Minutes of the

Erie County Fiscal Stability Authority Meeting

October 26, 2012

Present: Chairman James Sampson, Director Brian Lipke, Director Lou Thomas, Director Catherine Creighton, Executive Director Vetter

Chairman Sampson: “Good morning, I’d like to call the meeting of the Erie County Fiscal Stability Authority to order. I’d like to welcome everyone who is here; members of the public, representatives from Erie County and of course our fellow board members. We are here for final consideration of the County’s 2013 budget and associated plan. We received the County’s submission on October 15th and we have focused on reviewing the reasonableness and ability to determine whether it’s in balance consistent with the statute that has empowered us to do that.”

“Additionally, we have received a request from the County to reprogram some efficiency grant dollars that have already been encumbered. Before we move on to that, I would like to take one matter of business and that is our members ought to have in their packet minutes from the last meeting, if you could review those please.”

Director Lipke moves to approve the minutes, Director Thomas seconds and the Board votes unanimously to approve the minutes of the previous full board meeting

Resolution No. 12-13

APPROVING MINUTES FROM

THE SEPTEMBER 21, 2012 MEETING

BE IT RESOLVED that the Erie County Fiscal Stability Authority approves the minutes of its September 21, 2012 meeting and affirms two resolutions numbered 12-11 and 12-12 that were approved on SEPTEMBER 21, 2012.

This resolution shall take effect immediately.

Chairman Sampson: "Next what we would like to do is review the plan & budget that has been submitted by the County. We have asked the folks to sit up here in case we have any questions or if they have any questions of us. I'd like now turn it over to Mr. Lipke, who is the Chair of the Finance Committee. We met last week- a week ago today."

Director Lipke: "Thank you Mr. Chairman. On behalf of the finance committee we met a week ago with representatives from the county to discuss the 2013 budget and 4-yr plan. We were pleased both the County Executive and Budget Director Keating provided us with excellent presentations on the county's forecasts and those presentations and the county's responses to the 22 questions that the board of the ECFSA forwarded to them have provided us with a good base of information for this board to opine on the county's finances."

" There is a report in the packets in front of each board member today with comments and concerns about the county's submission. On the whole the budget and plan appear reasonable, doable and balanced. I personally and on behalf of the Finance committee would like to give credit to the county executive and his staff for putting together a proposal that clearly outlines the plans and priorities for the county as well as the risks and challenges going forward and I'd like to take a moment to go through some of the highlights of the report. In its submission the County has addressed a number of concerns we have expressed in the past including rising workers compensation expenses, health insurance costs, and spikes in payments related to Erie County Medical Center. Conversely, there are a number of items we have focused our attention on in the budget and financial plan including sales tax revenues. "

"Sales tax revenues- although sales tax revenues have been steadily increasing since 2009 when the receipts went negative from the previous year; this is the county's largest revenue encompassing almost 28% of the budget. We receive regular updates on how this revenue stream is doing. We see from payment to payment a degree of volatility that at times can cause concern. Based on that volatility we urge the county to closely monitor this revenue and be ready to take appropriate action to keep the budget in balance should there be a downturn in it."

"Staffing & Overtime- the plan calls for a number of staff additions, primarily for compliance issues in the corrections facility and holding center. While the staff increases appear to be certain the associated reductions in overtime do not. In our report we urge the County to focus on reducing overtime while maintaining compliance with relevant agencies."

“Gap Closers- the county has said that they would consider a number of options from cutting positions to expense reductions if some of the estimates in the plan don’t come to fruition. Given the sheer size and the complexity of county government we urge the county to look at and program alternatives in the event of shortages in the budget.”

“Efficiencies- at our last meeting we discussed efficiencies and how mandated versus non-mandated positions of the budget effect county spending. In our thoughts the fact that an item is mandated doesn’t necessarily mean that it’s untouchable in creating an efficiency. There can be alternatives to provided mandated and non-mandated services and we urge the county to look for efficiencies wherever they might be to provide necessary and desired services at a cost level that doesn’t overburden the tax payers.”

“Mr. Chairman, with these comments I would recommend to this board we consider the draft resolution in your package that maintains the current ECFSA advisory status.”

Director Lipke moves to approve the resolution and Director Thomas seconds…

Chairman Sampson: “Before we proceed to a vote, I’d like to open it up for questions for the representatives from the County. I know the Comptroller is here and would like to make a few comments. Are there any questions from members of the authority for the folks from the County?”

Director Thomas: “Not right now.”

Director Creighton: “Not particularly.”

Chairman Sampson: “I have two: one is, we had talked previously when we were together on Friday about sort of the underlying dynamics that led to the tax increase. One was the one-time Medicaid payment where there were 53 payments as opposed to 52. Leap year or something like that. Another was the actual flattening out of the assessments. In fact there was a slight decline when every other year we had had experienced at least a 1% increase perhaps a little bit more which actually resulted in additional $5-6 million a year in revenue.”

“Is that accurate?”

Budget Director Keating: “Yes.”

Chairman Sampson: “Ok- help me through this. This year, it was not only flat but it went down slightly resulting in close to $500,000 in a reduction of revenue for property tax income. We talked briefly about whether or not you were confident that it was going to start climbing again however incrementally and you suggested that you were comfortable with the projections in the plan. The question I have, sort of a follow-up to all of that is if you look at the tax rate over the past 15 years on occasion the tax rate per thousand has declined. Would you entertain that in the future…in other words lowering the tax rate per thousand?"

Budget Director Keating: "Yes."

Chairman Sampson: "The other question has to do with efficiencies, particularly around overtime. I know a lot of it you folks don't control. But it's at the jail; it has to do with adding all those positions coming out of the correctional commission. We're projecting significant reduction of overtime in the plan and do you have a sense of how that's going to happen other than just adding staff."

Tim Callan: "Good morning. Our projection of reduced overtime over the life of the plan is based on two different prongs. One involves jail management and the other involves certain departments; particularly public works that have had significant issues with overtime in the past. Both in the division of highways and the division of buildings and grounds and then the department of health in the division of correctional health services, the new unit that in next year's budget will be broken out into its own cost center to very accurately track expenses and all of the appropriations associated with it."

"So, public works and correctional health have been two areas where overtime has been a problem in recent years and then jail management. We don't control jail management, that's under the purview of the independently elected Sheriff. As some of you members of the authority know and as Mr. Vetter certainly knows having been a budget director; overtime has been a problem there for years. Even when the Sheriff, in the recent decade has received new bodies overtime has still been a problem. It goes down temporarily and spikes back up after a period of months. In terms of the departments we control, Public Works & Health Department, correctional health we have already seen dramatic reductions in overtime in those areas. One because our new Deputy Commissioner of Buildings and Grounds, Daniel Rizzo, he has nearly halved overtime this year with what it is so far for the first nine months this year compared to what it was last year by simply a number of management changes including creating a second shift in the Rath Building and county complexes downtown. So that instead of employees staying after the first shift and doing work on overtime after 3:30 we've created a second shift to have people on straight time, just redeploy staff. Massive improvements and reductions in overtime."

"In correctional health, as some of you know we have had a lot of vacancies in the various nursing titles, medical office assistant and the RN titles, in correctional health because of the difficulties in recruiting nurses. Under the leadership of the new director of correctional health, a nurse by the name of David Marciniak who came to us from Catholic Health about three months ago, we've seen a dramatic turnaround in correctional health. We're seeing reduced overtime because he has been successful in recruiting nurses and medical office assistants to come and work in correctional health. Where the past couple of years those most of those positions have been vacant & we've had to rely on significant overtime for the few positions that are filled as well as contract nurses. We're moving away from that we have a new contract provider to help backstop us in limited instances but Mr. Marciniak has been incredibly successful in recruiting nurses and that's already reducing overtime there. We think because of those management changes and frankly just new leadership that we have a good handle on overtime in those two areas."

"Jail Management, simply put we are going to hold the Sheriff's feet to the fire. If we're adding 72 sworn positions in the correctional facility and holding center. From the 15 added this summer 30 new sworn positions next year and 27 in '14 that were mandated by the state to create at significant expense. Then we're going to hold the Sheriff accountable for controlling that. The good news is with new leadership in the Sheriff's office, Undersheriff Mark Wipperman has been easy to work with, acting Superintendent Thomas Diina who took over jail management after Mr. Koch was removed from his title earlier this summer; Joe Cercone, of our office is the Budget Analyst assigned to the Sheriff's Office has been working with these guys every day and I'm usually working with one them at least once a week. The new leadership over there in jail management both with the Undersheriff and Mr. Diina have already made tremendous strides. We work together cooperatively to address civilian staffing problem with the cleanliness and maintenance of jail management by redeploying county buildings and grounds staff to work in jail management. They work for us, under Mr. Rizzo's supervision but work cooperatively with Mr. Diina and jail management so we have been able to redeploy staff in next year's budget to satisfy the Commission of Corrections requirements that we need to do certain things in terms of maintenance as well as cleanliness in the jail. We work cooperatively with Mr. Diina and the Commission of Corrections has approved for a one-year period our redeployment of those resources. So we think with between the new leadership on our end and in jail management as well as the 72 positions we reasonably will see a reduction in overtime rather than this out of control overtime. Your concerns Chairman Sampson, Mr Lipke and the other directors… Ms. Creighton and Mr. Thomas, your concerns are well founded based on past history where overtime has been a problem and we're concerned about it also. That's why we will continue to closely monitor it, we will approve F-77 to get every vacant position filled so that overtime goes down. The overtime issue is part of our negotiations with the teamsters over their lapsed contract. They have been operating without a contract for 7 years. We have been talking about it all year, have exchanged proposals and having overtime reduced has been a serious problem and a factor is related to those negotiations."

Director Thomas: "It has been my experience when you have a reduction in personnel you have concerns about the quality of the product or in the county's case the quality of services. There is a point where you can only go so far that quality of services because of reductions in personnel suffers. The two things that increase costs when you do that are overtime, which is being done in order to keep up for the fact that you have less people but you still have the services. But the other thing that is affected in my experience is workers compensation. Now you've got people working more hours trying to fill the gaps and it puts them in a position where they get injured more frequently. I'm just wondering, some people see well, workers compensation went up and they just think it's because the healthcare costs went up. Do you have numbers on exactly what that breakout is? Was it the fact that more people were being hurt and going out on compensation or is it because healthcare went up for those circumstances or was it a combination of both?"

Budget Director Keating: "It's a combination. The rates are certainly going up next year. We have cases now where we have a choice to make a one-time payout versus a long-term much longer cost. If it makes sense to the county we'll make the one-time payout. Even though it may cost more money this year it will save us money in the long-run."

Director Thomas: "What's the number of cases that would be more say this year than they were last year? Do you have a handle on that? Does it continue to go up…the number of people getting hurt?"

Budget Director Keating: "The basis for our cost increase this year is more the rate increase rather than the actual incidents."

Director Thomas: "Do you know what the number of incidents is?"

Budget Director Keating: "Not at this point."

Tim Callan: "We can get that to you."

Director Thomas: "Over a three year period?"

Budget Director Keating: "Sure."

Director Thomas: "What did you base your projections on? Did you base your projections on a continuing increase in people getting hurt or just on the rates?"

Budget Director Keating: "Based on the rates and trends we experienced in 2012."

Tim Callan: "I will also say Mr. Thomas that one factor in the back of our mind is we are eliminating 6 vacant positions in buildings and grounds and 6 vacant positions in the road fund, division of highways. It was not lost on us in the Budget office, when we crafted this budget, that by cutting those positions the live bodies who are there are asked to do more in physically demanding jobs and so we have a factor there in our projections- fewer bodies doing more work means people get injured and hurt. Both between the rate going up as well as eliminating vacant positions and asking people in physically demanding jobs to do more not to mention the many people who are off on workers comp in jail management and the Sheriff's Department. We wanted to have a factor built in to address that."

Director Thomas: "It's not a theory- it's a fact. It's just some units are effected in different ways but at some point the decision has to be made where how far can you go where it doesn't save money anymore and now it's costing money and you have to know where that point is."

Tim Callan: "That is an overall macro level policy question which this County Executive grappled with in cutting 63 positions in the 2013 budget; 10 of which were filled 53 which were vacant . There were so many cuts by the Collins administration over the last 4 years you get to a point where what's left to cut as the County Executive said, you're cutting to the bone. Where you're cutting positions that have 0% local share. It doesn't make any sense cutting positions in social services that have 0% county share. Performing func tions when it doesn't cost… please don't misunderstand, we are concerned about all taxpayer money even if it's federal or state funds. When you have a need for certain positions and there is 0% county share, why would you cut those positions? So were at the point where we still consider in out years of the plan, if necessary as a gap closer cutting positions but it has to be done with a scalpel not with a sledgehammer which is why when we met with department heads such as Social Services Commissioner Carol Dankert about positions we said, we are not going to cut positions that have minimal or no county share. It doesn't make any sense, lets first look at positions that won't disrupt your operations and not provide critical services like child protective workers, youth detention workers, investigators for Medicaid fraud, things like that lets do it with a scalpel and not a sledgehammer and be very judicious about this because we are at that point now that more cuts, were going to have to make hard decisions and Mr. Lipke, you noted in your comments at the beginning here about what services are vital to the taxpayers, what do they want in terms of the non-mandated and looking at the mandated areas and what can we cut there without creating problems with the state or federal governments and our various regulators."

Director Thomas: "That was my next question. Do you consider yourself at a disadvantage because you have to deal with mandated positions? Are you restricted in some way … I guess yes you are because you still have to provide the services. But are you restricted in making changes in mandated rather than non-mandated."

Tim Callan: "In some instances we are, in some instances we aren't. In a broad overall statement the state and federal governments just want the services they require be provided. In some instances they micro-manage like the Commission of Corrections and dictate exactly how many bodies and what titles. The Commission of Corrections said you have to create "X" number of Captains, Lieutenants, Sergeants and just plain old deputy officers or correction officers. In some instances some of the state officials like office children and families services, office of temporary disability assistance they provide broader reaching, as Mr. Sampson knows being an agency that deals with them, broad level oversight and parameters but don't say specific positions. They don't say you need to have60 social welfare examiners. It's a little more loose, it just depends on the department, the program, which federal or state agency is the regulator and how deep they want to get enmeshed in dictating and driving what we do."

Director Thomas "Thank you."

Chairman Sampson: "Any more questions Mr. Lipke?"

Director Lipke: "I have one… I completely understand Director Thomas comments earlier and how cutting staff relates to overtime and how it could relate to workers compensation expenses. I think those are valid points that he has made and apply directly more so I believe to a production type environment and maybe less to a degree to non-production environment of managerial workplace setting processing paper and other activities like that that aren't out in a plant or physical working environment. The question that I have relative to that, when I looked at the county budget and we discussed this at the finance committee meeting last week and you pointed out that the non-mandated portion of the budget is roughly $102 million. When you showed me the list of agencies and organizations that receive that $102 million, the only question that I have there is, is if they are all as efficient as they can be? I'm in no position to judge that, I don't know how any of those organizations work, so I can't judge whether they are as efficient as they can be. I'm sure they are trying to be. In this day and age where all of the taxpayers in the United States of America, whether they live in Erie County or not are facing an ever increasing burden of taxes. I feel it's incumbent upon governments everywhere to make sure they are delivering services as absolutely efficiently as they can. Families have had to learn to do more with less and I feel that it's incumbent that the government has to lead by example and they come up with ways to do more with less. I just encourage you when you meet with the County Legislature before you pass any additional taxes please make sure that every organization that is receiving funds from your non-mandated area are absolutely as efficient as they can possibly be and see if there aren't some ways to offset the need to put an additional tax burden on the taxpayers."

Chairman Sampson: "Thank you, any further questions Mr. Thomas?"

Director Creighton: "I just have a comment. I think it's not actually Mr. Lipke, factually accurate to say that all Americans are facing an ever increasing burden of taxes. We've had under federal government, state government and even in the county decreasing taxes to some extent. If you look at the comparison of our taxes in Erie County they are among the lowest in the state. I think that what people want, if they are going to pay taxes they want something for it. They want to have something that's worth, live in a place that's worth living in. They want to have clean water, they want to have some public art, they want to have a library, they don't want people who are disabled to be lying in the street and have to walk over them. I think in a civilized society that all costs money and I think that this very small increase in taxes proposed by the administration is reasonable and worthwhile."

Director Lipke: "I have to make a comment to respond to that. I don't think I suggested that I want to see people laying in the street suffering."

Director Creighton: "I didn't… I don't think you did."

Director Lipke: "You did say that."

Director Creighton: "I didn't say you want them to be lying in the street suffering."

Director Lipke: "Because I resent that if you did imply that."

Director Creighton: "I did not mean that. What I did say is that it was factually inaccurate to say that all Americans are facing an ever increasing burden of taxes. That's not correct."

Chairman Sampson: "Any other further statements of questions from members of the authority?

Before we vote on the resolution the Comptroller would like to make a few points."

Director Lipke "Actually I do have one last comment. My point was not that we should do away with any of the services that taxpayers are being provided or that we should do away with support for cultural or libraries or that we should limit police protection in our community or cut back on the quality of our water. Simply that it's incumbent on all governments to be as efficient as it can be to continue to provide those services."

Director Creighton: "I agree 100%."

Chairman Sampson: "Great- thank you. Comptroller Schenk."

Comptroller Schenk: "Thank you. Good morning Chairman Sampson and members of the board."

Chairman Sampson: "Good morning, thanks for coming."

Comptroller Schenk: " I would like to introduce Lorne Steinhart, he is my first deputy for accounting and finance. My office and I have been reviewing the County Executive's proposed budget for 2013 to determine whether the budget is structurally sound, balanced and reasonable with respect to assumptions for anticipated revenues and expenditures. While I intend to submit a comprehensive review report to the county legislature by October 31st with a courtesy copy to you as well as the County Executive I do appreciate you providing me this time to highlight some of my office's findings regarding the proposed budget."

"Overall, I find the 2013 proposed budget to be structurally sound. But I do have some concerns about the key aspects of the proposed budget. The Administration is dealing with daunting budgetary challenges for 2013 with new state and federal government mandated expenses and a likely decline in revenue particularly derived from a rare decline in property tax assessment growth and significant reductions in state and federal grants. Although the Administration asserts the forces driving the projected $30 million or $2.1% increase in next year's general fund budget are due to mandated required expenses over the county, which they do have a very limited ability to control. Some of those largest factors, as you know and have been studying, are the fringe benefits which are going to be increasing by $17million over 2012, the state mandated Medicaid payments which are expected to be approximately $8 million greater than in 2012 and of course you have the 33 new positions within the Sheriffs division in jail management, so making sure that we are able to decrease that overtime that's how we can offset some of this and I believe the administration is working well to move forward positively with the Sheriff on that."

"Sales tax revenue represents the single largest revenue source for the county. During fiscal year 2013 proposed budget assumes a 3% sales tax growth. The

August 2012 year-to-date actual revenue data that was finalized by October 13, 2012 sales tax receipt from NYS shows that the August 2012 year-to- date growth from the 2011 August actual is 2.75%. However, although the 2012 budget appears to be on track for a positive variance for the year, achievement of the year-end 2012 projection amount as presented in the August budget monitoring report projected at 3.15 above the 2011 actual amount. That could be risky. If this trend continues the 2011 proposed amount will effect growth greater than 3% and it could end up being an aggressive estimate."

"Regarding personnel services- the deletion of 53 vacant positions and 10 occupied positions including one within the Comptroller's Office; the Director of Grant & Accounting services. With respect to that position, this is a serious concern I have, because this is an important senior-level position that assists the Comptroller and the entire Comptroller's office with essential accounting, finance, budgeting and forecasting, financial reporting, and management functions relating to the account payable trust services and oversight of the capital project and finance."

"Moving on to fringe benefits, the 2013 budget is $67 million and the 2012 adopted budget was $56 million this translates to a 19.2 % increase and that's a significant challenge for the Administration. The Administration recently informed my office that the 2013 insurance component is projected to be 8.17% over the 2012 projected year-end health insurance cost. Considering the rates are set to increase by 7.9% and the net addition of 56 new employees the budget is definitely more conservative than the 2012."

"Moving on to ECMCC, the 2013 proposed budget gross total DSH expense of $16.2 (million) can no longer be realistic. Thus leaving the county exposed to pay 2 postponed 2012 DSH & UPL payments amounting to approximately $22.5 million. The UPL payment portion is $5.3 million thus we are looking at just under $28 million from 2012. The first amendment provides for a credit from ECMC to the county to cover that $28 million and I applaud them for their efforts on that. In return the county will provide up to a $2 million credit each year beginning in 2015."

"Ok now I'd like to move on to the four-year plan. Sales tax as previously noted while the 3% growth for sales tax in 2013 could prove to be problematic in the short-term. However the growth for 2014-2017 is at 2.75% decreasing the projected closure to the recent three-year average performance levels. This is a more conservative estimate in the out years and I find that reasonable."

"Regarding the property tax rate, obviously we all are well aware of the Huntley Power Plant decrease in the property tax levy for 2013. I'm hopeful that we will begin the rise to continue go back up as what usually happens in most years. If this increase to the assessment growth remains at the level along with the assumption that the property tax rate will not be changed there will be a shortfall during the three out-years of the plan."

"Regarding health insurance growth, the 8% estimate is an increase over the 5% that was used for the out years in the 2012 approved plan in-line with the current market expectation and appears reasonable."

"Pension rate for 2013-2016. The four-year plan projects a material increase in 2014 of $4.9 million or 13.5% followed by a 4.9 and 5.9 going forward in 2016."

"I would have liked to have seen in the four-year plan comments on the Buffalo Bills lease. Because obviously that's a significant portion, we know the Bills are looking for about $200 million in major renovations and the question remains on who will be responsible to pay for that."

"The plan mentions no alternative should revenue shortfall and expenditure exceeds expectations."

"Thank you."

Chairman Sampson: "Any questions for the Comptroller from Authority members?"

"Thank you very much. We have a motion and it's been seconded to approve the resolution that's contained in your packet. Are there any further comments before we vote on that?"

Director Lipke: "I have to make one more comment and it's a general comment not aimed at any specific area of the budget but overall I have a hard time understanding the perspective that if there has to be a change in the budget to reduce expenditures it automatically relates to a reduction of services. I don't think that that is an accurate perception of how things can be done. I think there are ways to become more efficient so that services can be provided just as they are today without having to raise taxes."

Director Creighton: "I think that has happened in the United States over the last 20 years. Productivity has been on a steady increase. The American worker and the American people have been increasingly more productive at work. Some through technology some just through efficiencies we have talked about, some through better management to reduce things like overtime or injuries so that has been a steady increase and I think this administration from what Dr. Callan is saying they are looking at those things and bringing in new people to say what's going on to recruiting better people to reduce things like overtime, I think the county is heading towards agreeing with you in that. But that productivity line, if you look at that productivity line over the course of the last 20 years there has been a steep increase in American workers productivity."

Director Thomas: "Brian, I'm the one who said that but I didn't want anyone to misunderstand. In the industrial sector I did have way too many years of experience in that and I found that you can never argue about quality of productivity in relationship to a product or service because I have public sector experience as well. What I was saying was that you can reduce people to the point where you can still produce a quality product or service but there is a point, and I'm not saying it shouldn't be done, but there is a point where if you reduce too much you get two problems you get a service that isn't as good as it should be, you increase your opportunity to get hurt and you require more overtime to keep up. I'm not saying it shouldn't be done I'm saying it shouldn't be done just for the sake of doing it has to be done with the idea in mind of keeping the product good and the services where they should be."

Director Lipke: "I'm not taking exception to what you said at all Director Thomas because in fact you lived it, you did, you made it happen so I'm not taking exception to that at all and I'm not taking exception to Director Creighton's position that productivity in the United States of America has definitely improved but I will say though that it has improved more in the private sector than in the public sector. I don't like the concept that well if our expenses go up we just pass those on to the taxpayers. I don't believe that should be the starting position for government. The starting position for government should be we're going to balance the budget this year without raising the taxes. That's what I think the starting position should be."

Director Thomas: "And we wanted to bring the companies back to full quality productivity without reducing the membership but we couldn't do that could we? We got to the point where we just couldn't come up with enough ideas, we had to eliminate people and we had to eliminate pension and costly medical for retirees things we didn't want to do but at a certain point in the process we realized what we were doing wasn't enough and we had to go the things that were unthinkable."

Director Lipke: "I agree completely. The other point that I wanted to make is that I'm not sure who want to be comparing ourselves with here in Erie County other than ourselves. Comparisons to other states, other counties I think are nice to know but what happens here in Erie County and what happens to the taxpayers in Erie County is solely & exclusively what we should be focusing on."

Chairman Sampson: "Thank you. Any other comments?"

Director Creighton: "I have one comment about the public versus private sector. In the public sector in Erie County, not comparing ourselves to anywhere else, the employees have been without changes to their collective bargaining agreements and it's worrisome that we aren't even talking about where the money is going to come for these collective bargaining agreements. Are we saying that every contract is going to have a net zero ten years down the line that means an employee is not going to have any increase to their wages for 10 or 15 years or however long it's going to take to get these contracts settled? There's no money in the budget for potential wage increases. I understand the county is saying they are going to reduce benefits to make the contracts net zero. Is that feasible over the course of 10- 15 years I mean, just think of where you were ten years ago. For most people it's hard to imagine living on a salary that you had 10 years ago. I know the county has been bargaining but there is nothing in any of these four-year plans to show increases in salaries for these collective bargaining units."

Chairman Sampson: "Thank you. We have in front of us a motion and it's been seconded to approve the resolution that's contained in your packet which has the net effect consistent with our authorizing statute to have the Erie County Fiscal Stability remain in an advisory status."

Board votes unanimously to approve the following resolution:

Resolution No. 12-14

FINDING THAT ERIE COUNTY'S 2013-2016 FINANCIAL PLAN IS COMPLETE AND COMPLIANT WITH NEW YORK PUBLIC AUTHORITIES LAW SECTION 3957, AND CONTINUING THE ADVISORY PERIOD UPON ERIE COUNTY

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

WHEREAS, Public Authorities Law section 3957(1) requires the Erie County Executive to "prepare and submit to the [ECFSA] a four-year financial plan and the county executive's proposed county budget, not later than the date required for submission of such budget to the [Erie County] legislature pursuant to the county charter;" and

WHEREAS, the four-year financial plan, as defined by Public Authorities Law section 3951(14), is a "financial plan of [Erie County] and [its] covered organizations"; and

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

WHEREAS, County Executive Mark Poloncarz duly submitted his proposed budget for Erie County (the "County") for fiscal year 2013 on October 15, 2012, and a four-year financial plan ("Plan") for fiscal years 2013-2016, to the ECFSA on October 15, 2012 (the "2013-2016 Plan"); and

WHEREAS, fiscal years 2014 through 2016 constitute the "Out Years" of the 2013-2016 Plan; and

WHEREAS, Public Authorities Law section 3957(1) requires that the 2013-2016 Plan "contain actions sufficient to ensure with respect to the major operating funds for each fiscal year of the plan that annual aggregate operating expenses for such fiscal year shall not exceed annual aggregate operating revenues for such fiscal year;" and

WHEREAS, Public Authorities Law section 3957(2)(b) instructs the ECFSA to determine on or before November 4, 2012, whether the 2013-2016 Plan complies with the provisions of the ECFSA Act, including section 3957; and

WHEREAS, the members of the ECFSA Board of Directors have reviewed the 2013-2016 Plan; and

WHEREAS, the ECFSA has developed concerns regarding the reasonableness of the following assumptions underlying the Plan:

(1.) That significant reduction in budgeted overtime expenses will be offset by

Additional positions added largely to the Jail Management division will not

Exceed budget/plans amounts; and

(2) Sales tax will continue to grow and will not follow a historic trend of

experiencing a "down year" over the period of the plan; and

(3) Property tax collections will not be negatively impacted by an increase in the tax levy without an accompanying increase in property values; and

(4) Uncertainty with the Buffalo Bills lease agreement which expires in 2013. It has been reported the Bills are looking for $200million in capital improvements to Ralph Wilson Stadium and it is not clear who will underwrite those improvements; and

(5) That the County will not need to budget for salary increases for labor unions that do not have contracts that are currently in effect; and

WHEREAS, the ECFSA has nonetheless determined that the 2013-2016 Plan contains actions sufficient to ensure with respect to the major operating funds for each fiscal year of the plan – including budget year 2013 and the Out Years – that annual aggregate operating expenses for such fiscal year shall not exceed annual aggregate operating revenues for such fiscal year; and

WHEREAS, the 2013-2016 Plan is complete and otherwise complies with the requirements of Public Authorities Law section 3957 ("Section 3957") and the ECFSA Act; and

NOW, THEREFORE, BE IT RESOLVED that the ECFSA finds that the 2013-2016 Plan is complete and otherwise complies with the requirements of Section 3957 and the ECFSA Act; and

BE IT FURTHER RESOLVED that the ECFSA remains in advisory status, as described by Public Authorities Law section 3958; and

BE IT FURTHER RESOLVED that the ECFSA shall impose a control period upon the County whenever the ECFSA determines that any one of the five circumstances listed in Public Authorities Law section 3959(1)(a) through 3959(1)(e) shall have arisen.

This resolution shall take effect immediately.

Chairman Sampson: "Our last order of business has to do with the repurposing of approximately $1.4 million of efficiency grant money that has not been expended. It's been allocated but not expended. The County Executive has submitted to us a request and I would like Mr. Vetter to report on that please."

Executive Director Vetter: "Thank you Mr. Chairman. Very briefly let me go through this, the county has requested the repurposing of $1.427 million in efficiency grants that have already been encumbered for other efficiency purposes in the county but for one reason or another the county has not been able to draw down those funds. The largest amount of money for this particular purpose comes from the $1.26 million grant for thin-client efficiency program where the county goes to cloud computing instead of PC's through the county. The county will not be able to draw down those funds in the future because the county has bonded that equipment, already has created those efficiencies using another revenue source. The County has come forward with three separate proposals to use available funds right now. One is to get five (5) dump trucks/plows for the public works department, the second is to get heavy duty tractors and mowers for county parks and the third is for an emergency vehicle. In your packet there are a number of items related to this reprogramming. One is an analysis of the savings from each one of these programs and the payback period and if you look at the analysis each one of these has a payback period of between 2-5 years so that they are within a reasonable period of time. The county would be able to save an amount equal to and greater than the amount of the reprogramming. We have Commissioner Loffredo here and Commissioner Nevareth here to speak to any of these proposals. But in essence this is to reprogram money the county hasn't drawn down and will not be drawing down in the future for programs and for items that will save money for the county going forward."

Chairman Sampson: “Thank you Mr. Vetter. Do any of the authority members have any questions for Mr. Vetter or representatives from the County?”

Director Creighton: “I have a question and maybe Tim you can answer this. Was some of this money part of the money on the bargaining table during bargaining for, in other words are we taking? I think some of this money was going to be used for CSEA, now it’s not.”

Tim Callan: “ In the CSEA offer the county made to the white collar union this summer, we discussed making the retroactive pay component, suggested we could use unused efficiency grant funds available, the available balances from ECFSA. As you know CSEA by an overwhelming margin rejected that contract. What we are doing with union contracts, answering this question and the comment you made a few minutes ago Director Creighton. The concern we have and I think it’s a similar concern that Chairman Sampson has is the state has previously threatened, the state division of budget, has threatened to claw back unused efficiency grant funds in prior years. I don’t recall, did they actually do that at one point to a little bit of money Ken?”

Executive Director Vetter: “There was an adjustment of 1% to some of the funds in the past. Yes.”

Tim Callan: “So the Administration and Chairman Sampson had a similar concern that as the governor looks for pockets of money to close the next year’s deficit in the state’s upcoming fiscal year budget. That the longer this money sits there without being tapped the state will grab it back and it will not be available for the county to use, subject to your approval. So, we came together with Chairman Sampson after talking with departments, we had a situation in public works where Commissioner Loffredo if you wanted can get into way more detail than I could. They haven’t bought new plows in a lot of years.”

Director Creighton: “You went through all of this the last time you were here.”

Tim Callan: “And so were talking about using $1.4 million of the roughly $2.4 million balance of unclaimed efficiency grant funds which will leave about $1 million still there. Without getting into details, we’re pretty close with three unions to resolving their contracts. We’re still hung up with some of those bargaining units about health insurance and paid holidays and a few work rule issues. But we’re pretty close, literally yesterday three proposals from our Commissioner of Labor Relations came across to Budget asking us to analyze them for fiscal impact. The County Executive wants to settle these contracts, very badly. But we can only do so if they are financially reasonable and we can afford it. We don’t have money in the four-year plan or next year’s budget to settle contracts in part because it was just that tight and it would require even more cuts or a higher property tax increase which he was not willing to do. However, what does remain available to us, in addition to this $1 million if your body approved of it, the remaining efficiency grant funds is our fund balance. The county has $83 million of unassigned fund balance, free and clear reserves. Which subject to legislature approval can be a source of funding for settling contracts and the County Executive remains open to the prospect of using that. Again, it is subject to Legislature approval to do that. It would require the Legislature's approval to appropriate fund balance for any purpose. That's on the table, we are $30 million above our 5% charter requirement in terms of unassigned fund balance. We are required to keep $53 million in reserve we have $83 million right now. So, that remains an option for settling the contracts."

Chairman Sampson: "Thank you. Any further questions?"

"In that case could I have a motion to approve the reprogramming of efficiency grant funds as contained in your folder?"

Director Lipke moves to approve, Director Creighton seconds and the Board votes unanimously to approve the following resolution:

Resolution No. 12-15

APPROVING AN EFFICIENCY GRANT FOR COUNTY VEHICLES

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, Section 3957-a of the New York State Public Authorities Law ("Public Authorities Law") provides that, subject to appropriations during State fiscal years 2006-07 through 2010-11, the ECFSA shall provide grants to the County of Erie (the "County") to support activities that achieve savings through innovations and reengineering; and

WHEREAS, the County Comptroller submitted an application for an efficiency grant to fund vehicle and heavy equipment purchases intended to result in savings (the "Application"); and

NOW, THEREFORE, BE IT RESOLVED, that the ECFSA hereby grants up to $ 1,427,300 to Erie County in accordance with the Application, with the following restrictions: that those funds be used to purchase vehicles and heavy equipment to create efficiencies, pursuant to the Application; and

BE IT FURTHER RESOLVED that approval of this efficiency grant is contingent upon the County's adherence to its legislative process of accepting the grant, within 60 days after ECFSA approval; and

BE IT FURTHER RESOLVED that ECFSA approval of this grant shall be deemed to be rescinded without further action or notice if the County's legislative acceptance process is not completed within 60 days after adoption of this ECFSA resolution; and

BE IT FURTHER RESOLVED that the source of efficiency grant funding for this item is to derive from the previously approved, but not drawn down, $1,260,726 "thin client" technology grants and $166,574 from the previously approved, but not drawn down "Six Sigma" grant with it being understood that the County consents to dollar for dollar reduction in the ECFSA's "thin client" technology grants and "Six Sigma" grant for funds provided to the County pursuant to the Application; and

BE IT FURTHER RESOLVED that the ECFSA Executive Director send, via first-class mail, copies of this resolution to the County Executive; the County Comptroller; the Chair, the Majority Leader, the Minority Leader, and the Clerk of the County Legislature; and the Governor, the State Comptroller, the State Senate Majority Leader, the Speaker of the State Assembly, the Director of the State Budget, the Chair of the State Senate Finance Committee, and the Chair of the State Assembly Ways and Means Committee.

This resolution shall take effect immediately.

Director Creighton moves to adjourn, Director Thomas seconds and the board votes unanimously to adjourn.