

Seneca County Board of Supervisors

Regular Meeting

September 11, 2007

7:00 p.m.

Call to Order

Chairman Barto called the meeting to order at 7:05 p.m.

Roll Call of Members by the Clerk

All members of the Board of Supervisors answered roll call.

Pledge of Allegiance and Moment of Silence

Public Hearings

a. Proposed Local Law No. C of the County of Seneca for the year 2007, extending and amending Seneca County Hotel or Motel room Occupancy Tax Law. Mrs. Amidon made a motion to open the floor for public comment. Mr. Mooney seconded the motion. The motion carried. No comments were heard. Mr. Davidson made a motion to close the public hearing. Dr. Dresser seconded the motion. The motion carried.

b. Proposed Local Law No. E of the County of Seneca for the year 2007, authorizing the county engineer of the County of Seneca to Reside in Seneca County or any Adjoining County within NYS. Mrs. Teichner made a motion to open the floor for public comment. Mr. Robinson seconded the motion. The motion carried.

Charles Carroll, Waterloo, NY, was recognized by Chairman Barto. Mr. Carroll spoke in opposition to proposed local law E. He stated that rather than changing the residency requirements by a local law, it would be better if it was done by a waiver or supermajority vote of the Board of Supervisors for the particular employee who was hired, and lived outside the county. He reasoned that passing a local law for the position [county engineer], was sending a message to the residents of the county that there may not be qualified people living in the county to fill the position. Mr. Carroll also questioned the cost incurred for the position's salary and benefits. Chairman Barto stated that a cost analysis of the position revealed a cost savings in creating the position of county engineer.

There were not any other comments heard. Mrs. Amidon moved the public hearing closed. Mr Davidson seconded the motion. The motion was carried.

Presentation

September is National Preparedness Month. Lynne Tyler, Executive Director, American Red Cross, Finger Lakes Chapter. Ms. Tyler spoke about the campaign to educate people in preparing for a disaster. Because of the changing seasons approaching, September was a good time of the year to put together an

emergency kit, design a plan of action, and make arrangements to stay informed in the event of a natural disaster.

Submission of Claims for Audit

Mr. Anglim made a motion to approve the following vouchers for payment. Mrs. Amidon seconded the motion. All present voted in favor.

Supervisors vouchers	#2548 - 2969	totaling	\$	355,187.91
OFA vouchers	#474 – 533	totaling	\$	45,316.35
Workforce Development vouchers	#160 – 170	totaling	\$	27,540.42
Insurance vouchers	#52 – 55	totaling	\$	1,070.04
County Airport vouchers	#66 – 70	totaling	\$	15,677.05
Jail Capital Project vouchers	#218 – 219	totaling	\$	38,547.80
E-911 Capital vouchers	#32	totaling	\$	4,094.56
Sheriff Department	#404 – 457	totaling	\$	57,844.92
Highway Transportation vouchers				
Maintenance & State Snow	#244 – 271	totaling	\$	26,594.54
Highway Machinery	#306 – 342	totaling	\$	239,253.27
		Highway Total	\$	265,847.81

Reports of Standing Committees

Personnel & Technology Committee – Chairman Reynolds reported that the Board of Supervisors would be conducting interviews for the county manager position on September 26 and 27.

Public Safety Committee – Chairman Shipley reported that a discussion was held regarding the allegations in the pending Grand Jury indictment against Sheriff Connolly, resulting in a recommendation for a board resolution asking the Governor to review the matter and take necessary and appropriate action under the laws of the State of New York.

Native American Affairs Committee – Chairman Dresser reported that the committee voted in favor of changing the name of the committee to Indian Affairs Committee. The change of name would be presented to the Board for a resolution at the September 25 board meeting. Three resolutions were on the board agenda for adoption: Authorization of legal expenses for the appeal in the matter of Seneca County vs. Andrew S. Eristoff, Authorization for the Chairman of the Board to send a letter to Governor Spitzer reminding him of the collection of sales taxes on the sale of cigarettes and motor fuel by Indian businesses; and the Authorization for the Chairman of the Board to send a letter to Governor Spitzer asking for his assurance in writing that negotiations for a Class III casino will not take place on the state level over the objection of Seneca and Cayuga counties. A copy of said report was filed with the office of the Clerk to the Board of Supervisors.

Public Health Services Committee – Chairman Lafler reported that the committee recommended that the Chairman of the Board sign a contract with Rushville Health Center for dental health services for children in all school districts if Seneca County; and sign a contract with health research, Inc. (HRI) for breast and cervical cancer screening under the Health Women’s Partnership grant.

Planning, Development, Agriculture & Tourism – Vice-Chairman Mooney reported that the committee recommended movement of several issues regarding the Finger Lakes Airport to the Board of Supervisors at its September 25, 2007 meeting.

Finance, Assessment & Insurance Committee – Chairman Anglim reported that a brief summary of the working 2008 budget was reviewed.

Chairman’s Remarks

The subject of Chairman Barto’s remarks was the terrorist attack of the United States on September 11, 2007, by a group led by Osama Bin Laden. A portion of his remarks is included herewith. A complete copy has been filed with the office of the Clerk to the Board of Supervisors.

“Therefore, on this sixth anniversary of the September 11 attacks, I hope you will join with me in thanking our local emergency service and law enforcement providers for the jobs they do every day. I also hope you will join me in taking a moment to honor the victims of 9/11. The sacrifices that each of them made, and their families continue to make, should not be in vain. We should honor their memories every day, by working to insure that our nation remains proud and free in the face of outside attacks.”

Communications

The following communications were received and filed:

198. From Michael J. Mirras, a copy of a letter dated August 21, 2007 to Senator Nozzolio, in appreciation for his effort in securing a grant to fund the Indigent Legal Services Program for Seneca County.

199. A copy of meeting minutes of August 15, 2007 from the Seneca County Board of Health.

200. From NYS Office of Parks, Recreation and Historic Preservation, notice that the following properties have been listed on the NYS Register of Historic Places and each nomination will be forwarded to the Keeper of the National Register in Washington, D.C.: Ferry Farm / Bull House, Seneca Falls; David Kinne House, Ovid; Cobblestone House at 1027 Stone Church Rd, Junius; Cobblestone House at 1111 Stone Church Rd, Junius.

The following communications were received and referred to the Public Safety Committee:

201. From the NYS Office of Homeland Security, information regarding Seneca County’s application for \$63,000 grant awarded under the State Homeland Security Program and funded by the Federal Emergency Management Agency’s National Preparedness Directorate.

Resolutions and Motions

**RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SENECA,
EXTENDING THE ADDITIONAL RATE OF TAXES ON SALES AND USES OF TANGIBLE
PERSONAL PROPERTY AND ON CERTAIN SERVICES, AND ON OCCUPANCY OF HOTEL
ROOMS, AMUSEMENT CHARGES AND CLUB DUES, PURSUANT TO ARTICLE 29 OF THE
TAX LAW OF THE STATE OF NEW YORK**

RESOLUTION NO. 232-07, moved by Mr. Anglim, seconded by Mr. Smith and adopted unanimously by 750 ayes.

Be it enacted by the Board of Supervisors of the County of Seneca, as follows:

SECTION 1. Section 4-A of the resolution enacted by the Seneca County Board of Supervisors on January 12, 1982 (and amended by Board resolution on July 13, 1982), imposing sales and use taxes, is amended to read as follows:

SECTION 4-A. Imposition of additional rate of sales and compensating use taxes.

Pursuant to the authority of section 1210 of the Tax Law, in addition to the sales and compensating use taxes imposed by sections 2 and 4 of this resolution, there is hereby imposed and shall be paid an additional one percent rate of sales and compensating use taxes, for the period beginning December 1, 2002, and ending November 30, 2009. Such additional taxes shall be identical to the taxes imposed by such sections 2 and 4, and shall be administered and collected in the same manner as such taxes. All of the provisions of this resolution relating to or applicable to the administration and collection of the taxes imposed by such sections 2 and 4 shall apply to the additional taxes imposed by this section, including the applicable transitional provisions, limitations, special provisions, exemptions, exclusions, refunds and credits as are set forth in this resolution, with the same force and effect as if those provisions had been incorporated in full into this section and had expressly referred to the additional taxes imposed by this section.

SECTION 2. Paragraph B of Subdivision (1) of section 11 of a resolution enacted by the Seneca County Board of Supervisors on January 12, 1982 (and amended by Board resolution on July 13, 1982), imposing sales and use taxes, is amended to read as follows:

(1)(A) In respect to the use of property used by the purchaser in this County prior to March 1, 1982.

(B) With respect to the additional tax of one percent imposed for the period beginning December 1, 2002, and ending November 30, 2009, in respect to the use of property used by the purchaser in this County prior to December 1, 2002.

SECTION 3. This enactment shall take effect on December 1, 2007.

**CHAIRMAN OF THE BOARD OF SUPERVISORS AUTHORIZED AND DIRECTED TO SIGN
A RENEWAL CONTRACT WITH CATHIE BOND, CONSULTANT FOR THE BIO-
TERRORISM GRANT**

RESOLUTION NO. 233-07, moved by Mr. Lafler, seconded by Mr. Robinson and adopted unanimously by 750 ayes.

WHEREAS, Cathie Bond is a consultant who has been working with the Health Department staff on Emergency Preparedness planning; and

WHEREAS, Ms. Bond assists with plan development and review, completion of the "deliverables", training, and drill planning; and

WHEREAS, this contract for the period August 31, 2007 to August 9, 2008 will contain a fee for service as follows:

- Writing/rewriting plans or components of plans - \$60 per hour
- State Deliverables - \$60 per hour
- Education- staff training on key components of plan - \$60 per hour
- Attendance/Representation at Meetings and Conferences - \$30 per hour
- Tabletop Exercises- design, facilitate and write the after action report (AAR) according to HSEEP requirements - \$1,200 per exercise
- Drill- design, meet with parties, evaluate and write AAR - \$1,000-\$4,000 per drill depending on the size and preparation involved)
- Small drills will be billed at \$60 per hour

Total for 2007 / 2008 grant year not to exceed \$25,000; and

WHEREAS, the funding for this contract is included in the Public Health Budget 10-115-5-4014-4370; now, therefore be it

RESOLVED, that the Chairman of the Board of Supervisors is hereby authorized and directed to sign a renewal contract with Cathy Bond.

**RESOLUTION AUTHORIZING EXPENSES OF PROSECUTING APPEAL IN THE MATTER
OF COUNTY OF SENECA V ERISTOFF AS TAX COMMISSIONER, ET AL**

RESOLUTION NO. 234-07, moved by Dr. Dresser, seconded by Mr. Lafler and adopted unanimously by 750 ayes.

WHEREAS, there is pending before the Supreme Court, Appellate Division, Third Department a pending appeal "In the Matter of the Application of THE COUNTY OF SENECA, a municipal corporation of the State of New York, Petitioner, v. ANDREW S. ERISTOFF, as the Commissioner, New York State Department of Taxation and Finance, et al, Supreme Court, Albany County, Index No. 3172-06;" and

WHEREAS, the Native American Affairs Committee of the Board of Supervisors has recommended the following action; be it

RESOLVED, the County Attorney is hereby directed and authorized to expend up to \$6,200.00 in necessary printing expenses and filing fees associated with the preparation, printing, service and filing of the record on appeal in this matter, which fees shall be paid to Counsel Press, LLC, 295 Main Street, Suite 795, Buffalo, NY 14203 and/or the Supreme Court, Appellate Division, Third Department; and be it further

RESOLVED, that the County Treasurer is authorized to transfer the aforesaid sums from Account No. 10-11-5-1990-4700 (Contingent Fund) to Account No. 10-101-5-1420.4330 (County Attorney Legal Fees).

SHERIFF AUTHORIZED TO SIGN SECURITY SERVICES RENEWAL AGREEMENT

RESOLUTION NO. 235-07, moved by Mr. Shipley, seconded by Mr. Reynolds and adopted unanimously by 750 ayes.

RESOLVED, that the Seneca County Sheriff is hereby authorized and directed to sign an Amendment to the Security Services Renewal Agreement between the Unified Court System and the Seneca County Sheriff's Department for the provision of security services for the Seneca County Courts for the period April 1, 2007 March 31, 2008.

Mr. Davidson made a motion to Suspend the Rules of Order to introduce resolutions not previously filed. Mrs. Amidon seconded the motion. The motion was carried.

RESOLUTION AUTHORIZING ADOPTION BY THE BOARD OF SUPERVISORS OF THE COUNTY OF SENECA OF LOCAL LAW NO. 6 OF THE YEAR 2007

RESOLUTION NO. 236-07, moved by Mr. Davidson, seconded by Mrs. Amidon and adopted unanimously by 750 ayes.

WHEREAS, a resolution was duly adopted by the Board of Supervisors of the County of Seneca for a Public Hearing to be held by said County on September 11, 2007 at 7:00 PM at THE SENECA COUNTY OFFICE BUILDING, ONE DIPRONIO DRIVE, WATERLOO, NY 13165 to hear all interested parties on a proposed Local Law entitled "a local law to authorizing the County Engineer of the County of Seneca to reside in Seneca County or any adjoining county within New York state"; and

WHEREAS, notice of said public hearing was duly advertised in the official newspaper(s) of the County of Seneca; and

WHEREAS, said public hearing was duly held on September 11, 2007 at 7:00 PM at THE SENECA COUNTY OFFICE BUILDING, ONE DIPRONIO DRIVE, WATERLOO, NY 13165 and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said Proposed Local law, or any part thereof; and

WHEREAS, the Board of Supervisors of the County of Seneca, after due deliberation, finds it in the best interests of the County of Seneca to adopt said Local Law;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of the County of Seneca hereby adopts said Local Law No. 6 of the year 2007 as follows:

SECTION I:

In the County of Seneca, the provisions of Public Officers Law § 3 of the State of New York requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he shall be chosen or within which his official functions are required to be exercised, shall not prevent a person from holding the office of County Engineer of the County of Seneca, provided that: (a) such person meets or exceeds the minimum qualifications for the position previously adopted by the County of Seneca; and (b) such person resides in Seneca county or any adjoining county within New York state, unless otherwise provided by an act of the state legislature.

SECTION II.

This local law shall take effect immediately upon filing with the secretary of state in accordance with Section 27 of the Municipal Home Rule Law; and be it further

RESOLVED that the Clerk of the Board be and hereby is directed to enter said Local law in the minutes of this meeting and in the Local Law Book of the County of Seneca, and to give due notice of the adoption of said local law to the Secretary of the State of New York.

SUPERVISORS AMEND RULES OF THE BOARD TO HOLD SEPTEMBER 25, 2007 BOARD MEETING AT THE THREE BEARS IN OVID, NEW YORK

RESOLUTION NO. 237-07, moved by Mr. Smith, seconded by Dr. Dresser and adopted unanimously by 750 ayes.

RESOLVED, that the Seneca County Board of Supervisors does hereby amend the Rules of Order to hold the board and committee meetings for September 25, 2007 at the Three Bears in Ovid, New York at 5:30 p.m. and 7:00 p.m. respectively.

SUPERVISORS AUTHORIZE CHAIRMAN TO SIGN AND SEND LETTER TO GOVERNOR SPITZER CALLING FOR ENFORCEMENT OF THE LAW REQUIRING COLLECTION OF TAXES ON SALES OF PRODUCTS BY TRIBAL ENTERPRISES TO NON-INDIANS

RESOLUTION NO. 238-07, moved by Dr. Dresser, seconded by Mr. Same and adopted unanimously by 750 ayes.

WHEREAS, the New York State Department of Taxation and Finance is required by law to collect taxes on gasoline and tobacco sold by Indian enterprises to non-Indian customers; and

WHEREAS, Eliot Spitzer as Attorney General of the State of New York informed then Governor George Pataki of his obligation under the law to see that such taxes were collected; and

WHEREAS, Eliot Spitzer now as Governor of the State of New York has the same obligation to collect such taxes; and

WHEREAS, the Board of Supervisors of Seneca County has passed no less than nine resolutions since March 2003 calling for the collection of such taxes; and

WHEREAS, Seneca County is losing sales tax revenue every day that such taxes are not collected; be it therefore

RESOLVED, the Seneca County Board of Supervisors authorizes and directs the Chairman of the Board to sign and send a letter to Governor Spitzer reminding him of his sworn duty to enforce the law calling for the collection of taxes on sales of products by Indian enterprises to non-Indian customers in New York State; and be it further

RESOLVED, that the Clerk of the Board of Supervisors is hereby directed to send a copy of said letter to the legislative clerks of each of the counties of the State of New York, together with a request that their legislatures express their support for the position of the County of Seneca set forth herein.

SUPERVISORS AUTHORIZE AND DIRECT CHAIRMAN TO SIGN AND SEND A LETTER TO GOVERNOR SPITZER REQUESTING WRITTEN ASSURANCE THE STATE OF NEW YORK WILL NOT NEGOTIATE WITH THE CAYUGA INDIAN NATION FOR A CLASS III CASINO OVER THE OBJECTION OF SENECA COUNTY OR CAYUGA COUNTY

RESOLUTION NO. 239-07, moved by Dr. Dresser, seconded by Mr. Shipley and adopted unanimously by 750 ayes.

WHEREAS, the Cayuga Indian Nation has indicated its intention to negotiate approval of a Class III casino for the Nation to operate in the Catskills or elsewhere in New York State; and

WHEREAS, the Seneca County Board of Supervisors and the Cayuga County Legislature have passed resolutions in support of such a casino only if “the Cayuga Indian Nation would forever relinquish its right to apply for land to be placed in trust or restricted fee status or otherwise become sovereign in the counties of Seneca and Cayuga;” and

WHEREAS, negotiation by the State for such a casino without such a condition would undercut the proposal the counties have made to settle current and potential future trust applications of the Nation and violate the principle of “home rule;” and

WHEREAS, such a casino if approved and operated by the Nation would provide enormous revenue with which the Tribe could purchase land to be placed in trust and taken of the tax rolls of the counties and their municipalities and school districts; be it therefore

RESOLVED, that the Seneca County Board of Supervisors authorizes and directs the Chairman of the Board to sign and send a letter to Governor Spitzer requesting written assurance the State of New

York will not negotiate with the Cayuga Indian Nation for a Class III casino over the objection of Seneca County or Cayuga County; and be it further

RESOLVED, that the Clerk of the Board of Supervisors is hereby directed to send of copy of said letter to the legislative clerks of each of the counties of the State of New York, together with a request that their legislatures express their support for the position of the County of Seneca set forth herein.

**SENECA COUNTY BOARD OF SUPERVISORS REFER THE ALLEGATIONS IN THE PENDING
GRAND JURY INDICTMENT AGAINST THE SENECA COUNTY SHERIFF TO THE NEW
YORK STATE GOVERNOR**

RESOLUTION NO. 240-07, moved by Mr. Reynolds, seconded by Mrs. Amidon and adopted unanimously by 750 ayes.

RESOLVED, that the Seneca County Board of Supervisors refer the allegations in the pending Grand Jury indictment against the Seneca County Sheriff to the New York State Governor with a request he review the matter and take any necessary and appropriate action under the laws of the State of New York.

A brief discussion was held when Mr. Shipley asked whether any residents from Seneca County applied for the county manager position. Mrs. Amidon said they received one resident of the county applied for the position. She also said that all applicants were treated equally, without special consideration for residency.

Mr Lafler reminded everyone that a new school year was beginning, and that meant the D.A.R.E. program would also begin. He said the program was doing great and that the Sheriff's department was doing a great job making the program a success.

Special Order of the Day

As no further business was before the Board of Supervisors, Mr. Same moved the meeting adjourned.