

ECFSA Minutes
May 5, 2011
Full Board Meeting

Present: Chairman Daniel Oliverio, Secretary Keysa, Director Louis Thomas, Director Mark Walling, Director Catherine Creighton, Executive Director Kenneth Vetter

Chairman Oliverio: "This is a meeting of the ECFSA on May 5, 2011. Welcome everyone. Today we are going to hear from some folks from the Erie County Comptroller's office about their audits and we also have a few housekeeping items that we need to take care of with respect to our own guidelines and financials. Before we do that, Mr. Keysa would you like to go over the minutes of the previous meeting?"

Secretary Keysa: "Thank you sir. You have before you the hard copies of the minutes of the meeting held on December 23, 2010. The e-mail copies of that meeting were also sent. If there are no corrections to those, they are ready to be adopted at this time."

Director Creighton moves, Director Thomas seconds and the board votes unanimously to approve the following resolution:

**Resolution No. 11-01
APPROVING MINUTES AND RESOLUTIONS FROM
THE DECEMBER 23, 2010 MEETING**

BE IT RESOLVED that the Erie County Fiscal Stability Authority approves the minutes of its December 23, 2010 meeting and ratifies and affirms four resolutions numbered 10-31, 10-32, 10-33 and 10-34 that were approved on DECEMBER 23, 2010.

This resolution shall take effect immediately.

Director Walling	yes	Director Thomas	yes
Secretary Keysa	yes	Chairman Oliverio	yes
Director Kruly	yes	Director Creighton	yes

Chairman Oliverio: "The next thing on our agenda today are efficiency grant reports from the Comptroller's office. I believe Michael Szukala is here. Why don't you come on up?"

Michael Szukala: "It's always a pleasure to appear before the board. Thank you for having me here. I mean that!"

Chairman Oliverio: “We would like to hear a little bit about potential audits and anticipated outcomes based upon your letter dated February 23, 2011? We would appreciate your comments.”

Michael Szukala: “Wonderful. Actually, what I had planned to do was something slightly different than that which is a report on what we have accomplished up to this point and then I will talk about future projects if you don’t mind.”

Chairman Oliverio: “That’s fine.”

Michael Szukala: “In March we finished our audit of Erie County Convention of Visitors Bureau (CVB). I have no need to read that entire report to you I will just read it very quickly as a summary. The CVB failed to supply certain reports with the County, the CVB Board meeting minutes were not always approved, certain CVB Board member were not recorded as present at all their board meetings and some of them could have been removed for cause. The CVB claimed not to have a surplus for 2008 and 2009 although their IRS filings showed otherwise and the CVB did not hold a formal annual meeting in 2008 or 2009. Of these the most important finding was the 2008 and 2009 surplus. The contract that Erie County has with the CVB is an older contract and some of the terminology of it is flat out in correct. For example the contract with the CVB and Erie County refers to the CVB having encumbrances, the CVB does not use encumbrances as its method of accounting, Erie County government does. As a result of that, the way that the CVB determines its surplus or lack of a surplus is undefined and the most important recommendation from that audit would be for the County and the CVB to meet together and formally establish exactly what should she be accounted for as a surplus and what should not be, because for example their 2008 and 2009 IRS filings show that they made a profit but they reported to the County that they did not. Depending on what they chose to include in their calculation of surplus means they either didn’t have a surplus or they did. I certainly don’t want to accuse anyone at the CVB of behaving inappropriately but I will say that the contract is in need of revision and that is our most important recommendation for that project.”

Secretary Keysa: “Mr. Szukala, I am assuming those are typically set asides for future conventions?”

Michael Szukala: “Some of that is set asides for future conventions. Yes.”

“Our second audit that we finished, also in March is the audit of the Erie County Special Investigations Division (SID). The major recommendation of SID is that the accounting division did not internal controls in place to ensure the proper accountability over all of the transactions that we saw, there were problems with over grant payments that we saw, there was no log kept of the investigations that they performed. We had problems with testing because in some cases there were no records or the records were in adequate. We had problems with their

calculations as to how much they spent and stated that they recovered. No there was a larger press conference for this that my boss, Mark Poloncarz had for this. You might remember he was walking around holding an 8.5 x 11 card. What SID does and stop me if I am being too basic here is if Erie County makes an overpayment to you as a recipient of social services, SID investigates that and works out an arrangement that will either reduce your social services payments going forward to make up for that or will arrange for a payment agreement to be made so that we get that money back. Also if someone complains and says that you are not entitled to social services benefits at all, SID has a team that goes in and investigates that. What we found when we went in was that with this audit, it's really embarrassing and troubled me as the County's Internal Auditor. Erie County is a \$1.4 billion business. Right now when I went in asked the folks at SID how much is owed to the people that you have payment agreements with and who is 90 days behind? They couldn't tell us that. There is no \$1.4 billion business anywhere in the planet that does not have a firm grip on the amount of money it is due or who is late in paying that money to them but apparently we do. Now in all fairness, SID recognized that they were having problems and had begun developing a computer system because up to this point they had been keeping these notes on index cards. I would like them to continue to do that and I encourage them to do so and ultimately when that is finished they will be able to have that information but right now if anyone went to SID and asked how much money are we owed? We really don't know. When we come back to this, the amount I am talking about is not insignificant. It is maybe as much as \$20 million."

Chairman Oliverio: "Excuse me Mr. Szukala, did you make any recommendations in the mean time as to how they can keep track of this figure as the computer solution is being developed?"

Michael Szukala: "Yes, what we are doing and what they are doing; what we recommend that they continue to do is, as new cases come up they enter them into the data base and as time permits they enter old records in to the database."

Chairman Oliverio: "Are they doing that? Do you know?"

Michael Szukala: "I know they are definitely adding new cases to the database because my staff and I have witnessed that. The older cases we are not so sure."

Chairman Oliverio: "Are they going back to check where they are with the newer cases?"

Michael Szukala: "Since the audit I don't have an answer to that question."

Chairman Oliverio: "I guess what I am suggesting in a round about way is that during this interim period where you have proposed a solution, Maybe the Comptrollers office should spend a little time finding out if that suggestion is being implemented. So that we don't lose time in the interim and we can capture what we need going forward. If

you have a huge problem that is embarrassing let's fix it know with what we have and hopefully when the computer system is running it will be a lot easier. So maybe you want to add to your audit list to revisit that issue over time to see what is being done to catch up now."

Michael Szukala: "That is fair. My only defense to that is that it is difficult to go back and look at the consequences of past projects and do current projects with staffing that is so limited. I will speak with the boss about that. That is old business."

"New Business: a project we have been working on is our payroll project, Erie County went to court on payments that were made or not made to RPT and Erie County ended up settling that case. As a result the settlement included payments that would be made to certain employees with certain circumstances. My office went back and reexamined those payments and this would be called a regular time payout and his had to do with RPT's and PT's. Some of you may have remembered that court case. Well we looked at 312 RPT and special RPT employees."

Director Creighton: "Mr. Szukala, could you tell us if this is on this handout?"

Michael Szukala: "I don't think it is. This was not a project that was originally intended. It was not on that list because we didn't know their would be a settlement. There was an arbitration award with CSEA where RPT employees would be paid 15 minutes for a lunch, as they only received a 30 minute lunch and apparently arbitrators said that they should have received an hour. Our calculations show that when we went back and reviewed them was that payments that were made to these employees and we used a 2-18-2011 date which was the same date that we were told our colleagues and personnel would use. What we discovered was, that when personnel made the calculations and wrote checks to these employees, they wrote checks based of the amounts that they were being paid/rates of payments that they received. My staff approached it a little differently and my staff. Those employees received 15 minutes payments from lunches when they were on vacation, on sick or otherwise not working. So as a result some of these employees received payments they didn't deserve. We don't believe and I don't believe and I have made it clear to my staff that people should not receive payments for time when they were not at work. We found some other problems too. Payments were calculated at the current employee wage rates, even though much of the time the RPT's were working under a much lower rate. This resulted in payouts to employees calculated at a much higher rate then they actually deserved. Nearly all employees who did use their leave balance while a regular part time employee was underpaid in their pay out because they were compensated for hours they didn't use. Most of the employees that were no longer employed by the County of the special RPT conversion did not get paid additional payroll accrual they were due. What we found was the employees who were on leave with out pay status did not receive addition sick and vacation accruals that they were due. What we found was this:

- Personal leave was underpaid by a net total of about \$1,500
- Holiday pay to these employees was underpaid by about \$300
- Vacation pay was underpaid to these employees by about \$12,000
- There were 7 instances where vacation leave was not credited for employees: that is 177 hours total
- There were instances where sick leave time was not credited for additional sick time which equaled 279 hours that we discovered
- Summer compensation was under compensated to these employees by a net total of \$14,000
- Most importantly, it turns out that arbitration awards were overpaid by the County by approximately \$25,000

“Our review of the arbitration awards are not complete but I can tell you that the figures that I just quoted are complete and I have spoken with my colleagues and personnel and although they would like to see a little more of our data they don’t dispute them.”

Chairman Oliverio: “Can I ask a question? You have identified some actual dollar amounts that were over and underpaid; what have you. Is part of your recommendation going to be resolving those payments?”

Michael Szukala: “Yes.”

Chairman Oliverio: “How is this going to be done?”

Michael Szukala: “Well because we went through all the 312 employees, what we will do and when we finally make our presentation to personnel; John Greenan and John Murphy. I will actually give them the spread sheet that shows them how we calculated this. Now we have talked with them and explained to them how we have done this and support our calculations. In the end the County will make a payment to these people or if a payment is due from these people, if they are currently employees, it will be subtracted off their current check or if they are off the county payroll we will sent them a bill. No?”

Director Creighton: “You can’t under Labor Law 193 subtract from someone’s payroll.”

Michael Szukala: “Alright then we will have to send them some sort of bill. It will come from personnel. My office won’t have anything to do with it.”

Director Creighton: “You can just make a recommendation.”

Michael Szukala: "Alright, then we will make a recommendation."

Chairman Oliverio: "When do you expect to do that; when do you expect to sit down with Mr. Murphy and Mr. Greenan?"

Michael Szukala: "Within the next week."

Chairman Oliverio: "Can you let us know how that goes or at least let Mr. Vetter know how that goes?"

Michael Szukala: "Absolutely."

Chairman Oliverio: "Any idea how it is going to net out?"

Michael Szukala: "Since we are not done I am a little hesitant to say."
 "However, I was afraid you might ask that. I asked my staff what they thought and what else they thought they might find. They don't think we will find any additional time problems but they admit they have only reviewed about half of the arbitration payments and if the current projections, project out to the rest of the analysis, they may owe an additional \$16,000 to employees but that is an estimate."

Director Thomas: "I have a question. The RPT that we are talking about are just CSEA RPT?"

Michael Szukala: "Yes."

Director Thomas: "Are there any other RPT's from any other units that were included in that?"

Michael Szukala: "I don't think they were included in the arbitration award but I can find out and e-mail you later."

Director Thomas: "Didn't the award cover county employees or was it just CSEA because that language is just for locals and I know RPT used other locals. Why would it not include other locals. I understand there may be a reason but...?"

Michael Szukala: "I'm not sure, I will have to get to you on that one."

Executive Director Vetter: "Mr. Thomas, I think I distributed to you and I think it was a while ago, A copy of the award. This award was specifically restricted to CSEA."

Director Creighton: "Mr. Szukala was the total amount of the award that the County calculated?"

Michael Szukala: "How much we have been able to demonstrate? Arbitration overpayments were overpaid by approximately \$25,000. That is what we can demonstrate at this

point, plus as I said we have not completed this task yet. I asked my staff to estimate; they estimated an addition \$16,000 could be added to that, however that is an estimate.”

Director Creighton: “So you have calculated about \$25,000 but was has the County paid?”

Michael Szukala: “You mean the overall amount over this audit? I don’t have that in my notes, I will have to e-mail that to you.”

Director Walling: “One point I am wondering about, so the other bargaining units that are effected by this, if they haven’t already, will truly be filing for a similar ruling. My concern would be if they get a favorable ruling and I would expect they will that going forward the payments be made properly to these other groups so that we don’t run into the same problems that we have with the CSEA in the future.”

Michael Szukala: “I would agree and that is one of the reasons why I am happy to meet with Mr. Greenan and Mr. Murphy. We will show them how we did it and unless they had any dispute, they would know what we did and they should be able to do it that way from that point forward.”

Executive Director Vetter: “Again if I could, my understanding wit the other county labor unions is that this is issue was covered in their contracts. CSEA is the only major county union left without a current contract. My understanding is that the contracts with AFSME, NYSNA, etc that this was addressed in those contracts. So maybe before you look at the others to see if there are payments due, maybe a further review of those contract s to see if there was the administration contention that it was adequately covered and is actually true.”

Michael Szukala: “We can do that?”

Director Thomas: “I think that it makes sense to go back and find out why other unites that were included in the RPT were not included in the settlement. We don’t want something happening in the future that will mirror what happened to the CSEA.”

Michael Szukala: “We can do that.”

“Our next project on my list is Medicaid. Now, my office, sent a letter to Carol Dankert based on a discussion that had occurred with me, Mark Polancarz and members of the NYS Office of the Medicaid General. The most recent discussion involved a face to face discussion with me, Mark Polancarz and members of the NYS Office of the Medicaid General. As some of you may or may not know, some counties have been allowed through a special county project to do audits of Medicaid expense and Erie county now has the ability to look at some of those expense and now, fortunately it would be wonderful if the administration would cooperate in that because most recently, Monroe County announced that they had not only done and audit but that they recovered expenses. More then half a

million dollars came back to them as a result of the audit that they did. However when I wrote to Carol Dankert, I got a letter back from Mr. Loomis which I assume you received. I will read this very quickly, I don't want to take up too much of your time."

"I won't tell you what I said to my boss when I got this letter but let's just say that I was less than happy about it. I thought we were all supposed to be on the same side and certainly exposing Medicaid fraud would be one of those things that the administration and the comptroller's office could agree upon. I was mistaken."

Director Walling: "When is this letter dated?"

Michael Szukala: "It was dated April 20, 2011."

Director Walling: "It was not copied to anyone on this board? I have never seen it?"

Executive Director Vetter: "This was the letter that was forwarded to Mr. Oliverio."

Director Walling: "I obviously agree with your sentiments there. It seems like an unnecessary road block is being placed up here to what would be the normal function of your office. I don't understand why that letter was written personally."

Chairman Oliverio: "If we approve these audits today then that letter is mute, right?"

Michael Szukala: "Yes that is absolutely certain. I will make this the last quote. Fortunately the Office of the Medicaid General sent me and Mark Poloncarz an e-mail giving us permission to move forward. So at this point I wouldn't need but I would appreciate it. At this point right now just so the board is in understanding of what we would do. We would start with one Medicaid vendor that NYS has given to us in a list of accepted Medicaid vendors that they would encourage us to examine. There are some reasons why they wouldn't let us look at the entire list of Medicaid vendors. Some vendors have been recently changed and wouldn't want us to bother, some vendors are recently being audited by NYS right now and think it would be unprofitable to duplicate efforts and some vendors were recently audited and did not do anything that made a lot of sense and some vendors are under investigation for fraud and they would prefer that we did not interfere with that and some vendors the calculations and the data involved are very complex. They would just prefer that they did those vendors and I am okay with that. In the end about 11% of the vendors in Erie County would be available for us to audit. The one that Mark Poloncarz and myself decided we would start first with was one that the Office of the Medicaid Inspector General would like us to start with. I will start with just a few details about this vendor and you will understand why. In 2009 had Medicaid billings of \$129,000 but in 2010 had Medicaid billings of more than \$1.1 million. An increase of over 86% in just one year: very unusual. That is the reason we will take a look at that one first. The NYS Office of the Medicaid Inspector General has agreed to assist us with one

proviso. If we actually undercover evidence of fraud we are to stop our investigation, notify them immediately and they will assume that audit from us at that point and I find that a perfectly reasonable request.”

Chairman Oliverio: “Very good, that is the kind of audit I like.”

Michael Szukala: “The last item on my agenda which was six sigma. Of course we went an entrance letter out to begin an examination of six sigma and the administration sent us a response back which will sound suspiciously familiar to the Medicaid response which was that they would not cooperate with us. However in the mean time, now that we have permission to begin the Medicaid audit and due to another unfortunate act, I am short two auditors. One of my auditors is on vacation and another of our auditor, Frank Belliotti fell and broke his leg. So since I am a little short, I did not expect to start the six sigma report. It may also be the case that the board may find it relevant to spend our time on other Medicaid vendors.”

Chairman Oliverio: “Could I ask you a few questions?”

Michael Szukala: “Please”

Chairman Oliverio: “I have letter in front of me date February 23, 2011 from Mr. Poloncarz, regarding audits and it mentions the first two: the CVB and SID and then it list some other future audits. For example the Medicaid audit that you described is in the package and that seems to be an audit that I would call a cost savings audit; an efficiency audit. When we first targeted the \$700,000 for the persons in the audit department, I believe if you look at that recording one of the things that I was concerned about and I believe some of my colleagues were concerned about is that we would receive some substantial cost savings going forward that would cover if you will the money that we are spending to fund the office. All I would ask is when I go through these is that and I note that in some of these you say the audit savings may be substantial like the overtime trends on page 5 and others you say the savings are going to be low or isolated, my favorite is where you say this has been an audit staff favorite for some time. Apparently that is a ripe place to go. I would prefer that the audit team can pick and I would like to hear from my colleagues, to try and start especially with the staff that is now a little bit limited, are those audits where we will have an actual dollar savings that we can say here is some money that we recovered. I know six sigma is very contentious between Mr. Poloncarz and Mr. Collins. What I am looking for are audits that you can say at the end of the day, we have saved the County X dollars and going forward because we have done X,Y and Z. For example, the Medicaid audit and the overtime audit. Those are the things I would like to see happen and I am sure that is what this group is looking for because we have to make sure that our \$700,000 is going to be used in a way that is going to generate cash. That is why I asked you the initial question of how you are going to follow up on some of those things.”

Director Creighton: "I think that is what Mr. Szukala is saying."

Michael Szukala: "Let me interrupt if I could, Monroe County did their own separate audit and received a check from NYS for \$500,000. That is inarguably savings because when you get an extra check from NYS, which is legitimate savings. So if that is what you want, we will do Medicaid."

Chairman Oliverio: "What are your top 5 that you are going to do in order. Obviously Medicaid is a big deal. We would love to see some cash from that. What do you think are the top that are most ripe; overtime, Medicaid are tow but what else do you think?"

Michael Szukala: "Well actually we will pause for a minute. IF it is all about recovering money and that is really what the board needs to see, remember I just told you about one Medicaid vendor. There were more then 130 on the list that we got from NYS. If we were to recover funds from that one vendor, perhaps it would make sense for the audit team to look at other vendors. Depending on our success, the board may want to encourage that."

Chairman Oliverio: "That is your call though. If you think you are going down a road that will recover cash, I don't think anyone here is going to argue with you and if you get a check back from the state that can equal \$700,000, I think the ECFSA would be very happy but that is your call. What I am asking you is based upon your experience as an auditor and I am not which one of these 3-4 do you think you will do first because there is the possibility for the recovery of dollars. I mean it is nice to know what happened in the past here but we are looking to add money to the coffers."

Michael Szukala: "Because a strong Medicaid audit will not only recover money but that fact that Erie County vendors would know we are not only out recovering money but we are auditing, it has an impact on reducing future fraud and certainly without question the most long term profitable activity for the audit department is to look at Medicaid."

Chairman Oliverio: "How about overtime because that seems to be something that we want to talk about."

Michael Szukala: "Overtime in the Sherriff's department, is that what you are talking about?"

Chairman Oliverio: "Yes that was a big number in your report."

Michael Szukala: "Yes, we did that award in 2007 and won an award for it. Overtime would be my second priority because once again, over a long period of time if we could address the root source of overtime, there is millions of dollars at stake in Erie County but I don't think we would ever eliminate overtime and don't believe it makes sense to eliminate overtime. If you read our 2007 audit, some overtime is necessary but

the amount of overtime that Erie County is paying is steep and I believe we could make recommendation to address it. However a warning, the recommendations that we made to the Sheriff's Department; we recommended that they hire more people. And it isn't that they were giving out overtime without reason. There was good reason for it and so in some instance in order to fix overtime in the span of a 20 year period it requires spending some money up front to do that."

Director Thomas: "Could I say something about six sigma. I am one of those people who want to know what the numbers are for a number of reasons. One is that we approved something in excess of \$1 million to help the county with the six sigma program and with all the budgets that are presented, six sigma is credited with saving money. My reason for being interested in this was to determine, and I am familiar with State programs like that that are put together to save money like that but to the point that they pay more and then all of a sudden stop. My concern was not to eliminate the program and if the County Executive wants to keep that program running that is fine. My interest is, should we continue to consider it, if it is not saving money? Any other requests that we are going to receive from the County to support six sigma, if it is not saving money, I would be opposed to it. If in fact, your audit did show that it was saving money then of course I would like to consider that. That is the reason why I think it is important that program is working and is still saving money and if it is not working then we stop spending money. Your audit would be important to simply give us information on something to be able to know what the costs that six sigma are saving."

Director Walling: "I agree 100% with that sentiment. Going back to the overtime, it is a significant issue and just going back to an e-mail I got from Mr. Vetter yesterday because of my question about this. He says in this e-mail that the annual budget for overtime is just under \$13.7 million. If the overtime expenses continue at the current rate, the County will spend about \$19.7 million in 2011, so that is just about \$6 million in just one year. So I can see your reason to audit overtime, so what good is an audit of overtime if the policies for an audit don't change the problem?"

Michael Szukala: "I agree."

Director Walling: "By contrast, certainly Medicaid, if you have the state of NYS ready to write a check for Medicaid fraud that is that is uncovered that is a big bang for the buck and it is hard for me to think of any reason why that should not happen. Six sigma might turn out to be a better use of your time from my point of view more than an overtime audit for the reason that Mr. Thomas stated, that if I have a request in the future for a grant for the County, that is something I can personally vote on. There is nothing I can do as a voting member of this board that will effect whether additional people are hired in the Sheriff's Department. I'm not sure what I can do to influence that. That is a decision made by the Erie County government."

Director Creighton: "It is my understanding that the last time we gave money for the six sigma grant that we notified them that were not going to give them anymore funding?"

Chairman Oliverio: "That is correct."

Director Creighton: "So this is where the problem lies. If they are not going to ask for anymore six sigma funding and won't even agree to an audit, the conflict is that an audit would be nice for six sigma to see if it was a complete waste of money or if it was something that was worthwhile but I also agree with Mr. Oliverio in the belief that since our resources are limited, where is the money better spent in terms of the return on investment in terms of audits. Mr. Szukala, it sounds like we are asking you, what do you think is the most effective in terms of Medicaid. We already did the overtime and that was not effective; you made recommendations that were not complied with."

Director Thomas: "I agree with that. The initial reason that I wanted to see that audit was we were expecting to get more requests for it. If we find out it didn't do anything...we find out it didn't do anything! If there is nothing to gain from it, then that is an understanding that we could learn from and audit."

Chairman Oliverio: "I think that Director Creighton and Mr. Vetter are correct in that we basically cut that off. I would like to know about it and I would also like to know about some of the other efficiency grants that we handed out because this authority handed out \$17 million. I would rather have you go for the money and put those other audits on hold. I know that six sigma is a big deal in this election year but I would rather have you go after the cash."

Secretary Keysa: "I think there should be something done with the overtime, not necessarily as an audit but as a performance report stating what is being done know that could be done differently with the counties money. The numbers that we are talking about are huge."

Director Thomas: "There is one more thing to consider. Is there going to be a requirement for the political will to do these things after the audits come out?"

Michael Szukala: "May I address that? My response to your point is precisely that. In the time that I have been County Auditor, since January of 2006, we have done dozens of audits and literally issued hundreds of recommendations. Not all of them have been adopted and I do not have the authority to impose the will of the Comptroller's office on other county department heads. If they chose not to except those recommendations my options are limited. I would hope that if we do a good audit and we do good audits in my office. We come up with sound recommendation based on fact and present them to this board and the board agrees, I would hope that the board use whatever levers of influence it has to

encourage the administration or a department to adopt our recommendations because in the end, that is all I have.”

Director Creighton: “That is why we wanted this.”

Chairman Oliverio: “Are there any other comments about the audits before us?”

Secretary Keysa: “One comment in terms of political will is that you can accomplish a lot more if you have a report in front of you. If you are a politician and you are speculating on it and there is no report there, you can’t accomplish much. If there is a report there and it is something that the media has picked, circulated and commented on then vastly more gets accomplished. So even though you don’t have the political ability to implement them and we may not have, nevertheless if that report is there it has a very useful purpose.”

Chairman Oliverio: “I think you are right Mr. Keysa. If I could just summarize what we have discussed here and then take a vote, what I am hearing from the board here is that we would like the Comptroller’s office to focus, at least initially on those audits set forth in the letter sent from Mr. Poloncarz sent in February 2011 that will have the highest probability of resulting in some actual cash savings or checks; such as the Medicaid audit. Then depending on the ability of time and staff, then work on others that would be a guidepost to provide guidance on the behavior of the county where the political will might not be there. So, with that in mind and I would ask for some comment but I think that is consensus and if everyone can agree with me, I would ask for a motion to go forward with this.”

Director Walling: “My question goes back to the letter that I briefly saw this morning from Mr. Loomis. Are we going to be asked to grant specific approval for every audit or else the County won’t cooperate with it? Is that is what is being presented here, I just want to make sure I am being clear on what the procedure is.”

Chairman Oliverio: “Good question Director Walling, I think what we’re going to do or what I would like to do is approve this list of audits that were provided to us with the proviso and the request that Comptroller’s office focus on those that are going to produce cash savings in the near term and then depending on resource allocation move to those that are informative and informing in the future.”

Michael Szukala: “There is one phrase that I would like included in the Boards resolution. That is that you insist that the administration cooperate with us.”

Director Walling: “My question is if that is necessary and again I am speaking about a hurdle that should not have to occur and certainly something that may not have been there before we started funding your office. I don’t see why our funding of your office should lead to such a hurdle being erected. That just boggles my imagination.”

Michael Szukala: “Alright I will withdraw my request.”

Secretary Keysa moves, Director Creighton seconds and the board votes unanimously to approve the following resolution:

Director Walling	yes	Director Thomas	yes
Secretary Keysa	yes	Chairman Oliverio	yes
Director Kruly	yes	Director Creighton	yes

Chairman Oliverio: “The fourth thing is our own audit; the ECFSA audit. Joe Rendack is here from Toski and Schafer to discuss it. Mr. Rendack could you come up to the podium for discussion?”

Joe Rendack: “Good afternoon everyone, I am here to present the results of the Erie County Fiscal Stability Authority’s audit for the year ended December 31, 2010.”

“The first report that I would like to review is **The Report to the Board**. It is the smaller one that is attached but unbound. This is a required communication between our firm and those charged with governance. Professional standards require that we communicate the following information to you related to our audit. Our responsibility is to express an opinion on whether or not the financial statements prepared by management are fairly presented, our audit of the financial statements does not relieve you of your responsibility. Our responsibility is to plan, perform the audit and provide reasonable but not absolute assurance that the audit is free from material misstatement.”

“With regard to other **Information and Documents**; our responsibility is report on the financial statements of the ECFSA does not extend beyond the financial information identified in the report itself. We are not aware of any documents containing the audit itself which we would be required to review.”

“With regard to **Qualitative Aspects of the Accounting Practices**, management is responsible for the selection and use of appropriate accounting policies. The significant account policies used by the ECFSA are described in note 2 to the financial statements. The Authority established a debt service fund in 2010 to account for sales tax revenue that is set aside to service the Authority’s serial bonds. No other new accounting policies were adopted and the application of existing policies was not changed during 2010. We noted no transactions entered into by the governmental unit during the year for which there is a lack of authoritative guidance of consensus. All significant transactions have been recognized in the financial statements in the proper period.”

“With regard to **Accounting Estimates**, they are part of the financial statements prepared by management and are based on management’s knowledge and experience about past and current events and the assumption about future events. The most sensitive estimate affecting the ECFSA’s financial statements was

management's estimate of the sales tax receivable from NYS which is based on revenue received before year end. We evaluated the key factors and assumptions used to develop the sales tax receivable from NYS in determining that it is reasonable in relation to the financial statements taken as a whole."

"The disclosure the was most effecting the financial statements was the disclosure transactions with and on behalf of Erie County regarding the receipt and accrual of sales tax revenue, State aid incentives and State efficiency grants in note 3 to the financial statements."

"Difficulties Encountered In Performing The Audit; we found no significant difficulties in dealing with management in performing the audit. In fact management was very cooperative in providing us the appropriate information to perform the audit."

"Correct and Uncorrected Misstatements, there were no uncorrected material misstatements."

"Disagreements with Management, we are pleased to report there were no disagreements with management that arose during the course of our audit."

"Management Representation, we have not provided a management representation letter. All of the information we required we have been given."

"Management Consultation with other accounts, to our knowledge there were no such consultations with other accountants."

"Other Audit Findings or Issues, we generally discuss a variety of matters, including the application of accounting principles and auditing standards. The discussions occurred in the normal course of our professional relationship and our responses were not a condition to our retention."

Secretary Keysa: "Mr. Chairman, I would note that normally there is an audit committee meeting prior to the full board meeting, we haven't had that meeting but as a member of that committee I have taken the opportunity to meet previously with Mr. Rendack and ask the questions that we would normally ask in closed session of the audit committee. The first of those is: did the administration give you any difficulty in the course of the audit? His answer to that was "No." The second question that asked was: "In the process of the audit, was it disclosed to you or did you discover any fraud whatsoever? The answer was that there was none. The third question posed to him in confidence if you will was: "were there any other matter that you felt were appropriate to bring to the boards attention for the administration of the Authority to which he responded, "there are none."

Secretary Keysa: "On behalf of the audit committee I would recommend approval."

Chairman Oliverio: “Are there any other questions?”

Secretary Keysa moves, Director Thomas seconds and the board votes unanimously to approve the following resolution:

Resolution No. 11-02

APPROVING THE 2010 ANNUAL FINANCIAL AUDIT

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 is a public authority of the State of New York and, as such, section 3971(1) of the New York Public Authorities Law (“Public Authorities Law”) requires the ECFSA to select an independent certified accountant to perform its annual financial audit; and

WHEREAS, in adopting Resolution 08-70 on July 15, 2008, the ECFSA selected Toski, Schaefer & Co., P.C., which the New York State Office of General Services has approved as a statewide vendor of auditing and accounting services, to perform its annual financial audit for fiscal years 2008 through 2010; and

WHEREAS, Toski, Schaefer & Co., P.C., has completed the ECFSA 2010 annual financial audit and has presented it to the ECFSA Board during an open meeting on May 5, 2011; and

WHEREAS, section 2800(3) of the Public Authorities Law further requires the ECFSA to approve a financial audit for fiscal year 2010; and

NOW, THEREFORE, BE IT RESOLVED that the ECFSA hereby approves the 2010 Audit, a copy of which is attached to this resolution; and

BE IT FURTHER RESOLVED that the 2010 Audit be submitted to the Erie County Executive, the Presiding Officer of the Erie County Legislature, the Erie County Comptroller, the Governor, the State Comptroller, the Chair and Ranking Minority Member of the State Senate Finance Committee, and the Chair and Ranking Minority Member of the State Assembly Ways and Means Committee, as required by section 3971(1) of Public Authorities Law.

This resolution shall take effect immediately.

Director Walling	yes	Director Thomas	yes
Secretary Keysa	yes	Chairman Oliverio	yes
Director Kruly	yes	Director Creighton	yes

Chairman Oliverio: “Now we come to miscellaneous resolutions. There are four of them; they are a number of guidelines that we need to review and approve each year as a public authority. We have to take them one by one. Mr. Vetter will describe them.”

Executive Director Vetter: “Thank you Mr. Chairman, the first one is with regard to naming an internal control officer. Since we are a state authority, state guidelines indicate that we do have to designate an internal control officer. He is our financial analyst. The financial control officer is mandated to go through quarterly reviews and report any deficiencies in internal control that may affect the agencies assets, spending or revenues. This has not changed from last year so it is ready for approval.”

Director Thomas moves, Director Creighton seconds and the board votes unanimously to approve the following resolution:

Resolution No. 11-03

DESIGNATING AN INTERNAL CONTROL OFFICER

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 has established and maintained guidelines for a system of internal controls to comply with Public Authorities Law and internal control standards;

WHEREAS, section 2931 of the New York Public Authorities Law (“Public Authorities Law”), requires the governing board of the ECFSA to designate an internal control officer, who shall report to the head of the Authority, to implement, maintain, communicate and review the internal control responsibilities established and maintained for the Authority; and

WHEREAS, through adoption of employee guidelines in Resolution 08-33 on March 7, 2008 the ECFSA Board had previously designated the Financial Advisor as the Authority’s Internal Control Officer; and

WHEREAS, the ECFSA Board finds it necessary to designate in name at this time the Authority’s Internal Control Officer; and

WHEREAS, section 2932 of Public Authorities Law, requires the governing board of the ECFSA or its designee to determine, and periodically review the determination of, whether an internal audit function within the Authority is required; and

NOW, THEREFORE, BE IT RESOLVED that Financial Analyst is hereby designated the Internal Control Officer responsible for implementation and review of the Authority’s internal control responsibilities until such time as his resignation, removal or death; and

BE IT FURTHER RESOLVED that the Authority’s designated Internal Control Officer is designated to determine, and periodically review the determination of, whether an internal audit function within the Authority is required and to report to this Board should the need arise.

This resolution shall take effect immediately.

Director Walling	yes	Director Thomas	yes
Secretary Keysa	yes	Chairman Oliverio	yes
Director Kruly	yes	Director Creighton	yes

Executive Director Vetter: “The second one is with regard to prompt payment policies, in essence it says we we’ll pay our bills on time. If we don’t pay our bills on times, based on state regulations there are certain interest payments we would have to pay in order to compensate for the lack of timeliness.”

Director Walling moves, Chairman Oliverio seconds and the board votes unanimously to approve the following resolution:

Resolution No. 11-04

APPROVAL OF PROMPT PAYMENT POLICY

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 is a public authority of the State of New York and, as such, is governed by certain state laws that require the adoption of a prompt payment policy; and

WHEREAS, in order to comply with state law, it is necessary for the ECFSA to adopt a prompt payment policy, as required by section 2880 of the New York Public Authorities Law (“Public Authorities Law”);

WHEREAS, upon review of its current prompt payment policy finds that amendments are not needed at this time,

NOW, THEREFORE, BE IT RESOLVED, that the ECFSA hereby adopts the Prompt Payment

Policy attached to this resolution; and

This resolution shall take effect immediately.

Director Walling	yes	Director Thomas	yes
Secretary Keysa	yes	Chairman Oliverio	yes
Director Kruly	yes	Director Creighton	yes

Executive Director Vetter: “Again, these have not changed from the past. Our procurement guidelines really are our bidding processes for the agency. We really go above and beyond these guidelines. Virtually anything outside of office supplies or minor needs for meetings, we send out RFP’s for virtually everything. We send out request with the State contractor, e are in compliance with MWBE and this is simply renewing the guidelines that have been in place.”

Director Creighton moves, Director Thomas seconds and the board votes unanimously to approve the following resolution:

Resolution No. 11-05

APPROVING PROCUREMENT GUIDELINES FOR CERTAIN CONTRACTS

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 requires professional assistance in performing its mission; and

WHEREAS, the ECFSA is a public authority of the State of New York and, as such, is governed by certain state laws that specify the method for the procurement of certain services; and

WHEREAS, in order to comply with state law, it was necessary for the ECFSA to adopt Guidelines for the Use, Awarding, Monitoring and Reporting of Procurement Contracts (the “Procurement Guidelines”), as required by sections 2879 and 3960 of the New York Public Authorities Law; and

WHEREAS, the ECFSA adopted its Procurement Guidelines in Resolution 05-10 on August 18, 2005; and

WHEREAS, in order further to comply with state law, it is necessary for the ECFSA to review

and approve the Procurement Guidelines at least annually; and

WHEREAS, the Board of Directors of the Authority has reviewed the Procurement Guidelines currently in effect and has determined that such Procurement Guidelines do not need to be amended at this time; and

NOW, THEREFORE, BE IT RESOLVED that the ECFSA hereby approves for use the Procurement Guidelines attached to this resolution.

This resolution shall take effect immediately.

Director Walling	yes	Director Thomas	yes
Secretary Keysa	yes	Chairman Oliverio	yes
Director Kruly	yes	Director Creighton	yes

Executive Director Vetter: “The investment guidelines have not changed. Our investments given that we are a public authority are wither directly US Treasury backed or securitized with US Treasures or other instruments of at least 105% principal so that these are riskless securities. You won’t see any derivatives or anything like that from this authority.”

Secretary Keysa moves, Director Thomas seconds and the board votes unanimously to approve the following resolution:

Resolution No. 11-06

APPROVING INVESTMENT GUIDELINES

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 is a public authority of the State of New York and, as such, is governed by certain state laws that require the adoption of investment guidelines; and

WHEREAS, in order to comply with state law, it was necessary for the ECFSA to adopt investment guidelines, as required by sections 2925 and 3954 of the New York Public Authorities Law; and

WHEREAS, the ECFSA adopted such investment guidelines in Resolution 07-16 on March 2, 2007; and

WHEREAS, in order further to comply with state law, it is necessary for the ECFSA to review and approve its investment guidelines at least annually; and

WHEREAS, the Board of Directors of the ECFSA has reviewed the investment guidelines currently in effect; and

WHEREAS, upon review of those guidelines and the report on compliance, the ECFSA finds that the investment guidelines be amended consistent with a number of procedural changes;

NOW, THEREFORE, BE IT RESOLVED that the ECFSA hereby approves for use the investment guidelines attached to this resolution.

This resolution shall take effect immediately.

Director Walling	yes	Director Thomas	yes
Secretary Keysa	yes	Chairman Oliverio	yes
Director Kruly	yes	Director Creighton	yes

Chairman Oliverio: “Before we adjourn, there a couple of things I would like to get some thoughts on. First, with respect to the overtime information that was provided to us in an e-mail, I think we are all concerned and what I would recommend and Mr. Vetter if you could, I would like to have MR. Gach, provide us within the next 14 days or so an explanations of the overtime issue, what he sees happening with the overtime issue going forward especially after the first quarter and how they plan to address it in a way that is meaningful so that we can address it and see if there are any changes or not. The second thing is that, not that the state budget has been finalized and although there is the potential for a tax cap that we may need to revisit, I think that I would also like for you to request from Mr. Gach when we are going to get the revised financial plan and budget so that we can meet at the end of may or early June to go approve both. We have a 15 day window, so we would like to get it not mailed on a Friday and received Monday so that we get the full time length to review it. If those two things could happen I would appreciate that.”

Secretary Keysa moves to adjourn, Director Creighton seconds and the Board votes unanimously to adjourn.

Respectfully submitted,

Stanley J. Keysa, Secretary

May 5, 2010