

Minutes of the Erie County Fiscal Stability Authority

Finance Committee Meeting

October 21, 2013

Present: Chairman Brian Lipke, Director James Sampson, Director Lynn Stievater, Executive Director Kenneth Vetter

Guests: Robert Keating, Erie County Budget Director  
Joe Cercone, Erie County Budget Analyst  
Stefan Mychajliw, Erie County Comptroller  
Gregory Gach, Erie County Deputy Comptroller

Chairman Lipke: “We’ll call to order the meeting of the Erie County Fiscal Stability Authority Finance Committee. Welcome everyone to the meeting this morning. We are here today to review the county’s 2014-17 financial plan. We have Mr. Keating the County’s Budget Director and Mr. Cercone, to make a presentation on the submission to us. Before we get started with that we have minutes from our last committee meeting in our packets today I would make a motion for their approval.”

Director Marlette moves to approve, Director Sampson seconds and the Committee votes unanimously to approve the minutes of the previous finance committee meeting.

Chairman Lipke: “I’ll turn it over to you gentlemen and allow you to make your presentation.”

Bob Keating: “Thank you so much for taking your time to meet with us to discuss our 2014 budget and four-year plan. The budget is basically \$1.39 billion this year. Backing out sales tax sharing, this year our budget is \$1.06 billion.”

“A favorable thing this year is we had assessment growth- last year we had negative. Our tax base went down last year, this year we’ll have an increase of 1.88% so that will allow us to see more property tax revenue and also share some with the library which is one of Mark Poloncarz top priorities. We have more properties on

the tax rolls now and the trend is getting better and better. We expect our base to grow. We have 2% projected in the four-year plan and see good things for our tax base going forward. We are keeping the tax rate at 5.03 per thousand, which is one of the lowest rates in all of New York State.”

“For sales tax, this year is not as good as we had hoped it would be to this point. We are basing our '14 sales tax on 2.75% growth over our projection of 2013 which is 2.94% growth in the budget. The growth in '14 is not based on the budget (the '13 budget) it's based on '13 projections, which is less than budget. We feel that number is conservative, the last two quarters, there has been over 3% in growth that we factor out the impact of our periodic adjustments. So the true 2013 sales has been 3% over the past two quarters and we anticipate that trend will continue.”

“In our budget we have decreased staff by a net of 12 positions. There are of course adds required by the New York State COC and we've actually added a few positions this year for jail management, but net overall we are cutting staff in the general fund by 12 positions.”

“We're using a modest amount of fund balance. We feel \$5.4 (million) is reasonable. There is an additional \$2 million being used for a one-time project for the South Park Botanical Gardens and that project was approved by our capital projects committee.”

“We will also this year, to help close our budget gap, close out \$3.9 million in capital projects where there is no debt service. That will be a one-time benefit to the county and that will help us in '14.”

“We are also, in our budget we are planning to opt-in to the 2010 pension stabilization program. That would save us \$8.6 million this year. This program, there are two programs out there, the '13 program and the '10 program. The '13 program we would have been required to opt-in in December of this year, the '10 program we can decide as late as December of '14. It's a better interest rate and it's a better program for us and we'll use that if we're required but if good things happen during '14 we're not forced to be in that program.”

“But, at this point in time, this is a certain way to close a budget gap, other alternatives are maybes and ifs- this is a sure thing. At this point, plan to use it and then we’ll see in November/December of next year if we need to use it or not.”

“The other big problem this year with our budget was the increase in mandated Safety Net costs. The trends are increasing and it’s unfortunate we’ll probably spend \$8 million more than we did in ’13, so it’s a big issue.”

“I’m here with Joe Cercone and we’re happy to take any questions you have on the current year budget or the four-year plan.”

“Thank you.”

Chairman Lipke: “Any questions of any of the committee members?”

Director Sampson: “Mr. Keating, you talk about 12 deleted positions. How many are we adding as a result of the Corrections report?”

Bob Keating: “We added 15 this year to the Jail Management division.”

Director Sampson: “And where did the deletions come from? So, actually you’re deleting how many positions?”

Joe Cercone: “I do have a chart. This is all funds, full-time positions and regular part-time positions, which is a net 54 decrease.”

Director Sampson: “Are those positions out of discretionary funds or are you also losing revenue?”

Bob Keating: “There is some revenue in there that factored in. There’s less revenue in the budget for the social service positions and these positions are ones that have been vacant for a long, long time in some cases over a year that cannot be filled.”

Director Sampson: “What do you mean they cannot be filled?”

Bob Keating: “They have been vacant for a long time, the department is having trouble finding people for the jobs.”

Director Sampson: “One last question, actually two. What other Counties are participating in the pension program?”

Bob Keating: “Westchester...we can get you a list. I think there is a total of 180 total governments that include counties and 77 participated in the

program last year. We can get you a list, we know Westchester is the main one participating that is one of the best run counties.”

Director Sampson: “Last one, our payments to ECMCC...what does that look like?”

Bob Keating: “We are still under the credit mechanism. We are projecting \$16.2 (million) for 2014. If the credits runs out, if we use all the credit, I’ve been talking to ECMC and we’re very confident we can negotiate a new amendment to the agreement that would use the credit process for the long-term. And again, these IGT costs, they’re called IGT costs, have been going down for the past 4-5 years and will down to next to nothing, if we can get over the hump let’s say, and ECMC won’t even have to deal with us.”

Director Sampson: “Thank you.”

Director Stievater “I have a question about the pension stabilization program...it’s obviously a huge balancing item in the budget.”

Bob Keating: “Yes, absolutely.”

Director Stievater: “So, I was just curious what period of time the amortization takes place?”

Bob Keating: “It’s over 10 years.”

Director Stievater: “Its 10 years? What kind of interest rates?”

Bob Keating: “It’s 3.67% and again, in this case, we have to decide- we have as late as December 15<sup>th</sup> of 2014. So, at this point, everything remaining as it is, no changes in Medicaid reimbursement levels or Medicaid for the state. If the Affordable Care act goes in as it is the law right now, our Medicaid will be going down. But we have no assurance it’s going to be as amortized. So, just to be safe the state has not given any revised Medicaid numbers so if they give us better numbers then...It’s where there is a reliance on the pension stabilization. That’s why the December ’14 trigger date is key to us. Otherwise, the ’13 program we had to decide by December 15<sup>th</sup> of this year which is way too soon.”

Joe Cercone: “I just want to interject and take a moment getting back to the issue of vacancies. Just to talk about the process that we use.”

Chairman Lipke: “I was going to ask a question about that...”

Joe Cercone: “Go ahead. Do you want to ask your question or should I just go ahead...?”

Chairman Lipke: “My question was going to be, how many vacant, unfilled positions are in the budget and why?”

Joe Cercone: “That’s basically what I was going to discuss. I didn’t run a report today because it changes every day but I believe there is about 180. The positions that are being deleted in the ’14 budget are obviously still sitting there vacant. There has been a lot of discussions over the years about jobs and vacancies so the process was basically to look at positions that are vacant within departments, especially ones that have been vacant for significant periods of time; for more than a year. That was basically the first round, looking at whether we needed to keep that position. A lot of positions become vacant but you need to look at the operation of the department, for example in Social Services the majority of the positions are civil service pending exams, it doesn’t make sense to fill a job when you know the results of the exam are going to be coming out because the person they put in the job may not be on the list and the person would have to be laid-off or whatever.”

Bob Keating: “And training is an issue too.”

Joe Cercone: “Right, why train someone if you don’t know if they’re going to be permanent when the list comes out? The Sheriff’s Department- in the jail- the past few years we’ve been adding positions that constantly have turnover- it doesn’t make sense to delete a Deputy position that is currently vacant- they don’t really fill them till the next scheduled training which won’t be until January and also that we are adding. It’s the type of issue that you spend a lot of time trying to make sense out of the big picture-not just looking at the fact that it’s vacant and should be deleted. We work with departments trying to give them some flexibility and say with which positions do you really need- can you trade-off this vacancy for something else. It’s a little bit more involved than you might hear about phantom jobs or vacancies in general.”

“As some of you know, I’ve worked for all the budget directors or former budget directors here and every year we look at vacancies. It’s one of the first things you do when you start reviewing department budgets is you run vacancy reports and talk to

departments and ask for their recommendations- it's just a process that has always happened. I've worked on 28 or 29 budgets."

Chairman Lipke: "So out of the entire county workforce what percentage would you say is vacant and unfilled?"

Joe Cercone: "I can get back to you with some exact numbers but it would be less than 1%."

Chairman Lipke: "So, it seems big but it's really not?"

Joe Cercone: "No, and again most of it is just normal turnover. With all the positions in the county it just happens."

Chairman Lipke: "Thank you. Peter?"

Director Marlette: "Yes, just looking at some various line items and I know you addressed it in one of the questions we proposed but the Department of Law and Risk Retention policy is there something that last year- the outlays were not significant, \$69,000 or so."

Bob Keating: "That was the budget number- we still plan to spend \$2 million this year which was mostly from a carry-over from 2012."

Director Marlette: "And there is not something significant coming up this year? A significant number of suits coming up this year? It's just trying to maintain that line for \$2 million dollars?"

Bob Keating: "Exactly."

Joe Cercone: "There are always numerous lawsuits that are out there and the county attorney has to estimate what could be the liability. They have actually been very good trying to resolve the cases and settle when it's reasonable. It's sometimes hard to predict exactly what's going to be happening. I believe that was one of the questions we responded to with some numbers. It does appear they'll spend all \$2 million by the end of the year. Although, you never really know."

Bob Keating: "Again, in our four-year plan we have \$2 million this year and \$3 million in the out years. I think \$3 million is a reasonable number and we can get by with \$2 million in 2014 but you want to have \$3 million every year going forward."

Joe Cercone: "It's one of the issues where if the case is settled you have no choice. The county has to come up with the money, so it's

reasonable to put in \$3 million which tends to be the average. Occasionally we get a really significant settlement with a large amount...we have to come up with the money.”

Chairman Lipke: “Having a consistent number year after year after year than trying to guess at it makes more sense.”

Bob Keating: “Right.”

Joe Cercone: “I would agree that that would be a great policy- in the past the Legislature has a few times decreased that number to cut the budget or whatever. You know it’s a recurring expense that should be part of the budget.”

Chairman Lipke: “Right. Any other questions?”

“We have received your- I would have to call it- very expeditious response to our questions and we appreciate getting them so quickly. Unfortunately, we haven’t had time to review those responses yet, as I understand we received them at 8:41 last night. We apparently don’t work around the clock like you do. We thank you for responding so quickly and early and will be reviewing them and as a result we won’t be voting on the budget today- we will be more than likely to that at the full board meeting coming up at which time we would appreciate it if you could rejoin us at the full board meeting in case there are any questions from our other board members.”

Bob Keating: “Absolutely. Any follow-ups...feel free to contact us.”

Chairman Lipke: “We have the Comptroller here today. I’ll give you the floor if you’d like to speak.”

Comptroller Mychajliw: “Good morning everyone, I really appreciate the opportunity to share some our concerns pertaining to the proposed 2014 budget. The County Executive has pretty much put his priorities on paper when it comes to the budget, the Legislature will in the coming days and weeks will share their priorities with us as well.”

“Our initial concern is basically the use of one-shot gimmicks, smoke and mirrors to balance the budget. We talk about, you brought up the issue of kicking the can on pension payments, it’s about a \$8.6 million kicking the can

on pension payments. Mr. Keating actually said last year, this is from your control board meeting in October 2012 this is Mr. Keating's words...(quote) "you pay the retirement bill, there is an option to amortize the bill, there is a one-time savings, but it's a long-term cost with high interest rates, it's not a good decision." These are his words last year "It's not a good decision, but yet it would have solved the budget problem this year" this is the key component right here..."it would have made it worse in future years." These are not our words, these are the Budget Directors words last year before this Honorable Body as a matter of fact. "It would have made it worse in future years."

"Then you look at other prominent Democratic Officials, Stephanie Miner, she is the Mayor of Syracuse, she is also the co-chairman of the New York State Democratic Party, she called it an accounting gimmick. The former Lieutenant Governor of New York State, Richard Ravitch, "they call it pension smoothing but that's a lot of nonsense, they're borrowing. They're contributing promissory notes to the pension fund and that is what's called in my world kicking the can down the road, and I consider it highly irresponsible, highly risky." They are not my words, they are from the Budget Director last year and other state officials pertaining to that issue."

"We had, about 10 years ago, a County Executive who had increased spending, held the line on taxes and used one-shot revenues to balance the budget. How'd that work out for Erie County? Not very well, the fact that you're here, it's the whole reason why we are here is the use of one-shot revenues, increase in spending and not basically holding the line on the budget using these one-shots."

"I'll share the words of the County Executive himself, I agree with Mark Poloncarz. He had said in March of 2011, "I'm concerned because like the previous administration the County Executive's 2011 budget uses \$16.7 million of reserves. A one-shot revenue stream, to balance the budget. The use of the county's fund balance for recurring expenses was one of the key factors that lead to the Red/Green fiscal crisis."

"I whole-heartedly agree with Mark Poloncarz in 2011. That the use of one-shots for recurring expenses lead to the Red/Green fiscal crisis. It's the whole reason why you are here. In this year's budget there is use of \$5.4 million of unassigned fund balance. You count the \$2 million for the Botanical Gardens use of one-shot revenue. And then you add the \$8.6 million kicking the can on the pension payment that totals \$16 million. So the current County Executive is highly critical of using \$16.7 million in one-shots to balance the budget, now he's using \$16 million to do the same thing. That is certainly one of our concerns."

"Sales tax is another very serious concern in the budget. Right now the actual growth, the actual sales tax growth is extremely low. It's tanking. Common thought would have been that sales tax would have bounced back in the month of August because of back to school sales, it actually went down. At this point in time we have a \$6.3 million hole in this year's budget. In the 2013 budget the sales tax is incredibly low."

"If you look at staffing at the jail, right now according to the County Executive they are not going to be staffing an adequate amount of positions in Jail Management in the County Executive's budget. They will be out of compliance with COC requirements when it comes to staffing levels at the jail."

"We are also incredibly concerned and Mr. Gach will go into the weeds a little deeper when it comes to the budget. It appears at first glance we don't have sufficient funds to borrow next year. We don't have money to pay our consultants or bond counsel to actually borrow next year. I don't want to think that is any semblance of a partisan issue, hopefully it's just an oversight but in the 2014 budget we don't have money to borrow."

"So, that's some of the big picture concerns we have at this point in time as it pertains to the budget and I'll let Mr. Gach, our Deputy Comptroller go through the weeds a little bit and touch on more specifics of our concerns, our very initial concerns looking at the 2014 budget."

Greg Gach:

“Thank you, it will be a week tomorrow that we have seen the budget and I and my staff have been working on it and we are up to a 20 page report at this point that will be releasing at the end of this week but as the Comptroller mentioned there is a lot of concerns on the budget that we are seeing just on the surface. Sales tax is the biggest one. As he was saying, we are at 2.2% growth right now through 8 months and keep in mind, 3 months, 3 out of the 8 months this year we saw negative growth. The August was a (-.05%). Last year we were basically at the same type of situation, the budget came out, assumed 3+% growth for 2012 and a 3% growth and go beyond into ‘13. What happened was the last few months of last year tanked. The last four months last year grew by 1.7%. If that happens this year, we’re going to be looking at probably having to grow somewhere in the order of 3.5% to almost 4% next year to meet this budget number. So, that number seems very, very high. And what’s interesting is, they’re forecasting a growth of sales tax projection but on the other hand when you start looking at their Safety Net and Family Assistance Program and other social services programs they are talking about rising caseloads and rising costs per case. Which seems to be the reality of the situation. So I don’t know how you have an economy growing by 3-4% but your caseloads are growing by large, large numbers. It’s the opposite of what you would expect to see.”

“The other interesting fact is the \$8.6 million kicking the can down the road with the pension payment. As I believe you are all aware, I was Budget Director under Chris Collins, one of the messes we cleaned up from Joel Giambra was he kicked the can down the road back in 2003, I think it was. Where he took advantage of a payment plan. Where there was a blip in the payments and when the county could have paid it off over I believe it was 10 years and what happened was we looked at the bill and we paid it off right away and saved the county a few million dollars that way. They are doing the exact opposite. They’re saying \$8.6 million over 10 years- that means taxpayers in 2024 will be paying the pension bill for 2014. I came from an administration where we wouldn’t want to do that. I can even go back to the Gorski administration where we didn’t take advantage of those back then either.”

“Vacancy savings- I think there was a high point in the vacancy reports that came out with the BMR’s with 260 this year. They had

all been running around 200 or so. They said they deleted about 50 or so vacancies. Two of them was ours. What we did was we had a staff of 34- we cut 2 positions and we transferred a position over to Probation where that person was doing 98% of their work for Probation and 2% for ours so we moved it over there. So we are down to 31 positions. We tightened our belts and we believe the county can tighten their belts. Last year, our I should say, December last year the administration was complaining about the increase in the turnover budget- well they're meeting the turnover budget. I think we have the opportunity for next year too."

"Fringe benefit numbers look a little bit weird to be honest with you. We haven't got into the details of it because quite frankly unlike your organization who sends questions to the administration and gets them in the middle of the night on a Sunday night, we send letters and phone calls and don't get any response. So, we have to basically sit here and listen to what the answers are. Fringe benefits looks a little high too. There are a lot of issues with this budget."

"Fund balance usage- I think there should be a plan for fund balance usage rather than just we're going to use a number type of thing. It just doesn't seem right. Sales tax, pension payment, I'm hearing that Medicaid may be lower next year, so if does come in (lower) then we won't have to use the pension. They're saying Medicaid is going to be \$8.6 million less next year to pay for this. I'd be surprised but on the other side of this I expected to see a lower Medicaid payment because Obamacare was expected to kick-in. Basically, it's a different version of F-map. F-map was the assistance the federal government gave to NYS and the state shared with the county. Obamacare is the same type of thing. They are rewarding states that are already in to all the options of Medicaid. And they are paying states, I think it is for that amount, I think its 100% for 5 years. The state has agreed in principal to send 80% of the county savings back to the county so there should be multi-millions of dollars' worth of savings in Medicaid next year also."

"But on the flip-side, they talk about the IGT payments- they budgeted \$16.2 million saying they'll work out a deal- basically kick the can down the road on that. That is a 15 year pay-back plan of \$2 million per year. So again, what you're talking about is tax

payers in 2029 paying for a 2014 IGT payment. And who knows what is going to happen in the meantime. With the property tax cap, which is a very, very difficult thing to overcome quite frankly. Especially when your expenses are out of your control. To kick the can down the road on your pension, your IGT payments...I think it's a bad decision. Because what you're going to end up with is some future County Executive, whether its Mark Poloncarz or somebody else that we don't even know of at this point they're going to be faced with "Hey, I've got to pay, its 2017 and I've gotta pay 2014's pension payment, I've got to pay 2014's IGT and that eats up my whole tax cap. What do I do after that?" You wind up cutting county government and I think it's just bad policy."

Comptroller Mychajliw: "We led by example in our own office this year with vacancy savings. We reduced our own budget by almost \$500,000...it's a 14% reduction. Our budget next year, will be reduced by almost \$100,000. People in the private sector are doing more with less, people with their own family budgets are doing more with less. We're doing the same."

"County Clerk Chris Jacobs has copied you on a correspondence with the administration. He feels as though the Administration is being overly optimistic on auto bureau revenue projections by \$500,000. According to the Clerk, the New York State Department of Motor Vehicles is also backed him up and said that number is off by \$500,000."

"There is a lot of increased spending in this budget. Our concern is that, this position for an Economic Generator in Toronto is a patronage position. I don't know if anyone has reached out to Tom Kucharski at Buffalo Niagara Enterprise but it's my understanding we do have someone already in Toronto trying to push business for Buffalo. So is this newly created, potentially patronage position, are they going to conflict with Tom Kucharski's work? Are they going to conflict with what's happening in the private sector? I don't know. That's why we mentioned the fact that there are some concerns in this budget. Those are exactly what we found- just after taking a first glance at it. We are going to dig through the weeds even more and have a full report shortly."

Greg Gach: “One other thing, as Stefan just mentioned, there are discretionary funding increases. However, as the Budget Director mentioned, they didn’t fund 12 additional positions that the COC and the DOJ as part of their deal with the county a few years ago required. So you have 12 positions for the holding center not in the budget even though an agreement was signed by the county to add those positions in the budget. And the only way to get a handle on the overtime over there is additional positions. The real answer, quite frankly is to build a new jail but nobody has \$300 million and a piece of land to build a jail on. The jail is old, the pods are great because you use less guards, the Collins administration started the revamping of the gym over there to be a triage area which again saves staffing but you have the linear cell blocks that require a lot of staff. You have to have staff there 24/7, so if somebody calls in sick, they need vacation or whatever, you need more staff. That’s the answer the COC and DOJ came up with and the county agreed to but now the county is backing out of that deal.”

“So, there are holes on the appropriation side and I think there are some optimistic revenues out there. There’s issues.”

Comptroller Mychajliw: “I will close by saying again, on kicking the can on pension payments, I whole heartedly agree with Mr. Keating when he said to you last year “it’s not a good decision, and “it would have made it worse in future years.” Those are his words that I whole heartedly agree with on using one-shot revenues and kicking the can on pension payments. Thank you.”

Chairman Lipke: “Gentlemen, thank you. Any other business before this finance committee meeting closes?”

Director Sampson moves to adjourn, Director Thomas seconds and the committee votes unanimously to adjourn.

Respectfully submitted,

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James Sampson  
Chairman

