Minutes
Erie County Fiscal Stability Authority Finance Committee
January 15, 2010

Present: Director Daniel Oliverio, Secretary Stan Secretary Keysa, Chairman Kenneth Director Kruly, Executive Director Kenneth Vetter

Director Kruly: "Good afternoon I would like to welcome everyone here to the finance committee meeting of the ECFSA to review the letter that was transmitted to us on December 30, 2009 from County Executive Collins concerning our requests from last October about information we are looking for from the budget.. We have invited several folks here to provide us with information and I think we will have a question or two."

Secretary Keysa: "We have before you the minutes of the meeting of November 30, 2009. If there are no changes I will move those for approval, Director Oliverio approves."

Director Kruly: "Next I would like Mr. Gach to come up for a brief presentation on where we are with some things and we will go from there."

Budget Director Gach: "Good Afternoon and Happy New Year to you all. Before the meeting I gave a number of replies to the information request that was a budget book certified. We are in the final process of final purging the A and B book. What I gave Mr. Vetter was an A and B book of all the financial details it does not have the narratives. We are in the process hopefully by the end of next week I will be able to give you a complete A and B book. But what you have there is all the financial numbers as well as all the certified resolutions from the legislature. There was also a request for a December BMR. Basically we have never done a December BMR. It allows the administration and the legislature to do anything beyond December 31 when there is an inability to make any changes it is a waste of paper. The comptroller has already begun the year end and closing out all of the books and hopefully process by late February we should have some preliminary numbers. Then Deloitte and Touché comes in and does their audit. Director Kruly was talking about the response to the December 30th correspondence about the 15 issues. What I would rather talk about is my letter of January 15th about the 2011 gap. Which is the pertinent issue I want to talk about. Originally in the four year plan we were looking at a gap of slightly 50.5 million dollars in 2011. A number of things that happened in the insuing three months. One of which is that November this body released their budget recommendations generating 1.6 million dollars worth of budget adjustments that they were recommending the legislature to do In fact the legislature would make a number of those amendments, however and would fund either pay as you go or reserve accounts to help out in 2011 and beyond. What they did was additional spending. The administration will be looking at that 8 million dollars. Some of them are good recommendations and have merit to them. We be looking at them to use that when we put together the 2011 plan. Actually if makes my response of December 30 even dated is that we have another month of sales tax receipts. When the original four year plan came out we were at minus 5.21 and we were estimating an 5 % decrease for 2009. Right now we are looking at a minus 3.5% roughly if that holds true for one more month. We are looking at roughly $5 million increase in sales tax revenue going forward for the other years. I just downloaded from the State Comptrollers website, he did an analysis of total cash distributed in 2009 and Erie County was at minus 3.17%. Here is how we compared to other counties, this is gross not the revenue. Westchester down 10.3, Suffolk county down 3. Nassau county 3.6 % and Monroe down 6.2%. So as you can of the big counties we are not as bad as everyone else. I was hoping that the sales tax accrual would be much better than it was but still positive and reduce year to date reductions. Depending how 2009 closes this we will be funding the ECMCC for 1.6 million dollars versus the one this body agreed to that was about 9 million dollars. We are looking at doing some payments off a 10 year payment plan that the previous administration set up. This will bring it to the level we had it at the previous four year plan. would fund it to the level that we had versus the one that is body agrees to and this would reduces expense as well as doing a pay off there is an efficiency grant for this body. I am not sure where that is going but that would also red."

"In addition to the 2011 gap the plan was predicated on issuing a bond in 2010. At this point if we decided to roll over the ban and increase the borrowing in the ban to cover the balance of the based on the interest rates 30 million dollars and plus the 41 million for 2010 we would reduce out interest expense by $6 million it is much lower amount and I have asked the comptroller to ask the bond council to look at principle payments that I had originally in which are roughly 15 to 16 million dollars. By eyeballing it I don't think it is going to be that high. I think by looking at it I think it may be as high as 5 million dollars but I am not counting that yet until we get confirmation from the bond council. Totaling up all those items we are looking at $27 million to reduce that gap for

2011. So we have specific item for 27 million and reduce the gap to 23 million. It is our intention to continue to fine tune these numbers as the year goes on and basically next milestone is to take a look at those and see how they compare to how we projected . Originally when we did the numbers for 2009and how we put those numbers forward. Primarily in social services programs. The monthly numbers that I am seeing in caseloads is lower then what we had planned in the four year plan. So once we get 2009 get 2009 done I will have my people start working on them and what 2009, 2010, 2011, 2012 and 2013 and I would imagine work on if that trend looks good we will be talking multi million dollars coming off this gap. As well as other items. Kids with special needs programs. The early numbers I have seen for 2009 is we are going to be saving about 2 million dollars in that program. The other thing I would like to mention is that the Governors office released this week 102 mandate initiatives that he will be including in his budget. The important ones for the county, he is talking about limiting county expenses pre school and special education to a 2 percent cap. Right now the 4 year plan has a 7.4 percent growth. He is also talking on the EI program to go from 7.5 to 2% growth in the program knocks another $2 million off the 50 million. So was I am saying is so in the next month or so that $23 million could be as low as half. I was prepared today to put those numbers on paper. I am just saying we have those issues out there. Another very important issue and I was on the phone with the New York budget department. Is in the health care reform package, there is a provision in there continuing FMAP money to states. There is a also a clause in there, similar to the clause that was in their previous programs mandating that it states they must pass the cost down to the county. They must pass down the additional FMAP revenue. So there is a problem with the language and that is why New York City has been calling around the large counties to get us all on board with a having to fine tune the language and the senate bill and hopefully that survives the senate debate and the merger of the bill. So what I am saying is, what we have all said that there a lot of problems with are 2011, 2012 and 2013are due to the fact to losing 72 million dollars FMAP money and it is true. What I am saying there is a possibility that we are going to get FMAP money but again is it something that I write down and go to the bank with no. I am saying between now and when we release the budget 8 – 9 months from now, these numbers will become clear, as well as I said. Every thing that goes on when we get closer and closer to the real numbers and the gap. Our purpose in putting those numbers in October was basically to put together what we thought would be a worse case scenario. I have been up here a few times going over the prior four year plan. We have argued about whether it is going to drop 5% or 2 % . We decide to go with went with the lowest number we that we thought we reasonable. I think everyone realizes the way the county budget is put together know with reliance on sales tax we are a prisoner of the economy. If the economy comes back, not only will the sales tax increase, case loads will drop off and a lot of good with happen. Where we do not have to do drastic cuts is and in addition to all that the deputy County Executive has started regular meetings were we are reviewing every single program the County has out on the street. With an eye for economizing it , eliminating it or deciding whether or not we need to do that program. So those are the things that we are doing to make sure that we are not faced with this horrible thing come September or October. The early warning signals have gone off we acknowledge that with the four year plan. What I am telling you today it that the $50 is more like $23 give me a month or two and we will have that number. I think everyone will agree that a $10 million gap seven, eight months when I budget comes out its not a problem, not a good issue but not the problem that we saw in 2004 or 2005 when what we were talking about is a budget that was out was out of balance of around 2 million dollars and increasing sales tax a half and a quarter percent as well as cutting 400 jobs. I don't envision anywhere near that. Will we make cuts, yes we are going to make cuts. If you ask me today what the cuts are going to be I can't answer that for you. I guess your 8 million dollar list gives me a beginning. We have every other program that the county is down."

Secretary Keysa: "One of the questions that I have is in one of the gap closers you are looking at drawing down from the reserves. We discussed this before. My impression is that we are talking 5% of the total expenditure here and you are suggesting that it be less then 5% of a lower dollar amount. What is you justification for trying to use that?"

Budget Director Gach: "It is our interpretation of what we believe a reasonable 5% number is and rather then beat this into the ground; I am willing to agree to disagree. I have had conversation with the County Comptroller. I have had conversations with Chairman Kruly about the numbers and I sat on the Charter Review Committee that set that language. What I'm saying is, it is an interpretation and I think the interpretation has merit. What I am also saying is lets see what the numbers turn out to be before we start arguing about how much of the fund balance we can use because at the end of the day, the Charter Review language provides that no matter how you determine the 5% that you can use fund balance that takes the fund balance below 5%. There is a mechanism in there, grant you it is a

2/3 majority of the Legislature that may be problematic but what I am saying is there is adequate fund balance to take care of the problem. Let's just say everything I said comes true and we are talking $10 million. Then I think a $10 million use of fund balance and if we did nothing else to it; if we left al the other programs the way they are and made no further cuts, $10 million of fund balance usage, I think is reasonable. We had $45-46 billion at the end of 2008 and in about a month to six months we will know what the fund balance is and at that point we can determine what 5% is and see what the number is available to plug the gap.

Secretary Keysa: "I'll just add my comment to your's that absent a significant change in the economy, negative change, I would not be in favor of your reduced using of the fund balance in that fashion. I feel strongly that it should be 5% of the total expenditures. This is a point that I had argued long ago when Ned Regan was the County Executive and he felt that he didn't need to have any fund balance. I was a lowly supervisor, newly elected and I said you were wrong. We found out in 1976/1977 that in fact he was wrong. 5% is the figure that the International Finance Officers Association has adopted and I think that it has been adopted by the Charter. I strongly feel we should stay with that and not raid it unless there is a very significant incident. If we had an earthquake here I could understand but we didn't have an earthquake."

Budget Director Gach: "The other thing I would like to point out as we are discussing fund balance is there is a GASB 54 pronouncement and I'm not sure if you are familiar with it but basically what they are doing is creating five different fund balance sections. There is non spendable, restricted, committed, assigned and unassigned. What that basically does is make the language in the Charter archaic at this point. The GASB pronouncement is to be put into effect for years after June 31, 2011. I just had an initial conversation on this with the County Comptroller earlier this week. I don't know if it will be implemented or not but what I am saying is that I think we are talking about unreserved fund balance in the Charter. According to this there will no longer be an unreserved fund balance. So what I am saying is fund balance is a moving target at this point. Let's see what the 2009 numbers turn out to be in the fund balance section, then we can continue this conversation."

Secretary Keysa: "When do you expect to have those numbers available?"

Budget Director Gach: "I know you are going to have the Comptroller up here in a little bit. Typically they come before the end of February before we have reasonably good numbers. They then eventually they have to be audited and signed off by Deloitte and Touche which would be at the end of June but you can ask Mr. Poloncarz when he gets up here what he thinks his time table is."

Secretary Keysa: "That gives us a significant time length and this is where I think having a BMR for December would still be a useful tool for us at least to and if not perhaps for the Legislature to give us an idea of where we are going because obviously what feeds from one year, feeds into the next. Once we have a fully funded reserve, then we can now start to see some other numbers that will be helpful. On top which it indicates early on a reasonable estimates of things such as overtime estimates, the sales tax revenues, etc. As you have said if we are down 5% it has an impact in multiple years. If we are down 3% it has an impact on multiple years so the sooner we have even a reasonable estimate of that, the more helpful that is to us. So I would appreciate seeing a BMR for December by the end of this month."

Budget Director Gach: "Like I said, we won't have a final sales tax number for December until around the 11th or 12th of February. That is when we will get the final call from the State as to what that number is.

The other part, I do have my social services people trying to find out what the final numbers are for the Social Services programs. Once we have that we are probably looking at no later, and again I think Mr. Poloncarz can confirm or deny, I would say by the end of February numbers for 2009. At that point I can put together a BMR to show where all the variances came from but to do this through not knowing some of our major accounts it just does not make a whole lot of sense."

Secretary Keysa: "We will agree to disagree."

Director Oliverio: "Mr. Gach, thank you for you hard work. I have a few questions. I just saw your letter about 5 minutes ago. What you seem to be saying is that if everything falls right it might be $27 million and if everything falls right it might be $10 million and therefore we can make up $10 pretty easy because we have 6-7 months to look at it and coordinate with the Legislature. My concern is this and we still have not talked about the gap closers which we will discuss in a minute. My concern is that as we sit here as a board with responsibility for taking a look at the budget and taking a look at the structural four year plan and making a determination under our statute; our mandatory statute on whether we are able to continue to remain to stay advisory or whether we must and that is not my choice or anyone else's choice, to go hard. How long do we have to wait to find out if it is $27 million or if it is $10 million because it might be a situation where it is to the point of no return for us. One thing that I'd like to see you do, whether it is $50, $27 or $10 million, the gap closers that were recited in your December 30th response to us where, in my opinion, not nearly as robust as they should be. They were not in order; this is what we will do first, this is what we will do second, etc. There was no order of magnitude attached to them. We think this will save this much and close this much gap and this much gap. In order to convince me as one member of this board that we are fulfilling our obligation to look at the four year plan and feel comfortable enough to say okay because it is not enough to tell me that $50 million is going to be $27 million which will be $10 million if all the cards fall as they should. It is also not enough to say that if that doesn't happen here are a couple of gap closers that we will use like six sigma…whatever. Without giving us a more robust and firm analysis of what you intend to do. I hope you understand the conundrum we are in. When I look at this statute and you know I am a lawyer so I look at those things actually and I se language like must and it really sets forth what my obligation is. So I urge you and I have asked for this from the County Executive. Regardless if it is $50, $27 or $10 million, that we focus on the gap closers and come back to us with something I can hang my hat on. Especially, if I am asked to vote on whether or not we go hard or remain advisory. I would like to be able to say okay, there is a structural gap here but they have a good plan I think to fix it and here are the numbers that support it. Let's just say we were going to use six sigma to help close and let's pick the one in the middle, to help close a $27 million gap. I would call it a shortfall and a structural deficit. It doesn't satisfy me as one member of this board. So I appreciate all the hard work and you did an excellent job over the past couple of months. I can't tell you how much I appreciate that and I think I told you that personally when I looked at the budget and the summary; it was the first time for a guy like me. You did an excellent job and it was an educational moment for me. I am asking just one last time that you double your efforts. I want you to go back and put some meat on the bones."

Budget Director Gach: "That was actually the purpose of that letter today. That was to get you to go from $50 million to $23 million detailed. Once we close out 2009, I can start fine tuning Caseload numbers and other tings. So what I am saying is, as I said to Mr. Keysa, we are looking at having year end numbers by the end of next month and that will probably take me 2-3 weeks to crunch those numbers and see what we are talking about and what that does to the $23 million as well as we should get some clarification on what the state budget impacts are. So I am saying is give me to the end of March and I will get that $23 million down to something lower."

Director Oliverio: "You think you can get from $50 million to $23 million or is it $27 million?"

Budget Director Gach: "$27 million is the total; the above items total approximately $27 million reducing the potential 2011 gap to $23 million."

Director Oliverio: "Mr. Gach what I am trying to say is that even $50 million to $27 million is not a lot. You are going to need sales tax help and are going to want those final numbers. So let's not go to $27 million yet because we're not there as far as I'm concerned. We might not get there. So while you are fine tuning your final numbers for year 2009, I encourage you, at least to talk a little bit more and a little bit more robust and in detailed terms about the gap closers. This is not the first time we have asked you for this and I even know we have asked for it repeatedly. I'd really ask you to turn your attention to that and be as candid as you can possibly be about what you expect and how so at least this member is satisfied, so that I can vote with confidence in fulfilling my duty to not only this board but also to the citizens of this county. I am asking you to help me out?"

Budget Director Gach: "I have no problems doing that. All I am asking back is that we keep the lines of communication open so that the next time I am out here in front of you we will have a list, it will not be the last minute and I apologize about getting this to you at the last minute but the county executive was not available until this morning. I had to go through it with him first but what you will see next time is a list that will take you down from $50 million down to a reasonable number. I can't tell you what that reasonable will be but it will be something much lower then $50 million and much lower then $23 million."

Director Oliverio: "I hope you are right and I hope everyone here hopes you are right. Understand that we have to be convinced that you are right."

Budget Director Gach: "I am willing to discuss the $27 million with Mr. Vetter at any time. If there is some background or anything you need on those number I am more then willing to provide those prior to, like when I say, something that will get you to a lower number."

Director Oliverio: "Looking at the last paragraph of the letter of page 1 and over to page 2, it seems to me that the $50 million to $27 million is going to be a done deal by the time your numbers are final."

Budget Director Gach: "As far as I'm concerned the $27 million is in the bank. If we renew the BAN, we will have definitely have over $6 million savings in interest expense. Right now I have over $7 million in there for interest expense. We sold that BAN for, what was it Mr. Vetter, $0.5 million I think for $1.3 million. That is what I am saying. I have got penciled in there $1 million instead of $7 million plus so as far as I am concerned it is done unless the market goes nuts."

Director Kruly: "Mr. Gach I have a couple of questions concerning the sales tax. What are the comparative numbers in October and November of 2009 to 2008?"

Budget Director Gach: "If I recall and I did not bring that sheet with me. November was down but I had a conversation with the State Comptrollers office; there was a rather large prior period adjustment that we will get the details on at the end of this month. It was probably in the order of $2 million county share. If that prior period adjustment hadn't have happened we would have been positive in November. October was positive growth but November was negative growth but at the end of the day the year to date negative dropped even with that November number.

Director Kruly: "But we won't know that for a while?"

Budget Director Gach: "We will get the prior period adjustment letter at the end of the month and then we will get two more phone calls from the state in February and we will have out final sales tax numbers then."

Director Kruly: "The stuff that we have seen during the year shows that it has bounced around a lot. The question I have or rather a rhetorical statement is the 2010 budget which we are in now, you just don't flip a switch on January 1sst and all of a sudden any negatives that were occurring in 2009 are now positive but there is a 3% positive built in for 2010. I am one wondering whether the 3% is going to hold up for the year?"

"One other question about the sales tax. You indicate in the gap closers that you bring up the $12.5 million sharing with the cities and towns. That sales tax now renews in December instead of February like it used to which means because of the state legislative budget schedule, they really need to get a bill filed some time in March r April. If you folks really believe in doing that, are you doing that? Have you approached Voelkers, Stachowski to file a bill to take that money away?"

Budget Director Gach: "As you pointed out that sales tax renews in November. I don't know what the state schedule is going to be but we have to release a budget no later then October which means that we can be put in a situation of not having a bill passed. So at this point I don't see using it as an option to close the gap. We will know better in a while when we start looking at the other numbers."

Director Kruly: "So your not really serious about taking this to…"

Budget Director Gach: "Well I am just saying, what we had in that four year plan is anything that might be needed. That is based on the numbers that I am giving you today and the numbers that are expected in the next 6 weeks, I don't think it is necessary to do."

Director Kruly: "Of course the City of Buffalo who gets a big chunk of that $12.5 million prepares its budget in the Spring and passes it by July 1st and then towns prepare there budgets 2-3 months prior to the county typically so they would need to know. So it seems to me that if you are really serious about it, it should be acted on now. Otherwise they will have to dismiss that as something that is just a throw away line in the plan."

Budget Director Gach: "What I am saying today is that based on the numbers that I have presented to you and again I reserve the right to modify this in the next 6-7 weeks and bring it before you again with the latest set of numbers. It does not appear that we are going to have to do that for 2011."

Director Kruly: "There is one other thing. The most recent financial plan that you submitted from October shows a $172 million gap. I know you have tried to amend it with you letter but it is a big number going into the out years. I proposed to the administration in November that hard cuts begin immediately in 2010. I suggested $10 million of cuts. I know that would be difficult but my theory was that a dollar saved in 2010 is $4 or more saved over the whole four years of the plan. If you cut now as a down payment on getting some of that deficit down for the whole four year of the plan. Would the administration consider making cuts in 2010 to start reducing that deficit or are you going to wait until October when you present the budget?"

Budget Director Gach: "I reserve the right to wait until we have 2009 numbers and get a review all the numbers and see where we are at.

Director Kruly: "That could be as soon as next month. So you would consider preparing amendments to the 2010 budget to start cutting?"

Budget Director Gach: "Everything is on the table."

Director Kruly: "Then one other point, I know we are trying to finesse this as far as what you think might happen but the law says that you have to provide us with a budget and four year plan with cash flow and certification after the legislature acts on the budget. The Legislature acted on the budget five weeks ago. The budget was not a whole lot different from what you presented in October. I would consider not filing that in a timely manner a violation of the law. When are you going to file the plan, the budget and the certification and the cash flow?"

Budget Director Gach: "If you want me to make the adjustments in that letter, I can file a revised four year plan based on that probably within…"

Director Kruly: "I wouldn't accept that as the plan."

Budget Director Gach: "What I am saying though, is that I will revise the plan to reflect what is in that letter."

Director Kruly: "There is no certification or a cash flow."

Budget Director Gach: "I don't do cash flows. When that four year plan would come to you it would be signed by the County Executive. You have Mr. Poloncarz up as your next presenter.

Director Kruly: "The law provides that the County Executive submit that."

Budget Director Gach: "The Comptroller has not submitted a cash flow since September and I can't give you something that I don't have. If he gives it to me I will give it to you. What I am saying is that I can go back and revise the four year plan, get the certification signed of by the County Executive probably within a week to 10 days. "

Director Kruly: "I would suggest you do that in a timely basis."

Budget Director Gach: "I will do that."

Director Kruly: "Otherwise we are in violation of the law. Mr. Vetter did you have any questions?"

Executive Director Vetter: "Just a couple, one in the letter that you indicated a $6.5 million interest expense savings from rolling over the BAN. What happens if there is a long term note as opposed to a roll over BAN? What is in the financial plan and budget to accommodate that?"

Budget Director Gach: "We would have to redo it to for all those numbers for the bond. That is why I have asked the Comptroller to find out from bond counsel some principal payments. My original numbers were al based on level debt service. Whether or not we do level debt service because we have to is two part if you will. We did the $103 million and still have to come up with the $70 million. I don't know how that affects principle payments. That is why I am asking for bond counsel to give me that. It would change all he numbers. I would guess ad I was very conservative in the interest rates, so I think and again I asked the Comptroller and he was going to supply me with some interest expense numbers and interest rates if we do do a bond and I would adjust everything at that point. Would it be as much as $6 million? No but it is going to be something."

Exec. Director Vetter: "Right an probably over the period of the plan given the difference in interest rate and without seeing the numbers there would probably be a negative impact on the overall numbers and that might not be for 2011 but for the period of 2012 -2013."

Budget Director Gach: "We are in historically low rates right now for bonds.

Exec. Director Vetter: "Understood but I think that the interest rates from the Authority to the County are significantly different even if the rates are at a historic low, the difference is still there. What I am really questioning is that we need to wait for better numbers on this but depending upon who you speak with at the County, when we did the original BAN deal, there were people that said "Hey, you are never going to roll this thing over."…"Don't ever worry about rolling it over again"…and "We are going to look at the expense of a long term bond for the County."

Budget Director Gach: "I invite you to ask Mr. Neumeister to come up with numbers. Like I said, I asked that question of the Comptroller." "When we get those numbers we'll take a look at them. What I am saying though, is that no matter which way we go, we are going to save significant dollar amounts in what is in the four year plan."

Executive Director Vetter: "Also on the labor agreements which are a significant issue because I think in the December 30th submission it was indicated that the counties largest union CSEA is at impasse. The latest information that I got which is really two fold with regard to CSEA is that one) with the corrections officers. There appears to be a tremendous ray of light in coming to agreement with the mediator with the corrections officers that would be used as a basis for the over 3,000 member large CSEA body. I know that it was a surprise that the corrections officers and what appears to be occurring and very possibly will come to fruition in the very near future. If CSEA agrees to the same kind of deals that the corrections officers have agreed to and AFSME has agreed to, how do you address that in the plan because the other guys got 24-26% raises over a period of time. The initial outlays of up to $1000 a year per member and how does that get address and how is it accounted for in the matrix of items that are out there?"

Budget Director Gach: "The last conversation I had with Chris Patrino which was last week was and as you have stated, we are really close to a deal with the officers out in Alden. We are only talking about 20-300 employees so it is not a significant dollar impact. Hoe that translates to the larger CSEA, I did not have that conversation with him. What I will say is that similar to what we did in October when we put in the Teamsters and the AFSCME impact of that agreement, as we did agreements or as agreements approach we will put in the four year plan and see which way the numbers go and see which way the numbers go. Absent anything else I would imagine that the they are going to drive the numbers negative."

Executive Director Vetter: "I guess a suggestion since there will be a submission in the near future, I guess I would suggest that that be included in that submission since it seems that we went from a mediator and expected something in a period of six months to we are close to an agreement that could effect the main body."

Budget Director Gach: "We are close to an agreement and I have no problems putting numbers together and I had discussions with Joe Murphy and Chris Putrino on the numbers. They are not significant but the do impact it. If I can get decent numbers, as I promised you, when I revise the four year plan I will include those in there. CSEA as a whole I don't think we are close to a deal and I have not heard anyone talking about numbers on a deal yet. From what I understand the route that they have gone it may only wind up being a one year contract adjustment and it may wind up being the legislature imposing the salary adjustment for one year of the contract."

Exec. Director Vetter: "That is different from what I have heard."

Budget Director Gach: "That is the last conversation I had with Mr. Putrnio. I will talk to him again and we can talk off line about this again if you have different information.

Exec. Director Vetter: "Again because if it is CSEA, there are about 3,000 members and the order of magnitude there could dwarf the payments for all of the rest of the years."

Budget Director Gach: "If there is a number that is needed because it is close to agreement, I will include it. If we are not close to agreement, I am not going to include it."

Secretary Keysa "If that proposal comes through with the corrections officers, is that going to require an efficiency grant?"

Budget Director Gach: "I believe so."

Exec. Director Vetter: "There is no submission and the order of magnitude, I believe I had sent out an e-mail in response to a call I had gotten on New Year's Eve indicating that things had come together very quickly with the mediator that no one had anticipated would come together that quickly. Probably with one subsequent meeting there was an anticipation of an agreement and the anticipation of coming to the authority for an amount in the area of $750,000 in efficiency grant money's to pay prior years of the contract."

Director Kruly: "Thank you Mr. Gach. We are going to get to the Comptroller in just a couple of minutes but I would like our counsel David McNamara to come up to discuss a couple of points that have been made."

"Good afternoon Mr. McNamara. Just a basic question, what does the law requires as far as the submission of the budget and four year plan and so forth?"

David McNamara: "The law specifies that upon the approval of the budget by the County, the approved budget along with the four year plan must be submitted to the ECFSA with a certification from the County Executive stating that the budget and four year plan are consistent and also along with a budget, plan and certification there is supposed to be submitted projections of cash flow; revenues and expenses."

Director Kruly: "There is no deadline provided. How do we approach that then?"

David McNamara: "There is no deadline provided. It says upon approval, some time contemporaneously with approval, it should be submitted. As you pointed out there is no specific deadline but the failure to do submit it upon approval is a violation of the statute. A violation of the statute would require the board to impasse a hard control period. I think under the circumstances it would be under the boards discretion to impose a deadline under these circumstances for the submission of the approved budget, the four year plan, certification and revenue projections."

Director Kruly: "But we could consider this a violation because of the failure to file things in a reasonable schedule?"

David McNamara: "Certainly."

Director Kruly: "Thank you Mr. McNamara. Comptroller Poloncarz?"

Comptroller Poloncarz: "Good afternoon. This is my first day back in the office after being off with a stomach virus so that is why I didn't shake many hands this morning."

"I know you asked me here to talk about the 2010 budget as well as the four year plan. I would be happy to talk about either of those but first I would like to talk about one of the question brought up by Mr. Keysa in regards to the fund balance and the use of the fund balance in the four year plan. I would like to recite and read from an e-mail that I sent to Budget Director Gach on Monday and we have talked about it. It is in regard to one specific provision that was contained in the December 30th letter. I have not seen the letter that was provided today so I have no idea what is in there other then what I have heard. In the e-mail I sent to Mr. Gach on Monday January 4th:

Greg –

Thank you for sending me the administrations response. I appreciate it. I hope that the administration does not seriously plan on arguing that 5% of the budget for all funds is $32.5 million as contained in assumption 11-12 of your letter. You know that is not correct and not in line with the 5% threshold as defined in section 26.05(b) of the Charter which I quote "maintain a balance of all funds established in the budget equal to or greater then 5% of the amount contained in the budget of each fund in the immediately proceeding fiscal year." No where in the Charter *does it provide that fund balance can be determined by the counties share of the operating budget minus sales tax sharing and the like. The Charter mandates that the Executive report on "the balance contained in all funds in the budget including unrestricted, restricted and designated funds" provided above. It does not provide for such a calculation as contained in the letter. Furthermore as you sat in and in many ways led the rewriting of the Charter amendments in regard to the section, you know what was the intention of the party drafting this section and it certainly was not to determine the 5% threshold based on 5% of the Counties share of the operating budget after sales tax distribution is removed. We discussed it personally ourselves and I know this is not the intention of the parties and is not provided for in the charter. Finally, such a definition of fund balance is contrary to previous statements to and the expectations and pronouncements of rating agencies. Use of the fund balance in such a way would in al likelihood be viewed negatively by the rating agencies and will be objected to by my office. I would hope you do not try to use fund balance going forward based on the formulas described in the letter and that you advise the administration against such inappropriate action. I think we all agree that using the fund balance would be a measure of last resort but to change the actual calculation of fund balance to fit into some sort of requirement that the administration would like does not follow GAAP and does not follow the principles administered by the Government Finance Offices Association of America…"* which I will note basically issued a response with regard to the use of fund balance and they said with regard to very large entities and they were really referring to the federal government and the state they believe the 5% threshold is what would be necessary. Depending on the entity and the size of it could be larger in a recent pronouncement; it could very easily be up to 15% of a threshold that is require. Now I do not believe that Erie County should have a 15% level of fund balance but we should have a significant fund balance to cover our shortfalls. No matter what our fund balance and how it is to be used is dictated by our charter. I do agree with what the Budget Director stated earlier and I notified him about GASB 54 and the new pronouncements on what fund balance will equate. That is not ineffective and I have tasked my staff to take a look at that and see if there is something we could do a determination of and include it in the 2009 financial statements to list what the fund balance would be described under the new standard going forward. Regardless of that fact, we know what the standards are but we don't know what the 5% threshold is if you base if off of our all funds determination. I don't know if it is necessarily appropriate to include sales tax that we share but that is not hoe the

Administration calculated it in their letter of December 30th. They are basically basing it off the counties share which is a much lower number and why the County Executive said in this letter that they believe 5% is $32.5 million. I disagree. If that is that case we are easily over the 5% threshold. We are not over the 5% threshold at least at the close of 2008, we may be depending on the numbers coming in from 2009 but we don't know that yet. I state before you today that it would be wrong to reduce the fund balance in any situation. It is really a measure of last resort and alternatives but moreover we shouldn't be changing the formula just to suit the needs of the administration. What we need to do is follow the standards and procedures that have been provided by our charter and provided by other agencies along the way.

"With regards to closing 2009, the Budget director is correct. We are in the process of closing 2009. Sales tax are the numbers the Budget Director stated. I have asked my staff to run numbers assuming that we received in the final month, the same amount as 2008 because as you remember in 2008 the final two months were the worst two months of 2008 because we were heavily involved in the economic down turn at that point. If the final payments that we receive in February come in as the same as last year will see a reduction of little over 3% which of course is below the 2009 budget revision which was a 5% reduction. As of right now that is making the assumption that the final 2009 numbers come in as they did in 2008. As the Budget Director noted, we saw what was sort of a surprise reduction as a result of a reconciliation which was a negative reconciliation in our last payment with regards to November but still we are about a 1.5% better then the 5% negative budget proposal fro 2009. Of course going forward for 2010 it is anybody's guess we really don't know. Thankfully we are not as bad as many counties across New York state which have seen dramatic drops. We are not and that is a good thing for Erie County. Sales tax is a very difficult thing to estimate; you can try and hope. It wasn't to long ago we were seeing 7% increases from the year before and now we are talking about potential 3% reductions which compared to other counties is good.

One thing I did talk to the Budget Director about and advised the Executive Director this morning is that we are looking at potential opportunities to take out the BAN that was issued through a long term borrowing. I have spoken to our financial advisor and we are going to be issuing an RFP next week because of the timing required to take out the BAN with the notice required for the Authority, we will be issuing an RFP this week with regards to a proposed consolidated issuance for 2007, 2008 and 2009 that was contained in the BAN that was issued last year plus the 2010 projects which would easily be about $150 million. We are also looking at potential other ways of borrowing rather then strictly the normal tax exempt financing; Build America bonds which are part of the stimulus plan that are available to use through 2010 as of right now they have not been approved for anything past 2010. We can receive up to a 35% interest subsidy. We have also been advised that the County qualifies for recovery zone bonds under the stimulus package, up to $1 million of that which we can receive a 45% interest subsidy. These are taxable borrowings and can only be done on long term debt. They can not be done on BAN's. They can only be done on a take out with regard to the Ban last year or any issuance of new debt. I have tasked my staff to prepare an RFP That will be out next week. We have a very short timeline to get numbers from the various underwriters and hopefully to issue a bond to take out last years debt and issue new debt. Really the lowest interest rate that we have seen recently would hopefully take advantage of the federal stimulus package which would allow us to have the federal government pay 35% of our interest costs which I think we call can agree would be a very good benefit to the taxpayers of Erie County."

"In regards to the 2010 budget, I stand by the document that was issued by my office in October when we first looked at the budget. We believe the budget because of the stimulus funding for 2010 in all likelihood will balance but it is the four year plan that I have problems with. Do you have any questions?

Secretary Keysa: "Again that interest subsidy is coming from the federal government?

Comptroller Poloncarz: "Yes, it is part of the stimulus package. When they did it, it was basically to spur the municipal market because the municipal market had died. As you all may remember what happened with the lock down in the markets. It has truly become, and this is one thing you do not hear about on the stimulus package on a daily basis, a success story because it is being used all across the country but has not been used in WNY. We have the opportunity for the federal government to pay 35% of our interest costs and if we are able to get recovery zone bonds as well which is broken down by state then it appears that Erie County could be eligible for up to $11 million in these that would be a 45% interest subsidy. So I am looking into that and I think it would be in the best interest of all that are at really low rates as we are seeing today and then having the federal government pick that up as a part of the stimulus package. I think we all agree that would be good."

Director Kruly: "Mr. Poloncarz, there is a speculation that there may be a surplus for 2009 or up to $30 million. In 2009 the County received almost $43 million from the federal government for bail out money. In my mind means there is a structural deficit of about $13 million. When we get around to doing an audit and publishing final documents is there going to be some kind of footnote that indicates the surplus is only there because of the government sending money to the county?"

Comptroller Poloncarz: "well to my knowledge, there being no legal requirement to include that under GASB…"

Director Kruly: "But for purposes of disclosure…"

Comptroller Poloncarz: "Well for purposes of disclosure it is fair to say that any statements that note whatever surplus there is and first off all I am not going to stat that there is a $30 million surplus. My staff can say right now that we feel comfortable because of the stimulus package money that we will end up with a balanced budget but a specific dollar amount is very difficult to say. I think you may remember last year at the end of December, it was looking like Erie County would have a small deficit and everyone agreed but when the final numbers came in from social services, I was advised that they made a $20 million mistake. That is what happens; sometimes a small deficit turns out to be a small surplus and it is something that is completely out of your control. I am expecting that we will have a good idea and truthfully it is all dependent on social services. We can see where there are major problems here and there but it is always the social services department because the numbers can change so much. When it is finally reviewed and we get the numbers in sometime in late February we will have a good idea but of course there will be a 2-3 month lag before the final audited statements are issued. By late February we will know at least whether or not we have a surplus and an approximate dollar amount. Right now, it is difficult to say what that number is so I am not going to go on record. I did go on record in 2008 because it was apparent that we might have a small deficit. I think I would have not been doing my job well if I had advised otherwise. Right now I think it is fair to say we will have a small surplus but as you know it is because of the stimulus package. If we didn't have it we would end up with a large deficit. There is a reason for that and that is to ensure that local governments did not have huge deficits and therefore have to make traumatic service cuts and lay of employees but now that we are going to end up with that padding in 2010 and may have a shortfall in 2011. It is coming on the horizon and it needs to be addressed. I am glad to see that you are addressing it and although I certainly disagree with the use of fund balance in the way that has been prescribed by the administration because it is wrong."

Director Oliverio: "I am shocked Mr. Poloncarz that you were reminded of that mistake in November, I'm shocked!"

Comptroller Poloncarz: "I'd much rather be report a potential deficit and be proven wrong then to advise there is a potential surplus and then be proven wrong."

Director Kruly: "Thank you Mr. Poloncarz."

"We also invited the leadership of the County Legislature here today. My feel is that we ought to get a read on their political willingness to cut spending, raise taxes; whatever is required to balance the budget in the coming years. Chairwoman Miller-Williams did not respond and is not here. Minority Leader Mills did not respond and is not here. Majority Leader Whyte is not here but I understand Legislature Marinelli is here and I would like her to speak. She knows a little bit about the subject herself."

Director Oliverio excuses himself from the meeting.

Lynn Marinelli: "It's very nice to see you all. It has been a privilege to serve as the Chair of the Legislature for the past four years. I continue in my role as the 11^{th} district Legislator. Upon the invitation, I spoke to the Democratic leader I offered to either accompany or come in her stead and take notes which I am here to do and I will share these thoughts with my Democratic colleagues."

Director Kruly: "Can you just assess what you think is the understanding of the Legislature about the seriousness of this issue and part two is there a will to deal with it?"

Lynn Marinelli: "Well that no longer falls to me to control the traffic. I will be very interested in participating as the most senior member of legislator. It is my intention on behalf of the district and the county that I serve to continue to have fiscal management, economic development and that is based on what the constituents told me were at the top of their agenda. I will continue to work with my colleagues in the Legislature especially working through tough budget times good times. I live by a saying "of the things you don't know, that is a history you don't understand" and often times that comes into play as well as the fact that many of us are not financiers and the state created the ECFSA for the purposes of advising Erie County in this period. So I will continue in my role to collaborate and coordinate with the ECFSA for what it means for the County and its purposes. Many of the issues that were cited have been on my laundry list of things to watch and keep in touch with as well as, so we don't have to repeat what was said, the capital budget submission which will have to come to the Legislature when it presented from the Executive, to the Comptroller to us. The next budget of the County is the ECC budget which is very likely o have state impacts as well. It would be my hope that the Legislature continues to do it's mid year budget hearings. I do believe from our conversations with Mr. Kruly that getting an early handle on the sales tax situation and what is the plan if the Budget Director is signaling that it may be off the table, I believe the Executive should tell the community that ahead of time or revise this. I do think New York States budget, it is no secret that there is a a multi billion dollar deficit and therefore since county governments are organized to administer federal and state services for our residence that we need to work closely with our NYS colleagues in what is coming and we already have examples. We are situated right now in conversation about the day care subsidies. As those further impacts there may also increase the Medicaid, welfare assistance needs. So again service delivery does impact fiscal lines too. I will also just inform you that as of this date the Legislature does not have a Finance and Management Committee chair. I had just stopped at the Legislature and no further committee assignments have been made. We will have to keep watching that space. Unfortunately in my opinion, I won't speak for the body, the first session of the Legislature last Thursday brought about an entire revamping of the Legislative staff that was different from the budget that I had submitted as the department head for 2010 and that my colleagues had approved for the budget. I do believe that this budget is out of balance for the department. There were further staff members put in and higher salaries and in quick consultation with the Comptrollers office, I don't believe the higher salaries came with higher fringe benefits associated with that. There were monies taken from other account lines and again it may not be a significant budget gap but I do believe the budget that was submitted and voted on was balanced and may be out of balance right now. I will take any questions or make note of any comments so that I can go back to my colleagues. Again on behalf of Majority Leader Whyte and the colleagues I serve with, we do anticipate having a continued conversation and collaborative relationship with the ECFSA."

Director Kruly: "Ms. Marinelli, it would be most helpful to carry back to your absent colleagues that this is a serious situation. You will recall, Mr. Vetter and I appeared at the Legislature last June and suggested that action be taken sooner then later to reduce the impact of the deficit. Not much has been done yet but I think the legislature has to get real about it and anything you can do to help with that process will certainly be appreciated.

Legislator Marinelli: I will certainly be happy to carry that message. I will be held accountable for myself in the 11th district. I will certainly inform the leadership and I do agree with your assessment, in good time and in bad. I also note that in the Albany Times Union, a story earlier on this week, Rennsalliere County Executive is already starting on the 2011 now, knowing the storm clouds are coming and the democratic minority welcome that move. So again, similarly it is going on elsewhere and they already predict a negative turn and if I could hail on what Mr. Poloncarz said, we would rather do these things conservatively and find out we have built some surplus or cushioning. I was there when we had to make, I think it was 4 different rounds of cuts and the last one being in June when we had to double up the numbers. It was not pretty. It was very hard to explain to the public that it is very difficult but it needs to done. I would like to conclude by thank you for your comments by also noting that it would be helpful to the body, I believe that the ECFSA and additionally from the advise and assistance that we get from the Comptrollers office, as a for instance an item that we just voted on in our Economic Development Committee that uses bond interest money to pay for a roof in an East Concord garage. Again that may be very meritorious but again there is a declaration of emergency that the roof is collapsing and no one doubts that but is that the kind of funding from those sources that we should you and if so then we look for some of that guidance and if not where do we direct it otherwise. If it turns out that the interest rates can be reapplied and there is further money because as per a message from the Comptrollers office, if a half million dollars is spent it leaves almost a half million in that account. Perhaps that is a priority but we don't know. It is hard to reconcile those when you are also getting calls about cut backs in day care that is having rippling effects. I don't want to start detangling roofs versus day care but if you have a prioritized list, like you had mentioned earlier about what is the magnitude, what is the priority, which is where we really need to be in concerned. Thank you."

Director Kruly: "Thank you very much."

Secretary Keysa: "I would make the comment here that we keep coming back to the federal money and that availability. The fact is we are receiving a significant benefit from the Canadians that cross the border and that is probably the real reason for the downstate counties and the local results. I can also recall going back to 1991 to 1992 that we had a very favorable benefit from the exchange rate that Erie County was doing very well but it did not last for along period of time. So again we might be riding the crest of a beneficial trend right now of a Canadian/US exchange rate that could end in which case those sales tax dollars would not be a strong basis to look out 3-4 years. We should be going back and looking at what else we could be doing and that is cutting costs."

Legislator Marinelli: "Based on comments made earlier by Mr. Kruly I would underscore and strongly support that County pursue what it is going to do with the sales tax because it is not just used for the County but is carved out with $12.5 million for cities, towns and villages for the ECFSA and the NFTA and because sales tax requires a super majority of votes in the Legislature and it requires Albany to support those efforts and carry that home rule bill. I believe that as a community that we need to have those discussions sooner then later. I agree with you to that we are basing our budgets on a very volatile source and I hope there continues to be shopping from here so that it can sustain the many services and programs that the County does provide to its residents. I think these are very important issues earlier in the year rather then later."

Director Kruly: "I think the committee has a lot of information to chew on. We will be talking about it in the next week or so to try and determine where we go from here. At this point we have nothing further to discuss."

Secretary Keysa moves and Director Kruly seconds and the committee votes unanimously to adjourn.

Respectfully submitted,

____

Stanley J. Keysa, Secretary

February 6, 2010