

ECFSA Full Board Meeting
SUNY Erie City Campus Auditorium
October 27, 2022

Present: Chair James Sampson, Vice-Chairman Peter Marlette, Director Craig Speers, Director Oliver Young, Director Craig Speers, Director Peter Stuhlman and Executive Director Kenneth Vetter

Guests: Bob Keating and Undersheriff Bill Cooley

Chairman Sampson: “I would like to call this meeting of the Erie County Fiscal Stability to order. At last week’s finance committee meeting we received a presentation from the county on its 2023 recommended budget and plan. The ECFSA board will opine on that but before we do that we need to approve the minutes. Do I have motion to approve?”

Resolution No. 22-09
APPROVING MINUTES FROM
THE JUNE 8, 2022, MEETING

BE IT RESOLVED that the Erie County Fiscal Stability Authority approves the minutes of its JUNE 8, 2022, meeting and affirms eight resolutions numbers 22-01, 22-022, 22-03, 22-04, 22-05, 22-06, 22-07 and 22-08 that were approved on JUNE 8, 2022.

This resolution shall take effect immediately.

Director Speers moves and Director Stuhlmiller seconds. Resolution is approved.

Chairman Sampson: “We have Bob Keating here from the Budget office does anyone has any questions? Also, a representative from the Sheriff’s department to talk about overtime.”

Chairman Sampson: “Bob why don't you step up one more time. Anybody have any questions?”

Chairman Sampson: “No questions, Thanks Bob you can stick around if you would like.”

Undersheriff Cooley: “My name is Bill Colley-Undersheriff, Erie County Sheriff’s Office.”

Chairman Sampson: “I will begin with some observations and thoughts. I'll begin I think the budget has 57 new staff for the Sheriff’s office.”

Exec. Director Vetter: “Yes compared to last years adopted budget.”

Chairman Sampson: “There were talks about the ability to reduce significant overtime, not the budgeted overtime. One of the question’s I have is to see what the plan is to reduce overtime.”

Undersheriff Cooley: “Yes. We just put in candidates in the jail management division. So, they're in training right now and we're about 30 strong.”

Chairman Sampson: “Let me back up and just say thank you for coming. We really appreciate you being here.”

Undersheriff Cooley: “I will do my utmost to answer any questions you have. Also, we appreciate your service to Erie County as well.”

Chairman Sampson: “Dovetailing on that should we be assuming you can hire all those staff, filling vacancies and reduce overtime .

Undersheriff Cooley:

“A great deal of our overtime costs are related to manpower shortages. So certainly the addition of these positions is going to mitigate that and it's also going to mitigate the kind of workforce we need. We are doing a top to bottom assessment of the office. In the first ten months of the administration, we realized early on that we were understaffed and we do our utmost to try to improve the staffing model. Resignations are outpacing retirements in our office. It is cheaper to pay overtime than hiring staff. Our diagnosis is the workforce is literally broken and forced to work-days on end. For a midnight guy show up 10:45 at night for his briefing only to find out at 6:30 the next morning that was required to stay there until 3:00 p.m. that next day so there is adequate staffing facility is difficult. So, there are 16-hour days. Sometimes for three or four days someone might have mandated overtime. So, it's going to burn out the staff. Calculate the liability associated with the workforce like that. It's so expensive only to see guys going out the door.”

Undersheriff Cooley:

“We lost two guys in the same week to NAPA auto parts and that's something that we will never see in certain jobs like this. So, we're appreciative of the county's efforts to recognize the responsible position of recognizing that we need staff. We petitioned civil service to move up another exam on the calendar with respect to jail management, which they did, and we are grateful for that. You know our hope is that we get more than 280 that our signed up for that which is sort of a low number. We appreciated the positions that the County has given to us. It's going to be an ongoing challenge but it certainly something we are aware of.”

Chairman Sampson: “How do those double shifts manifest in the jail and on road patrol?”

Undersheriff Cooley: “Those manifest in resignations. We'll see the uptick in sick leave. Sometimes people aren't sick but they need a break. So, they will take a sick day to have a mental health day. So, people were being forced to work. We went around and met with all the law enforcement staff. It was consistent with what was happening. We would like to be given the position again everything we ask for. We frankly see, which is COC which is an entity that oversees a lot of what happens and they basically said we're down about 161 positions. So, they are advising in lot of ways but not when it comes to staffing they don't get involved with the financial part of it. There are a lot of regulations and orders we need to abide by.”

Chairman Sampson: “I started my career years ago in corrections. Are those facilities around 50% capacity?”

Undersheriff Cooley: “Presently, we're right about 56%. Today's data lists 772 incarcerated individuals. There's been some instances where people are taken in on parole violations.”

Chairman Sampson: “There's an Editorial in the Buffalo News according to the Sheriff the county wanted a modern facility. You don't have to attest whether he said it or not.”

Undersheriff Cooley: “I can say with 100% certainty that you could run one modern facility for considerably less staff, whether it's half, I don't know the Holding Center in downtown was built in 1939. it's very linear, making it hard to staff and supervise.”

Chairman Sampson: “So a new facility would be probably facilitate more effective programming and staff would be safer. So then the question becomes, is there any discussion about that?”

Undersheriff Cooley: “Yes, we met with the County Executive and his staff.”

Chairman Sampson: “I’ll just say for myself we’re in support of a new facility. My last comment is to compliment you on your new recidivism program. I don’t think it’s quite the attention it deserves. Can you talk a bit about that?”

Undersheriff Cooley: “Sheriff Garcia created a position for Chief Dina, who was formally the superintendent, now Chief of Community Reintegration and some different programs that have been really successful. When you look at recidivism, the rates were upwards of 65, 70% in some instances. People that participate in the blue print program the rates drop down to 10%. So that data certainly supports the decision. No pun intended. But we have a captive audience based on their skills. Instead of running them out the door without an ID, now they have a driver’s license or they have basic skills that they didn’t have.”

Chairman Sampson: “Thank you. Any other questions?”

Director Speers: “Bill, I have a couple questions with regards to the Arena security downtown. I have been to a number of events down there. I’ve seen the sheriff’s personnel. There providing external and internal security. How does that work now that Buffalo does not have traffic division anymore. Do you do point protection or does Buffalo Police still do it? How does external security work for the arena events?”

Undersheriff Cooley: “So externally the Buffalo PD doesn't have a traffic division anymore and it is the Bravo district. They do deploy to certain properties downtown. So, we also handle outside. We have SWAT on the exterior and K9 operators.”

Director Speers: “ As far as how that works funding wise revenue. Do the Sabres reimburse you for that or is that just considered a public safety cost?”

Undersheriff Cooley: “They don't. Last week or it was a week before we met with the Sabres and we're in conversation with them. We sort of inherited a deal that was inadequate. In our early instructions the Sabres seemed to be in lockstep with our position. So, our sense is that it may not be a real effective accounting, it may not be 100% reimbursable. But I think moving forward. We're going to have much better arrangement for the tax- payers of Erie County.”

Director Speers: “That's great. The last question I have is about the road patrol division. There are 57 new positions in the Budget for the sheriff's department in general. How many of those will be positions will be for road patrol division and how will that impact their overtime?”

Undersheriff Cooley: “So eight positions are earmarked for the important zones. We run a schedule that is probably about the most efficient scheduling. There are four platoons ABC and D. You work out six, two, six, six, eight and 16 and 16, two, six, eight and. One, two, one, two, three, two, two, one, three, five. So, the subsequent week mirror opposite of the week we just came out of. But in any event, we're going to propose a position right into the platoons with the hopes of boosting our staffing. Also navigating manpower shortage. We cover 18 towns and villages we're the primary law enforcement entity and

really spread very thin. I think people don't really understand what the service division does in those 18 municipalities. We are also countywide, about a third of the agency was responsible for rural areas of the county, and the other two thirds are responsible for Detective bureaus and arson investigating. We are responsible for the coastline We have special disciplines throughout the county. There are several police departments that are similar in size, but they got nowhere near the various responsibilities that we have.”

Director Speers: “Yes, I've seen the mounted division during the summertime and one of my ideas, which I've passed along to a couple of the Buffalo Council members Would be better use of the sheriff's mounted division in places like Delaware Park I see them downtown and I think they are tremendous. It's a tremendous service that the Sheriff's department offers to the taxpayers. I would love to see them patrol the area around Delaware Park Lake or in South Park.”

Undersheriff Cooley: “Sure. We try to be responsive when they have requests from time to time as well, and I don't disagree with you I think it's nice to have that presence there especially in the parks.”

Director Speers: “Absolutely. Thanks Bill I appreciate it”

Director Oliver: “How long is the training required to be a correctional officer?”

Undersheriff Cooley: “So it's a ten-week academy, followed by an on-the-job training for a week.”

Director Oliver: “The training occurs after the civil service process?”

Undersheriff Cooley: “Yes.”

Director Oliver: “This final question this has to do with staffing. Are you starting to use more technology now to serve so many officers outside the facility for inmates to bring them to various courts I would think that would change your staff and ratio. Is that ongoing now?”

Undersheriff Cooley: “That's not something in our purview to decide. Some of the judges decide if they want to do things virtually I like support areas and assignment work that they were involved.”

Director Oliver: “Thank you.”

Vice Chair Marlette: “Bill I appreciate. We all appreciate it. I think you've shed a lot light especially the overtime situation. I mean, I frankly I contributed to the overuse of overtime is kind of a risk management issue. I really didn't realize it was the understaffing issue.”

Undersheriff Cooley: “Often our staffing on Jail Management side is dictated by rank and classifications. So, this will sound like an oversimplification, but where we used to have maybe a pregnant female housing unit and there were seven people there and now there's only two, but we still have to staff it fully. So, it's the classifications and some of the unfunded mandates that came down to the complication of all of that, which is the main alternative to long term solitary confinement. We have security components that we have to staff. Visitation is going to be resurrected very soon due to COVID but it's been a big part of staffing.”

Chairman Sampson: “Just one more question. Why are there so many resignations?”

Undersheriff Cooley: “When you see these resignations. It's troubling to us. You know, it was a pretty good contract that was entered into by CSEA early last year and negotiations would be under way if they're not already with the Teamsters fact they're good paying jobs It's new generation. Some of this new generation might never pull a hamstring. They're not interested in working a tremendous amount of hours and that is the way we are set up at this point. So, we will have to you slow that down to some extent”

Chairman Sampson: “ Any more questions for Bill? If not we have a resolution our packet recommending the ECFSA remain in advisory status and the resolution reflects major items in the report and continuing the current advisory status. So, I draw your attention to their motion of my resolution. If I could have a motion?”

Director Speers moves and Director Stuhlmiller seconds. Resolution is approved.

Resolution No. 22-10

FINDING THAT ERIE COUNTY’S 2023-2026 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, 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

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 2023 on October 14, 2022, and a four-year financial plan (“Plan”) for fiscal years 2023-2026, to the ECFSA on October 14, 2022 (the “2023-2026 Plan”); and

WHEREAS fiscal years 2024 through 2026 constitute the “Out Years” of the 2023-2026 Plan: and

WHEREAS Public Authorities Law section 3957(1) requires that the 2023-2026 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 3, 2022, whether the 2023-2026 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 2023-2026 Plan: and

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

1. A forecasted slowing economy, discontinuance of federal pandemic subsidies and a high inflation environment place financial strains on Erie County (as well as other local governments) to provide services in a higher need environment, at a higher cost with potentially fewer resources to draw upon; and
2. With regard to the Erie County Medical Center Corporation (ECMCC), the county has crafted its budget and associated financial plan to reasonably reflect currently anticipated county liabilities to ECMC. However, given increases of \$9.1 million for 2023 and \$12.4 million in hospital related spending over the 4-year period, as compared to the 2022 adopted version of the financial plan, there is a potential for further required hospital spending that could negatively impact the county's financial position; and
3. Given the order of magnitude of sales tax revenues (33% of budget) and the regression to the mean, after almost two years of unprecedented increases, there is a concern that sales tax revenues may not only slow, but may take a downturn over the period of the financial plan; and
4. Every 3 years, the county's 1.75% sales tax must be reauthorized by a vote of the county legislature and New York State. The county has never failed in this reauthorization process, due to the responsible action of county and state leaders. The ECFSA has assumed reauthorization of this revenue, totaling almost \$1.8 billion over the 2024-2026 period in its assessment of the county's financial plan; and
5. National analysts are forecasting a softening in the real estate market that could have a negative impact on the county's ability to increase its tax levy to fund necessary and desired services, without increasing the tax rate and placing a burden on those paying for the services the county provides; and
6. As of the writing of this report, the county is showing a significant overage in its overtime expense for 2022, centered in the Jail Management Division and Sheriff's Office. The county has increased its staffing in the general fund by 105 positions in 2023, 57 of them in the two divisions that are responsible for most of the county's overtime, with the intent of improving work conditions and containing overtime costs. This initiative bears watching over time to determine whether the intended outcome matches program results; and
7. As the local sponsor for SUNY Erie College, the county provides almost \$20 million per year in financial support to the institution. The College has experienced precipitous enrollment decreases over the last 12 years. The decline is expected to continue, thereby making the college's long-term financial health untenable. In the college's transition to a sustainable educational and business model, the

county may be called upon to provide increased operational and capital support, which could create fiscal pressure for the county's own budget; and

8. The county has retained vacancy savings as a budgeted savings in its 2023 budget and associated financial plan. Given ECFSA's monitoring of vacancy savings, those estimates are reasonable. However, maintaining this budgeted savings removes position vacancies as a potential gap filler if the county encounters unforeseen financial issues in the future;

WHEREAS, the ECFSA has nonetheless determined that the 2023-2026 Plan contains actions sufficient to ensure with respect to the major operating funds for each fiscal year of the plan – including budget year 2023 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

NOW, THEREFORE, BE IT RESOLVED that the ECFSA finds that the 2023-2026 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 six 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: “Thank you Bill and Bob for coming to the meeting.”

Chairman Sampson: “Every three years we send out RFPs for services. In your packet there are response and three resolutions authorizing the ECFSA to enter into agreement with the respective providers for a three-year period. They are Financial Advisor. Legal Counsel and Bond Counsel. Mr. Vetter “

Exec. Director Vetter: “Thank you, Chairman. Very quickly. You've seen the RFP you've seen the analyses of the proposals. The first one that's in the packet is for financial advisers. We had four firms respond. The current firm, Capital Markets, came in as the lowest cost, and they've done a good job for us. Any kind of borrowing we've done has been fairly complex with us and the county and sometimes with us, the county and the Medical Center, which makes it more difficult. So, the recommendation is that we re-up Capital Markets Advisors for the next three years with the proviso that we would be able to void the remainder of the contract if there is a negative outcome in finality from the SEC on the complaint issued from the Rochester School District borrowing.”

Chairman Sampson: “Can I have a motion to accept the resolution?”

Director Speers moves and Director Stuhlmler seconds. Resolution is approved.

Resolution No. 22-11

APPROVING ENGAGEMENT OF FINANCIAL ADVISOR

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 County if the County is unwilling or unable to take the required steps toward fiscal stability;” and

WHEREAS, Section 3954(4) of New York Public Authorities Law grants the ECFSA the power to make and execute contracts or agreements necessary or convenient to carry out its purposes; and

WHEREAS, the ECFSA issued a request for proposals for financial advisory services on August 5, 2022 and, received four (4) responses to the request. Staff

evaluated the proposal received and recommends Capital Markets Advisors, LLC as the most capable of providing financial advisory services to the ECFSA on an as-needed basis for a period of three years; and

WHEREAS, Capital Markets Advisors, LLC has performed their duties to the full satisfaction of the ECFSA throughout the duration of the current engagement and has submitted the best proposal, as delineated in the RFP analysis provided to the ECFSA Board of Directors; and

WHEREAS, Despite Capital Markets Advisors, LLC (CMA) performing their duties to the full satisfaction of the ECFSA, CMA has been cited by the SEC for improper activities related to an issuance for the city of Rochester School District, allegations CMA has disputed. A relevant court case will decide the matter in the not-too-distant future; and

NOW, THEREFORE, BE IT RESOLVED that the ECFSA engage Capital Markets Advisors to provide financial advisory services on an as-needed basis for a period not to exceed three years from January 1, 2023; and

BE IT FURTHER RESOLVED that the ECFSA, if there is a negative final outcome arising from the dispute between CMA and the SEC, reserves the right to void the heretofore agreement with CMA; and

BE IT FURTHER RESOLVED that such services shall be undertaken for such amounts and on such terms as agreed upon by the Chairman, or the Executive Director; and

BE IT FURTHER RESOLVED that this resolution shall supersede any previous resolutions of the ECFSA with regard to contracting for financial advisory services.

This resolution shall take effect immediately.

Exec. Director Vetter: “Mr. Chairman, the second one is very easy. Our current legal counsel is Phillips Lytle. They are the only law firm that has responded to the proposal. They have done wonderful job for us. Staff would recommend that we stay with the firm for three years.”

Chairman Sampson: “Can I have a motion to accept the resolution?”

Director Speers and Director Stuhlmiller seconds. Resolution is approved.

Resolution No. 22-12

APPROVING ENGAGEMENT OF LEGAL COUNSEL

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 3954(4) of New York Public Authorities Law grants the ECFSA the power to make and execute contracts or agreements necessary or convenient to carry out its purposes; and

WHEREAS, the ECFSA issued a request for proposals for legal services on August 5, 2022 and received one (1) response to the request. Phillips Lytle LLP has performed their duties to the full satisfaction of the ECFSA and it is assumed the firm will continue to do so, upon adoption of this resolution. Therefore, staff recommends Phillips Lytle LLP continue to provide legal services to the ECFSA on an as-needed basis for a period of three years;

NOW THEREFORE BE IT RESOLVED that the ECFSA engage the firm Phillips Lytle LLP to provide such legal services on an as-needed basis as requested by the ECFSA for a period not to exceed three years, starting January 1, 2023. Such services shall be undertaken for such amounts and on such terms as agreed upon by the Chairman or the Executive Director; and

BE IT FURTHER RESOLVED that this resolution shall supersede any previous resolutions of the ECFSA with regard to contracting for legal services.

This resolution shall take effect immediately.

Exec. Director Vetter: “Mr. Chairman. The third is for Bond and Disclosure Council. Two firms responded Phillips Lytle and Ballard Spahn They are both good firms. The hourly rates are consistent. They're very close to one another. The advantage to Philips Lytle is one they have done our bonding in the past and two

giving that this board has approved the law firm as the legal entity representing the authority, having the Bond Counsel as the same firm there is a certain degree of synergy. We've never been charged additional legal fees when talking to Bond Counsel. So given that the job they have done. Staff would recommend we stay with Phillips Lytle as Bond Counsel for the next three years.”

Chairman Sampson: Can I have a motion to approve the resolution.?

Director Speers moves and Director Stuhlmeier seconds. Resolution is approved.

Resolution No. 22-13

APPROVING ENGAGEMENT OF BOND COUNSEL

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 3954(4) of New York Public Authorities Law grants the ECFSA the power to make and execute contracts or agreements necessary or convenient to carry out its purposes; and

WHEREAS, the ECFSA issued a request for proposals for bond counsel on August 5, 2022 and received two (2) responses to the request. Based upon the analysis of proposals received, provided the Board of Directors, ECFSA staff recommends Phillips Lytle, LLC as the most capable of providing bond counsel to the ECFSA on an as-needed basis for a period of three years; and

WHEREAS, Phillips Lytle, LLC has performed their duties to the full satisfaction of the ECFSA; and

NOW, THEREFORE, BE IT RESOLVED that the ECFSA engage Phillips Lytle, LLC to act as bond counsel on an as-needed basis for a period not to exceed three years from the contract date of January 1, 2023; and

BE IT FURTHER RESOLVED that such services shall be undertaken for such amounts and on such terms as agreed upon by the Chairman or the Executive Director; and

BE IT FURTHER RESOLVED that this resolution shall supersede any previous resolutions of the ECFSA with regard to contracting for bond counsel.

This resolution shall take effect immediately.

Chairman Sampson: “With no further business I will enter a motion to adjourn.”

Director Speers moves Director Stuhmiller seconds.

Respectfully submitted,

James Sampson, Chairman

October 27, 2022