

ECFSA  
Full Board Meeting  
May 26, 2009

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

Chairman Glaser: "Good morning. Welcome to a meeting of the ECFSA. The first thing that we are going to do is go into executive session. We will be right back."

Secretary Keysa: "We need to vote on that and we also need to note the purpose of that. From my understanding that is for a contract matter that we need to discuss with our legal counsel."

Director Thomas moved to approve, Director Kruly seconded and the Directors voted unanimously to move into executive session.

RETURN FROM EXECUTIVE SESSION

Chairman Glaser: "Okay sorry for the delay, we will continue our meeting."

Secretary Keysa: "Mr. Chairman, for the record, I'd like to state that the Board met in executive session. No votes were taken and we are returning to open session."

Chairman Glaser: "The first order of business is the approval of the minutes and meeting and they are ready for action. Mr. Keysa?"

Secretary Keysa: "You have before you the minutes from the meeting of May 15, 2009. Again Miss Martin has prepared those. They were distributed previously and are ready for board approval."

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

**Resolution No. 09-43**

**APPROVING MINUTES AND RESOLUTIONS FROM  
THE MAY 15, 2009 MEETING**

BE IT RESOLVED that the Erie County Fiscal Stability Authority approves the minutes of its May 15, 2009 meeting and ratifies and affirms seven resolutions numbered 09-41 and 09-42 that were approved on May 5, 2009.

This resolution shall take effect immediately.

Chairman Glaser: "The next order of business are the contracts. Mr. Vetter I will turn that over to you."

Executive Director Vetter: “Mr. Chairman if I could, there is a contract matrix in your folders. Contracts that are up for approval have been reviewed by staff. Items 1-1 through 3-2, there are eight agreements there that staff has reviewed and there are none in the categories that the board has indicated could pose a potential conflict of interest. Staff would recommend consideration of these contracts as a slate.”

Chairman Glaser: “Could I get a motion to consider those as a slate?”

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

**Resolution No. 09-44**

**APPROVING CERTAIN CONTRACTS, SETTLEMENTS, AND  
OTHER OBLIGATIONS BINDING THE COUNTY OF ERIE**

WHEREAS, Chapter 182 of the New York Laws of 2005 created the Erie County Fiscal Stability Authority (“ECFSA”) to serve as a corporate governmental agency and instrumentality of the State of New York, and as a public benefit corporation to “oversee [Erie] County’s budget, financial and capital plans; to issue bonds, notes or other obligations to achieve budgetary savings and to finance short-term cash flow or capital needs; and, if necessary, to develop financial plans on behalf of the County if the County is unwilling or unable to take the required steps toward fiscal stability;” and

WHEREAS, the ECFSA first imposed a control period upon the County of Erie (the “County”) by adopting Resolution 06-49 on November 3, 2006; and

WHEREAS, incident to and in furtherance of the imposition of the control period, the ECFSA adopted Resolution 06-51, which authorized a process for approving contracts, settlements, or other obligations binding or purporting to bind the County (“contract approval process”), on November 3, 2006; and

WHEREAS, in adopting Resolution 07-04 on January 11, 2007, the ECFSA renewed and continued the contract approval process authorized by Resolution 06-51; and

WHEREAS, the ECFSA has adopted Resolution 07-10, which replaces and supersedes the contract approval process authorized by Resolution 06-51; and

WHEREAS, the ECFSA must review and approve any contract, settlement, or other obligation, valued at greater than \$50,000, that binds or purports to bind the County or a covered organization, before it takes effect; and

WHEREAS, the County Executive or a “Responsible Official,” as defined in Resolution 07-10, has duly submitted a request for review of the contracts, settlements, and other obligations listed on the attached document; and

WHEREAS, the ECFSA Executive Director, after consultation with the ECFSA Staff, has recommended approval of each contract, settlement, or other obligation via written correspondence to each ECFSA Director;

NOW, THEREFORE, BE IT RESOLVED that the ECFSA approves the contracts, settlements, and other obligations listed on the attached document.

Department	Description	Amount
Buffalo and Erie County Library- Miller Enterprises	Public restroom renovations at the Central Library	\$85,000-no local share
Environment & Planning-grant-CDBG	Village of Angola-replace deteriorated waterline on South Main Street	\$292,800-no local share
Environment & Planning-grant-CDBG	Village of Springville-replace deteriorated waterline on North Buffalo Street	\$100,000-no local share
Environment & Planning-grant CDBG	Town of Evans-reconstruction of 580 linear feet of roadway on Harding Avenue	\$100,000-no local share
Environment & Planning-grant-CDBG	Village of Depew-replace deteriorated sidewalks	\$73,125-no local share
Environment & Planning-grant	Village of Lancaster-replacement of deteriorated sidewalks	\$82,080-no local share
Environment & Planning-grant	City of Tonawanda-Environmental remediation of the former waste water/water works buildings	\$100,000-no local share
Environment & Planning-grant HOME agreement, town of Hamburg	Home Investment Partnership grant-Town of Hamburg	\$162,691-no local share
Environment and Planning-CDBG	City of Lackawanna	\$100,000-no local share
Environment and Planning-CDBG	Village of North Collins	\$100,000-no local share
Environment and Planning-CDBG	Town of West Seneca	\$100,000-no local share
Environment and Planning – Purchase Contract – Sicar Management	Sewer District number 3	\$3,376,889.50 – Sewer District Funds
Erie Community College-purchase contract-Eaton Office Supply	Purchase office supplies for the College	\$56,000-no local share
Health Department- Grant Agreement - NYSDOH	Partners in Prevention-breast and cervical cancer screening	\$293,863-no local share
Public Works-service contract-DiDonato Associates	Ralph Wilson Stadium	\$317,000-all local share
Public Works-construction change order-Trason Development Corp	Field changes for the DMW portion of the renovations to the 1 <sup>st</sup> and 16 <sup>th</sup> floor	\$11,212.32-no local share
Public Works-service contract-EI Team	Erie County Correctional Facility roof replacement	\$185,000-all local share
Public Works-purchase contract-Trason Development	929 South Park Avenue fence installation	\$125,000-all local share

This resolution shall take effect immediately.

Executive Director Vetter: “The second item is for exemption for which the county has received reasonable assurances of which they have received the grant funding but have not yet received the contracts. They are items 1-1 through 1-4 on the exemption list; all are no local share. Staff would recommend they be considered as a slate.”

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

**Resolution No. 09-45**

**APPROVING THE ECFSA EXEMPTION OF CERTAIN GRANTS BINDING THE COUNTY OF ERIE**

WHEREAS, Chapter 182 of the New York Laws of 2005 created the Erie County Fiscal Stability Authority (“ECFSA”) to serve as a corporate governmental agency and instrumentality of the State of New York, and as a public benefit corporation to “oversee [Erie] County’s budget, financial and capital plans; to issue bonds, notes or other obligations to achieve budgetary savings and to finance short-term cash flow or capital needs; and, if necessary, to develop financial plans on behalf of the County if the County is unwilling or unable to take the required steps toward fiscal stability;” and

WHEREAS, the ECFSA first imposed a control period upon the County of Erie (the “County”) by adopting Resolution 06-49 on November 3, 2006; and

WHEREAS, incident to and in furtherance of the imposition of the control period, the ECFSA adopted Resolution 06-51, which authorized a process for approving contracts, settlements, or other obligations binding or purporting to bind the County (“contract approval process”), on November 3, 2006; and

WHEREAS, in adopting Resolution 07-04 on January 11, 2007, the ECFSA renewed and continued the contract approval process authorized by Resolution 06-51; and

WHEREAS, the ECFSA has adopted Resolution 07-10, which replaces and supersedes the contract approval process authorized by Resolution 06-51; and

WHEREAS, the ECFSA must review and approve any contract, settlement, or other obligation, valued at greater than \$50,000, that binds or purports to bind the County or a covered organization, before it takes effect; and

WHEREAS, the County Executive or a “Responsible Official,” as defined in Resolution 07-10, has duly submitted a request for review of the contracts, settlements, and other obligations listed on the attached document; and

WHEREAS, the ECFSA Executive Director, after consultation with the ECFSA Staff, has recommended approval of each contract, settlement, or other obligation via written correspondence to each ECFSA Director;

NOW, THEREFORE, BE IT RESOLVED that the ECFSA exempts itself from certain grants listed on the attached document.

Department	Description	Amount
District Attorney-grant funds - NYSDCJS	Operation IMPACT	\$1,129,297-no local share
Senior Services-grant funds	America Recovery and Reinvestment Act	\$336,802 - \$40,452 local share

Senior Services-grant funds	America Recovery and Reinvestment Act – Title V	\$336,802 - \$40,452 local share
Social Services-grant agreement – NYS Office of Temporary & Disability Assistance	Intensive case services for Non-compliant families	\$354,921-no local share

This resolution shall take effect immediately.

Chairman Glaser: “The next item on our agenda is the financial plan.”

Secretary Keysa: “I would suggest at this point that we read into the minutes the e-mails that have been received. I would begin with the first and then the second.”

Chairman Glaser: “We received two e-mails from the county executive today relative to this item. The first e-mail is:

*Dear Mr. Glaser,*

*On behalf of the Erie County Attorney Cheryl A. Greene the county is hereby requesting cancellation of the scheduled ECFSA meeting to be held May 26, 2009. The reason for such request is that the County of Erie is considering additional modifications to its four year plan which it expects to deliver late in the day May 26<sup>th</sup> or prior to noon on Wednesday May 27<sup>th</sup>. We apologize for the late request we respectfully request all courtesies in this regard.*

“We then received an additional e-mail that came from the County Executive that reads as follows:

Executive Director Vetter: “This is from Cheryl Greene to the county executive asking for him to recognize and acknowledge our counter request with an original signature.”

Chairman Glaser: “We have received that e-mail on May 26, 2009. I have a question with regard to some legalese that we are waiting for at this point in time. It should be coming over shortly.”

Secretary Keysa: “Mr. Chairman, I would like to put it on the record, the understanding is that unless this board acts today that the current plan is automatically approved. I think most of the board has expressed considerable concern with that plan. We are anxious to give the administration the opportunity to respond to some of those questions which it has not done so yet and not because they have not had the desire to do so but because of the seriousness of the need for us to act today, we must have a letter from the County Executive withdrawing that plan so that we can consider an extended period of time for a modified plan. For that reason, I would move that we recess until 1:00pm today to give the administration time to present to us a formal request for withdrawal of the existing plan which they have now modified.”

Secretary Keysa moves and Director Kruly seconds and the board votes unanimously to recess.

Chairman Glaser: “I would like to point out that we have been working with the County to make sure that there is a good plan in place. With that we will recess until one o’clock today.”

MEETING COMES OUT OF RECESS

Chairman Glaser: “Welcome back for the continuance of the open meeting. We will need to take a short time to go into executive session to consider the item that we have just received from the administration.”

Craig Bucki: “Is there a question that the board members have?”

Chairman Glaser: “I guess the question that I would have relative to the e-mail that we have just received is that is this sufficient to allow us to proceed?”

Craig Bucki: “I would say that it is because the e-mail is particular here that this board will receive a new submission from the County. That submission is going to be coming forthwith and this submission says that it will supersede the old submission so that we are not dealing with the and furthermore the county has acknowledged that our fifteen day requirement to make action on a plan begins tomorrow. In other words we have 1 day from tomorrow to see this new submission. We do not have to take any action until tomorrow, so that if no action occurs today that does not mean that the old plan that was submitted on May 8, 2009 is going to be accepted.”

Chairman Glaser: “I would like to read this into the record. For the record we received an e-mail from Cheryl Green the County Attorney and it reads as follows:

*On behalf of the County Executive Chris Collins, he has authorized this communication from myself, the County Attorney. The County is hereby requesting cancellation of the meeting of the ECFSA meeting on May 26, 2009. The reason for which is that the County of Erie would like to make modifications to its four year plan which it expects to deliver late in the day May 26, 2009 or prior to noon May 27, 2009. Therefore the county respectfully requests no action taken on the original plan submitted on May 11, 2009, as these modification will supersede the original plan. We respectfully request if possible that the ECFSA act on these modifications prior to the expiration of the period set forth in their enabling statute commencing on May 27, 2009. We apologize for the late request but respectfully request any courtesy with this regard. Cheryl A. Green, Erie County Attorney*

Secretary Keysa: “Mr. Chairman, I would move at this time to accept the communication at this time from Cheryl A. Green on behalf of the County Executive. I would note specifically that this board is not approving the plan that is before us but treating it as being withdrawn for modification and that we will receive the courtesy being requested by the County Executive.”

Director Thomas seconds this item.

Director Kruly: “Mr. Chairman, just so we are clear. By doing this we are not automatically accepting the plan that is on the table.”

Craig Bucki: “I would say no. I would say that in this correspondence that the County has sent that they are continuing to make modifications. There will be a new plan and as they interpreted our 15 days start tomorrow.”

Chairman Glaser: “Okay, is there any further discussion on the e-mail? All in favor of accepting a new plan with a new 15 day clock, in a time period that we can have discussions on with the County.”

The board votes unanimously to approve the communication.

Craig Bucki: “At this time I would suggest that we entertain a motion to enter into executive session. Again for a few reasons, first of all because of an ongoing litigation that relates to the four year plan that would be the matter of CATCO vs. ECFSA which is pending right now. Given our history with past litigation that we have had with the County, there are certain circumstances under which this board can accept or reject certain items under open meetings law if the ECFSA would like to discuss the financial status of a corporation, Erie County being a public corporation. If this board wants to discuss financial matters of the four year plan modifications in an executive session they are welcome to do so as well.”

Chairman Glaser: “Could I have a motion to move approval?”

Director Kruly moves and Director Thomas seconds and the board voted unanimously to enter into executive session.

#### RETURN FROM EXECUTIVE SESSION

Chairman Glaser: “We are back and on the record again. With that said we have already accepted the County Executives request that he submit a modified four year plan.”

Secretary Keysa: “We need to note that we are out of executive session and that our counsel has advised us on a number of legal matters that could affect the ECFSA. No votes were taken in that session.”

Chairman Glaser: “So noted.”

“We discussed the County Executives request and we will postpone on voting on the current plan as he as indicated that the will be making some amendments. With that in mind I would like to thank Mr. Goodell, Mr. Kruly and Mr. Vetter for all of their efforts in putting together our draft analysis that I would like to be forwarded to the County so that they can take a look at as we move forward in trying to put together a new four year plan.”

Secretary Keysa: "I would like to propose that we forward our analysis to the county for their guidance as they prepare their four year plan."

Chairman Glaser: "Mr. Vetter will you forward that analysis this afternoon if you have not already done so?"

"With that we will officially take the proposed four year plan off the table."

Secretary Keysa: "We just need to table it."

Chairman Glaser: "With that I would call for a motion to adjourn."

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

Respectfully submitted,

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Stanley J. Keysa  
Secretary

June 2, 2009