Minutes of the Finance Committee of the
Erie County Fiscal Stability Authority Meeting
October 20, 2010

Chairman Kruly: "I appreciate everyone for being here. We are going to be reviewing the 2011 budget and four-year plan that go with it at this meeting and then the full board meeting will convene immediately after. We would normally approve to move the minutes at this point but because of the time that that meeting occurred, we don't have them prepared yet but will have them at the next time so we will defer on the approval of the minutes at this time."

"What I would like to do is turn this over to Mr. Vetter on his and the staff's analysis on the budget and the four-year plan at this time."

Executive Director Vetter: "Thank you, Mr. Chairman. Very briefly, there had been a report that has been worked through by the staff and myself, in conjunction with the board members with regard to the County's 2011 Budget and associated four-year plan."

"A number of issues are highlighted. One: in terms of the 2011 Budget, there appears not to be a tremendous concern that the budget is balanced at this point but there are a number of elements that need to be watched, but there are a few issues that we should be concerned about especially in an environment like this but that the 2011 budget is basically balanced."

"There are a number of issues for the County going forward that could be problematic. We have pointed out those issues within this report and I won't go into detail, many of the issues that we have pointed out before, but in terms of three or four major items that we have looked at in our cause for concern or attention in the past."

"One: our sales tax projection; the County is projecting 3% increases in the future. We have looked at the recent trends and found that it may be somewhat optimistic and agree that a smaller trend, a lower trend may be better. There has been significant volatility in sales tax receipts. The most recent sales tax receipt from the state was 26% less than the same payment received for the previous year indicates that there has been growth but that more conservative estimate is better in our opinion. The second is with regard to property tax and is something that we have paid attention to in the past, but they have been increasing at a slower rate that would show some concern with the third major issue the County has."

"That may mitigate what we report in here, but with better data about what occurs there would be more reasonable assurance, and the last item was the gap-closers and the comment on those is, even if you adjust the gap, it has been lower. Frankly this year, 2011, is a difficult year. There have been over 400 position deletions or cuts at the County. The County has made cuts in art and cultural, parks and recreation. The County has taken a proactive role and frankly paid heed to some of the recommendations that we have made in the past. Particularly, in last year’s budget, we made recommendations to the cut staff, cut funding for a number of issues and the County has followed through with that. In the plan itself, the County has done some positive things. It is not easy in government to do that, so I think that in the plan itself, the County has done some very positive things. Moving forward, I think the concern among the staff review and in speaking to individual board members is with the specificity and applicability of particular items in this year and particular gaps. I think, as we have gone along as in the past, those have become more specific. One of the comments in here is to look at those items becoming more specific. It’s like trying to change direction of a cruise ship in a small harbor; you just don’t do it quickly. It can be done, but it takes some effort and it takes some time. Mr. Chairman~~,~~ that is really the broad brush of the report. I won’t go through eight pages of detail; I don’t want to bore people with that. They can read the report and I would be ready to answer any questions at this point or any further comments.”

Secretary Keysa: “I don’t have any questions, but I have some comments. Again, I am concerned with the projections going forward. They appear to be, at best, beyond reality, especially on the sales tax and the property sales tax as expected. One of the main concerns that I have had from the start is that the Administration’s interpretation that the fund balance that they need to maintain is 5% of the County share of the operating budget. I don’t read it that way at all and in fact the language from the charter states that the “County Executive shall maintain a balance in all funds established in the budget equal to or greater than 5% of the amount contained in the budget of each fund in the immediate proceeding fiscal year.” It does not say the “County share of.” I think we need to have an acknowledgement of that from the Administration, that it is not just the County share, it is the entire budget. So, instead of $40 million, it is going to be in the realm of $56 million or thereabouts. That said it appears that there is likely to be a surplus beyond that adequate to provide the funds. They are draining from that this year, but obviously, when you do that to the extent of 60-70-80% of what you have available now, it will not be available in the following year, so that creates problems in the out-years.”

“The other item that is of considerable concern to me is the sales tax; that is the 1.75% provisions expire in 2011. I feel very strongly that we could have a commitment from the County Executive and from a super-majority of the Legislature committing to request an extension of those taxes from the State and, secondly, committing to implementing those taxes if the State grants that authorization to the County."

Director Oliverio: "Just a couple of comments. First, I couldn't agree more with Mr. Keysa on the 1.75%. As I recall from last year's discussion, I know the time limits for seeking reaffirmation of those tax is fairly short; we have to start early to get something done. I think that we should start early, if not by a formal letter to the County Legislature and the County Executive, then in some other good way."

"I too have concerns about the out-years of the plan and it seems like I have been here before. In the last two years, they seem to be the same issues that we wrestled with before. I will get to those in a minute but I would like to talk about the trends in sales tax and property rates. I am not willing to say that the estimates that are set forth in the plan are "at the edge of reality," with all due respect to my colleague Mr. Keysa. Ben Bernanke cannot predict consumer spending and the real estate trends in this country. I am willing, with no additional research, other then reading the Wall Street Journal everyday to go out on a limb and take a solid position that sales tax won't change and that property values won't increase. I think what we can all say safely is that those two things are uncertain and maybe as uncertain as we can possibly imagine in our life time. It think the better question is, the question that needs to be asked and given the opportunity to ask it of Mr. Gach who I see is here, is: if your estimates are wrong, then what does that do to your budget and your out-years? Does your budget have savings elsewhere that you are comfortable with and that would cover sales tax or property tax differential? I would certainly like to hear that.

With the respect to the out-years it is somewhat the same story. 2013 and 2014 are a long way off. If someone told you what was going to occur in 2008, in 2007, you would have looked at them like they were crazy. If there were only three people in the entire world who could anticipate that, we would have billions of dollars. As I said last year and I will maintain this position, insofar as the out-years go, I am not asking for certainty and I am not asking for an exact promise, because we don't know what is going to happen in the next couple of years. However the paragraph that we received that said we will look at it when the time comes is not good enough for me. I hope to see as a result of our formal board meeting today, not a request but a demand for additional information and detail that fleshes out what this County thinks it will have to do in 2013 and 2014 to cover what seems to be some shortfalls. The gap-closers are the most important to me but even more important are the seven or eight items you have in our report. I would like to focus on those gap-closers in particular. I would say this: we had a finance committee meeting that I attended two and a half years ago with Mr. Kruly. There is no doubt that there is anyone better on this budget. I had known that Mr. Kruly, this will probably be your last budget because you will be stepping of your position at the end of December. Frankly, I don't know what we will do without you, whether I agree with you or disagree with you on issues, you know your stuff and I respect that very, very much. I want everyone to know that it has been a pleasure working with Mr. Kruly and I have learned a lot in my last two and a half years."

Chairman Kruly: "Thank you very much. Just a few comments and my first being to Mr. Keysa's comments on the Charter and the interpretation. I wrote that Charter in 2006. I know what it means and it means what you say it means and not what County Executive says. So 5% is closer to $50 million rather than his creative accounting. My view of things is that we have an incomplete, non-compliant plan. We have a budget that is enforcing many painful cuts. I am not minimizing them for any of the particular departments but one of the things we need to think about is that painful cuts made now eliminate options in the future because you can only do so much of that. Part of this has already been played out. Generally accepted accounting rules is something required by our enabling legislation and means that the recurring revenues and recurring expenses must match. They do not match in the 2011 budget because of fund balance, use of Medicaid one-time money and perhaps an overestimate of sales tax income. We have a problem with a structurally unbalanced budget for a second year in a row. We are using fund balance for the first time in five years. It is not a large amount of money but it is something to be considered because when you view things the way Mr. Keysa has outlined and I think he is correct. The fund balance at the moment is about $74 million and if you take away $17 million you are left with $57 million, which is very close to the margin. There are ways for the County Legislature to go beyond the 5% rule with a two-thirds vote but the margin is getting cut."

"I am also concerned about rising debt service. It is something n that is not paid attention to that much but we have talked about debt diets in recent times and I think it is something that this board is going to have to look at. As far as the overall four-year plan, I believe the plan matters. As Mr. Oliverio says, yes two years from now is could be an eternity but the reason why we are here today is because the County never did any kind of planning of any long-time range. When times were good, that was less important, but times are not so good, so the plan really does matter. The gaps that are identified in the plan are substantial. The County Executive identifies $55million; my analysis determines that it is well over $100 million in the plan in terms of gaps. So it is something that is very serious and you have to weigh these gaps against the $200-$250 million of things that the County Legislature and the County Executive can do things about as opposed to those that are mandated. I think the closers are basically nonexistent and that is another reason why this plan is non-compliant. The law requires a balanced plan for all four years. There are no closers in this document. It is saying what the next Governor is going to do and I hope the Governor does that, whoever that might be, but you can't plan on that given the way the Albany works. I think the plan that is presented, those closers are basically nonexistent. They would require in reality, diminishing the fund balance well below 5% limit and put the County into a serious problem. So my conclusion on the budget is that it is incomplete and non-compliant and is not following the law. That concludes my comments on this committee. We will go in a few minutes to a full board committee and act on this, so unless someone has someone else has something to add, I would suggest that we adjourn this meeting."

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

Respectfully submitted,

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Stanley J. Keysa, Secretary

December 23, 2010