Sure."

Executive Director Vetter: "If I could, in terms of percentages, there are two major unions; the administrators union and the faculty federation that are college-specific not County-specific. They comprise almost 80% of the unionized work force."

Director Thomas: "Do you have any idea what the number is? I think that is what Mr. Quinn is going to get back to us on."

Executive Director Vetter: "I think it is 550-560 off the top of my head."

President Quinn: "Thank you, Mr. Vetter. I think what I would like to do is, in our faculty ranks, in the FSC there is a big difference between our full time and our adjuncts. When we negotiate, of course, the emphasis will be on our full time. We are close to about 500 on the full time and the others are less than that. I will tell you that our full time employees, those 14 SES people and myself, are the only ones not represented by a collective bargaining group."

Director Thomas: "Is that contract on its normal rotation?"

Director Kruly: "It's the other ones that aren't."

President Quinn: "Exactly!"

Secretary Keysa: "One of the comments that you made there was that your increase this year was about 6% and if I look at these numbers here, tuition and state aid combined add up to about 80% of the cost per student. So does the increase in students hurt you?"

President Quinn: "No, it does not hurt us and I have been on the job 15 months now so I have seen one complete cycle. So in direct answer to your question, FTE helps us at the end of the day. We always have to take a look at and this is what I was getting at when we talked about numbers is available seats, faculty, classroom and what our most popular courses are and general education is. That is not a very expensive course to cover; however nursing, which is one of our most popular and we have added 45 Oak street to increase our numbers by 50%, immediately fills. There is a waiting list of over 100. Nursing is an expensive course of study for us because there are labs, clinical cycles and just the tools and materials are expensive. This region in WNY and I am speaking of the medical corridor; when you ask where all the jobs, they are in health care. So we want to work with our partners and concentrate on where the jobs will be and that is why we are working with Kaleida, the County Executive in some of his plans, because we want to be able to offer them to some of our residents although they can be expensive. We need a balance. What it costs us to train them, the other side of the cost for us is the training side of our operation where we are talking about things like the National Grid pole-climbing class. Sixteen out of the seventeen who took that course graduated and all started working at $26.50 and hour. That is not an expensive proposition for us because we have a corporate sponsor who realizes that they need our graduates and will help us with materials and other things. So FTE's absolutely do help us at the end of the day, but it does depend on what out competition is offering and what kind of affiliation agreements we have with our four-year partners at Buffalo State and UB."

Chairman Glaser: "Mr. Quinn thanks for coming over and also thanks for the good job you do over there. We have a resolution that is on the table and I am going to turn it over to Mr. Vetter to put that on the table."

Executive Director Vetter: "There is a resolution that has been distributed to the board that indicates that the board has reviewed the ECC budget and financial plan, does have a series of comments that have been provided to the college with some caveats and some issues to look forward to, and it is asking the college to come back within 90 days to address those issues and to address financial gaps it shows already within the financial plan."

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

Resolution No. 09-52

COMMENTING ON THE 2009-10 ERIE COMMUNITY COLLEGE BUDGET

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 step toward fiscal stability;" and

WHEREAS, section 3951 of New York Public Authorities Law ("Public Authorities Law") defines a "covered organization" as "any governmental agency, public authority or public benefit corporation which receives or may receive moneys directly, indirectly or contingently from the County;" and

WHEREAS, Erie Community College ("ECC") received a "sponsor contribution" from Erie County, its statutory sponsor, of $17,429,317 in a combination of capital and operations support of its 2008-09 academic year and anticipates receiving $17,429,317 in support of its 2009-10 academic year, with subsequent cumulative increases totaling $5 million, which Erie County has not recognized in its financial plan; and

WHEREAS, the ECFSA Board and staff have reviewed the 2009-10 ECC budget document, which was adopted by the ECC Board of Trustees on May 6, 2009 and subsequently approved by the Erie County Legislature; and

NOW, THEREFORE, BE IT RESOLVED that the ECFSA encourages ECC to continue to provide a high quality education at an affordable price without placing an undue burden on Erie County taxpayers, which is essential to producing the highly skilled work force that is and will continue to be a major driver of Western New York's economy.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the ECFSA directs ECC officials to review the risk items put forward in the ECFSA's July 23, 2009 review of the ECC budget and financial plan and to bring back to the ECFSA, within 90 days, proposals to address potential current and recognized out-year gaps for the period of the budget and financial plan.

This resolution shall take effect immediately.

Chairman Glaser: "Before we move to the next item, I would like to reintroduce our newest member, Dan Oliverio. Welcome aboard and we look forward to a lot of wise counsel from you."

Vice Chair Oliverio: "Thank you and happy to be aboard."

Chairman Glaser: "I would like to take one last look at the financial plan and we will take a vote revert to advisory status. Are you up to the task Mr. Gregory Gach?"

Budget Director Gach: "Thank you and I would like to extend my condolences to you, Chairman Glaser and the board for the loss of Joe Goodell. He was an interesting guy, at times difficult, but all in all brought an awful lot to the table. I will take the opportunity of speaking on behalf of the administration and expressing their sentiments."

"What you have before you again is a revision to the four-year plan that you passed on June 2, 2009. What I had to do was bring the budget formally to be consistent with the four-year plan. So on July 2, the Legislature did pass a series of amendments that brought the four-year plan to make it in sync with the budget. It did make it had a slight adjustments. The original four-year plan that you approved has a slight $4 million surplus for 2009 and because of our rules we had to have a balanced budget so we adjusted it to be zero. There were some minor adjustments on some minor lines but all in all it brought it in line. I can also report that this budget is a living document that keeps changing. We have had a series of good news coming to us the last few days and weeks. The early returns on real estate basis on their for 2010 tax purposes is up over 4%. Again that is the early number. Last year it came in at this time at 4% or better and wound up at 3.6% so that was good news. As I think everyone is aware of now, we got very good news with the last sales tax transfer with a 6% growth over last year and brought our year-to-date decline down to 2.7%, roughly. The four-year plan has a 5% decline and we are not making any changes there."

"The other good news we had was the debate over our health coverage. This has been a huge debate with us as well as the Legislature. For the first six months, prescriptions were running up 12% but the rest of our health prescription costs were running below 10% and we had built in a 20% increase there so that was good news too."

"There is some bad news. With our Social Services folks, case loads are up, but in many programs that do not cost us much if anything. In

Medicaid, which we have to cap, food stamps and programs like TANIF and CWS are running below budget there. So it is a mixed bag. These numbers keep changing all the time but we are looking to be good and on target for 2009."

"The other thing that came from the Department of Health is that we will be getting more FMAT money. The good side of high unemployment in NY State is that we qualify for more federal assistance. The bad news from the Health Department was possibility of a high payment in December of this year of roughly $6 million. The good news is on ITT payments, that the upper payment that we made last week was only $6.1 million versus the $8 million we were expecting. Again FM money kicked in and lowered that amount. So overall the budget amendments amounts in this four-year plan roughly call for $16 million in IGT payments and what we are looking at is roughly $18 million in change. Again that extra $2 million we could easily absorb with the additional FM money that is coming in. With that I will take some questions.

Chairman Glaser: I think what I will do is put our resolution on the table. We can discuss it and then ask some questions. The resolution we have before us is to, now that the budget is in compliance with the legislation, is to re-vote on the four-year plan and resort to advisory status. So that is what I would like to put on the table.

Director Thomas moved to approve resolutions 09-53 and 09-54; Vice Chair Oliverio seconded:

Vice Chair Oliverio: You mentioned the sales tax figures; could you give me an "as of" date for your numbers? As of when?

Budget Director Gach: "There is a two month lag, so the July tax we received is May revenue. So for the first five months of the year we are running roughly 2.7% below what we were running last year and our budget is roughly what we were running last year so that is where we are. As I said the four-year plan calls for a 5% drop."

Secretary Keysa: "You are showing an upward trend on these numbers now?"

Budget Director Gach: "As I said the May revenue which we got in July which is a reconciliation month. What that means is that every three months, the State goes back and recalculates what they should have paid us 6 months ago plus they get in all of the annual and quarterly filers, so it is a much more significant number and we recognize $42 million in revenue where the month before it was $30 million number. The two reconciliation months that we had this year were February and May, and the numbers were both positive. Unfortunately the other months were negative but the reconciliation months were positive."

Chairman Glaser: "I have a question for you, and I am not sure you can answer it, but between June and now, which has been about 30 days since we had initially gone advisory versus hard, I know there have been some changes since things the keys have been given over so to speak, which include now that the we are back into reforestation business. What else is happened that we are not aware of that may adversely impact the budgets and the financial stability?"

Budget Director Gach: "Well, our hope is that our reforestation program is going to have a positive effect on the County. I know that you, the Authority, had a different opinion on that, but Commissioner Hornung made a very good case with the Administration as well as the Legislature. He thought it was worth the investment and if it doesn't pan out we will cut it, but we are willing to give it a 1-2 year chance. The only other additional spending that has been authorized by the Legislature, off the top of my head, is a $70,000 larvacide program that the County had planned on not doing and it raised some problems with the towns and Legislators, so we decided to do it one more time and formally let the towns know that we are not going to be doing that in the future. Other than that, I cannot recall any other spending; there are no additional spending other than what I mentioned as the pluses and minuses that I mentioned prior to your question."

Chairman Glaser: "My second question is relative to, and I am not sure you can comment on this, but I know we will need a RAN. Do you know what amount and the timing of that, because I want to make sure the County gets the best deal that they can?"

Budget Director Gach: "I have spoken to the County Executive on this and have spoken to the Legislature on this in hearings with them. Our intention is, when Comptroller Polancarz decides it is time to pull the trigger on the borrowing, he has to even though you are in advisory status, has to bring that forward to you and I expect to have to work with Mr. Vetter, Rick Ganci and First Southwest to see where the best deal will be. The County Executive has been consistent with noting that whoever can do it cheaper, will do it cheaper. If you can save us money, that is fine. If the Comptroller can, that is fine. I believe it is in the $60-65 million range that he is talking about. I was on a conference call with him and Moody's last week in which they affirmed our BAA2 rating which is of course less then yours. The only caveat to that is that if sales tax tanks, then we will have to look at that."

Chairman Glaser: "Are we looking at September, October?"

Gregory Gach: "November."

Chairman Glaser: "So we have time. My third question is over the current controversy over the IDA. Is there any impact of that controversy that would affect financials that we should be aware of?"

Budget Director Gach: "My understanding is that there is no financial impact on the County at all. That is my understanding. I was just on a conference call with Monroe and Onondaga County and I believe both of them have reiterated that there is no impact on them as well. It is simply just a way of getting construction going."

Chairman Glaser: “That was my point. It could be a positive for the community.”

Director Thomas: “What is the status of collective bargaining?”

Budget Director Gach: “AFSME recently defeated the proposal that we presented to them by their leadership. It is being reworked and hopefully will be put back in front of them, again the impact of the contract is negligible by the County and they are a small enough union that the last time I reported on them the number was around $300,000 in a 3% raise for them.”

Director Thomas: “I’m surprised that the rework has taken so much time. Does that mean you still have six collective bargaining agreements left?”

Gregory Gach: “I believe so.”

Director Thomas: “Has there been any progress?”

Gregory Gach: “We are in arbitration for the PBA. Teamsters are at the table and CSEA declared impasse on us.”

Director Kruly: “Not a question just an observation. When we adopted the four-year plan in June, the cumulative four-year deficit was $59 million; now, six weeks later, it is $79 million, so just a word of caution to everybody, it is not heading in the right direction. I hope that it is cleaned up and the document is as accurate as you can make it at this point, but it is not all smooth at this point and the Legislature has to be sure about what they are approving at this point as well as the need to cut the budget at this point.”

Budget Director Gach: Quite frankly, it is taking that $4 million positive out of 2009 and calculating over the next four years. That is what resulted in the increase. We are still working under a surplus which we will then carry forward.

Chairman Glaser: I think if we can encourage and I know that there are discussions going on now but the reality is that you are going to be talking about items for next year. I would say that if the Legislature can engage in that early and cooperate with the Administration, it is really important that you do that because we don’t know how long we will benefit from this federal stimulus.”

Secretary Keysa: “I noticed that the increase in the property tax has a bit of a “yo-yo” look to it. Based on 2006 annuals, it dropped almost $7 million to 2007. In 2008 it was up and in 2009 it was down and then it comes under revision. Could you speak about that?”

Budget Director Gach: “Part of the reason for that is residual payment on the tax liens that were sold in the past. An accounting decision was made to book that as interest/penalties. When I did the original 2009 budget and four-year plan, I had that in another line so when we revised the plan, I tried to put it in sync with where the debits and credits fall in accounting. I also did a $1 million negative impact again looking at 2008 was at and what we expected. We are in the midst of looking at what the towns have to offer but it looks we are on schedule to receive 98% of what we projected. Last year was 97.7%. So we are right around that number and we are looking to do a foreclosure auction in October."

Secretary Keysa: "So you are back into foreclosures?"

Gregory Gach: "We are back to foreclosures but we are not going to do the shotgun foreclosures, that is where we put everything in the pot. What we learned in dealing with Xspand is that we are cherry picking and looking at parcels that are not going to be sold."

Director Thomas: "In the beginning of your speech, you listed some good things and some bad things. Unfortunately someone has to ask a question about a bad thing and it's going to be me. The $6.3 million set forth in Comptroller Poloncarz's letter regarding the IGT. First question, is that a number for sure? When does if have to be paid? And when are we going to take care of it?"

Budget Director Gach: "My understanding of where that number came from, prior to the conference call with Moody's, was that a staffer in the Comptroller's office called someone in the Department of Health and said we are interested in doing another IGT and it will be September and be this amount but we are waiting to hear from budget to give us the go ahead on it. That was the first I had heard about it during that call. Subsequent to that call was when the Comptroller released his letter. Two days earlier we got a call saying that our FMAT money was going up. The payment that we had thought was going to be $8 million was $6 million. So yes it is bad news but we had $16 million for IGT payments and it is going to be $18 million."

Director Thomas: "When will we know when this will occur?"

Gregory Gach: "We should know FMAT in September because that is when they are going to doing the reconciliation. They have been coming up with a number of what they think it is going to be and then they have been reducing the cash transfer by 20%. In September they will look at the actuals and possibly adjust for that rate increase and give us back the 20%."

Vice Chair Oliverio: "I'm sorry, maybe I wasn't clear. When are we going to hear about the IGT number?"

Gregory Gach: "Typically, it is 30 days prior so it should come some time in August. "

Vice Chair Oliverio: "Where does the County stand with its disentanglement with ECMC and some of the support that comes that way?"

Budget Director Gach: “I sound like a broken record on this one, and it is no criticism of you, but everyone asks that question. The Legislature just asked me that on Monday. All those negotiations are being done with our attorneys. The court order that we are working under called for new negotiations this year to govern how the relationship between Erie County and the Hospital will be this year. All I can say is that the Administration wants to get out of the hospital business. We didn’t have anything in the four-year plan beyond what we have to pay. I am hoping that negotiations result in the County being out of the hospital business. Those are ongoing negotiations.”

Secretary Keysa: “Some of your fees flow from the County Clerk’s office. Are you getting any information from them on house closings, mortgages and such? Are they going up or staying steady?”

Budget Director Gach: “The one that I am on top of is the transfer tax and that is because it is the major funding source for our road fund. We started of the year at 30% plus down, as of 6 months it went down to 0% plus down. So that is turning around in the right direction especially when you look at earlier numbers in the year. It seems like real estate is starting to come down a little bit but we are seeing downturns. In the DMV office, we are seeing kicks with enhanced driver’s licenses. That is going to be a one-timer, but you are right, and that is just a sign of the economic times.”

Vice Chair Oliverio: “My notes reflect that one change in plan from May was an estimate that the Social Service recovery payments would increase by about $4 million in 2009 over 2008. Can you tell me what that figure based upon and how is that going to be accomplished?”

Gregory Gach: “What we have seen at the beginning of this year is that it wasn’t coming in as well as it was in 2008 but what we have seen anecdotally in 2009 was that it was starting to pick up again. Quite frankly, we think it is part of the economy. You can identify people that owe us money but realize that you can’t get blood out of a stone.”

Vice Chair Oliverio: “I think your plan indicates a $4 million increase though?”

Gregory Gach: “That is one thing we are looking at in 2010; to see if that will turn around and if it doesn’t, then we will adjust down.”

Chairman Glaser: “Are there any other questions?”

Secretary Keysa: “My only comment is that in the past four years of dealing with this, this is the most refreshing briefing that I have had from the County; much better than various predecessors.”

The Directors voted unanimously to approve the following resolutions:

Resolution No. 09-53

FINDING THAT ERIE COUNTY'S NEWLY REVISED 2009-2012 FINANCIAL PLAN IS COMPLETE AND COMPLIANT WITH NEW YORK PUBLIC AUTHORITIES LAW SECTION 3957

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, on July 13, 2009, Erie County (the "County") submitted to the ECFSA a newly revised financial plan for fiscal years 2009-2012 ("Newly Revised 2009-2012 Plan"); and

WHEREAS, the Newly Revised 2009-2012 Plan has made modifications to the County's previous financial plan which the ECFSA found to be complete and compliant with Section 3957 of the New York Public Authorities Law on June 2, 2009; and

WHEREAS, Public Authorities Law section 3957(2) authorizes Erie County (the "County") to "modify . . . [its] four-year financial plan covering the county and [its] covered organizations . .;" and

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

WHEREAS, the members of the ECFSA Board of Directors have reviewed the Newly Revised 2009-2012 Plan, and determined that it contains actions sufficient to ensure with respect to the major operating funds for each fiscal year of the plan – including budget year 2009 and out-years 2010 through 2012 – that annual aggregate operating expenses for such fiscal year shall not exceed annual aggregate operating revenues for each fiscal year; and

WHEREAS, the Newly Revised 2009-2012 Plan is complete and otherwise complies with the requirements of Section 3957 and the ECFSA Act; and

WHEREAS, the Newly Revised 2009-2012 Plan is consistent with the 2009 Erie County Budget was submitted to the ECFSA on July 13, 2009; and

NOW, THEREFORE, BE IT RESOLVED that the ECFSA finds that the Newly Revised 2009-2012 Plan is complete and otherwise complies with the requirements of Section 3957 and the ECFSA Act; and

BE IT FURTHER RESOLVED that the ECFSA continues the advisory period, as described by Public Authorities Law section 3958, that began on June 2, 2009; and

BE IT FURTHER RESOLVED that ECFSA shall re-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 July 23, 2010; and

This resolution shall take effect immediately.

Resolution No. 09-54

FINDING THAT ERIE COUNTY'S REVISED 2009-2012 FINANCIAL PLAN IS COMPLETE AND COMPLIANT WITH NEW YORK PUBLIC AUTHORITIES LAW SECTION 3957, AND TERMINATING THE CONTROL PERIOD UPON ERIE COUNTY

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, County Executive Christopher Collins submitted his proposed budget for Erie County (the "County") for fiscal year 2009, and a four-year financial plan ("Plan") for fiscal years 2009-2012, to the ECFSA on October 15, 2008; and

WHEREAS, by Resolution 08-101 on November 3, 2008, the ECFSA determined that the 2009-2012 Plan did 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 each fiscal year," and thereby violated New York Public Authorities Law ("Public Authorities Law") section 3957(1); and

WHEREAS, 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; and

WHEREAS, by Resolution 08-101, the ECFSA consequently found that the County's violation of Public Authorities Law section 3957 ("Section 3957") in submitting its original 2009-2012 Plan to the ECFSA constituted a condition that would justify continuation of the control period that the ECFSA first imposed upon the County on November 3, 2006; and

WHEREAS, Public Authorities Law section 3957(2) authorizes Erie County (the "County") to "modify . . . [its] four-year financial plan covering the county and [its] covered organizations . .;" and

WHEREAS, the County submitted to the ECFSA its adopted 2009 Budget and a modified financial plan for fiscal years 2009-2012 on May 8, 2009; and

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

WHEREAS, pursuant to New York General Construction Law section 25-a(1), "[w]hen any period of time, computed from a certain day, within which or after which or before which an act is authorized or required to be done, ends on a Saturday, Sunday, or a public holiday, such act may be done on the next succeeding business day;" and

WHEREAS, Public Authorities Law section 3957(2)(b) therefore required the ECFSA to determine on or before May 26, 2009, whether the modified financial plan submitted on May 8, 2009, complied with the provisions of section 3957; and

WHEREAS, on May 26, 2009, Erie County Attorney Cheryl Green, Esq., on behalf of County Executive Christopher Collins, e-mailed ECFSA Executive Director Kenneth Vetter correspondence requesting that the ECFSA cancel its meeting scheduled for that day, because the County was making further modifications to its four-year financial plan; and

WHEREAS, by this correspondence, the County Attorney confirmed that the 15-day statutory period within which the ECFSA would need to approve or reject those further modifications would begin on May 27, 2009; and

WHEREAS, on May 27, 2009, the County submitted to the ECFSA a further revised financial plan for fiscal years 2009-2012 (the "Revised 2009-2012 Plan"); and

WHEREAS, the members of the ECFSA Board of Directors have reviewed the Revised 2009-2012 Plan, and determined that it contains actions sufficient to ensure with respect to the major operating funds for each fiscal year of the plan – including budget year 2009 and out-years 2010 through 2012 – that annual aggregate operating expenses for such fiscal year shall not exceed annual aggregate operating revenues for each fiscal year; and

WHEREAS, the Revised 2009-2012 Plan is complete and otherwise complies with the requirements of Section 3957 and the ECFSA Act; and

WHEREAS, a Revised 2009-2012 Plan, that is consistent with the 2009 Erie County Budget was submitted to the ECFSA on July 13, 2009; and

WHEREAS, the members of the ECFSA Board of Directors have reviewed the Revised 2009-2012 Plan, and determined that it contains actions sufficient to ensure with respect to the major operating funds for each fiscal year of the plan – including budget year 2009 and out-years 2010 through 2012 – that annual aggregate operating expenses for such fiscal year shall not exceed annual aggregate operating revenues for each fiscal year; and

WHEREAS, the Revised 2009-2012 Plan is complete and otherwise complies with the requirements of Section 3957 and the ECFSA Act; and

WHEREAS, Public Authorities Law section 3959(1) requires the ECFSA to terminate the control period upon Erie County when "it determines that none of the conditions which would permit the [ECFSA] to impose a control period exist;" and

NOW, THEREFORE, BE IT RESOLVED that the ECFSA finds that the Revised 2009-2012 Plan is complete and otherwise complies with the requirements of Section 3957 and the ECFSA Act; and

BE IT FURTHER RESOLVED that by virtue of its submission of the Revised 2009-2012 Plan to the ECFSA, the County is no longer in violation of Section 3957; and

BE IT FURTHER RESOLVED that the conditions that would have permitted the control period upon the County to continue – viz., the County's violation of Section 3957 – no longer exist; and

BE IT FURTHER RESOLVED that the ECFSA hereby terminates the control period first imposed upon the County on November 3, 2006; and

BE IT FURTHER RESOLVED that the ECFSA immediately reverts to an advisory period, as described by Public Authorities Law section 3958; and

BE IT FURTHER RESOLVED that ECFSA shall re-impose the 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 June 1, 2010; and

This resolution shall take effect immediately.

Chairman Glaser: "The last item on the agenda is an update on Six Sigma. I think William Carey is here."

William Carey: "Good afternoon, and thanks for having me here. Thanks for your guidance, Mr. Vetter, although I am not sure how much we are living up to. Again, to refresh your memory, we are doing training in waves of 9 green belts at a time. Wave 1 projects were closed last year in October, wave 2 were closed in July and August and Wave 3 in September/October of this year."

"So what we have done is completed Wave 1 and are on our way to complete Waves 2 & 3. Last year we laid out a four-year plan on which we will gain in sophistication like the projects that are reinventing the training and the process as well as reporting."

"Each project has a separate base line. We do the improvements and measure against that from 2008 actual savings. We took the measurements from 2008 and worked with Budget to annualize them for a 2009 target. Budget took those out of the 2009 budget, so those departments that were part of those waves had extra challenges in the 2009 budget. So we are tracking the monthly reporting in the BMR as we go through."

"Each department is tracking numbers monthly and I am meeting with Commissioners quarterly as well as budget to keep all numbers in tact. I am also meeting with our Six Sigma advisory group and they have opined that we have a favorable tracking technique and are impressed with our reporting. So we have passed the test. With the funding that you have provided, we will be initiating black belt training hopefully in the fourth quarter to bring more sophisticated projects to seek out more complex projects. With that said I would entertain any questions."

Executive Director Vetter: "The largest item I have here is the children's system of care. My understanding is that it is one line in one department. If the actuals were on a comparison basis are to be determined, I am confused as to, if they are one line in one department, how the actuals in prior years can be determined?"

William Carey: "It is my understanding that it is not on one line in SAP but the information is derived from the State system. Peter Curtis, who is out of town this week, is on call to update those numbers to update the target number but I do not have that for you today."

Executive Director Vetter: "Before Mr. Curtis left, did he happen to indicate what drives this cost? It has been on the books since 2005. I guess Mr. Curtis was going to update that chart. Did he get a chance to do that?"

William Carey: "We had two conversations and we do have some information I can share. There are two major focus points for the residential treatment plans; that is PINS and JD. Their focus was on the PINS program. They did put a huge dent in the cost of that project."

"The Six Sigma project that focused more on the JD project and Mr. Curtis said that the Six Sigma project allowed them to look at this program in a different way and found that 67% of the people in the residential treatment center were from the JD population and of that population, half were in residential treatment because of probation and technical violations versus committing crimes."

Executive Director Vetter: "One of the ways you gauge savings is on a trend and looking at that $21 million from 2005 and in 2006 it was $16 million, $12 million in 2007 and $9million in 2008 so the natural trend has been down since 2005. So one of the things we talked about was how Six Sigma performs on a trend."

Vice Chair Oliverio: "I'd like to know whether you have compiled the cost of what this costs the County. Hard dollars, County training and such? Do you have any numbers that show how much it really costs the County here?"

William Carey: "We have not been tracking the employees' time, if that is what your concern is?"

Vice Chair Oliverio: "Well, that is one concern, because if you have ten employees going to training for x hours a day then there is a cost there and as business owner I would want to know in terms of charting the effectiveness of that investment. So I would like to know if you have done that, if you plan to do that or what are your goals in terms of calculating that to compare savings versus expense."

William Carey:	“The hard dollar expense is easy because it was what as approved here so through this year we will have spent $667,000; that does not include the opportunity cost of employee training.”
Chairman Glaser:	“I think you are summing up all of the things that we are looking for. We need accountability and we would like to see savings. We understand that there are start-up expenses, but if it doesn’t work, maybe we need to move on to something else. I have looked at your savings. So far so it’s easy for us to say, “Wow you are seeing $2 million in saving” because you are not funding it yourself.”
William Carey:	“There is no doubt that we could fund this ourselves and I am sure Mr. Collins would say the same thing, but what we are doing with efficiency grant money is training more and more employees.”
Chairman Glaser:	“We would like to see in the budget line items reductions; that is what we are really looking into, because we need some accountability.”

Secretary Keysa then moved to adjourn, but withdrew his motion.

Chairman Glaser:	“Welcome, Legislator Reynolds.”
Legislator Reynolds:	“Always a pleasure being here. I will be heading off to Harvard for a four-day seminar on distressed property. I wanted to keep you updated on where the task force is to date. We are working very hard on distressed real property and I just wanted to keep the board to date. The city is involved in getting information on land banking.”

Secretary Keysa renewed his motion to adjourn; Director Kruly seconded the motion, and the Directors voted unanimously to adjourn.

Respectfully submitted,

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Stanley J. Keysa, Secretary
September 21, 2009