

SENECA COUNTY BOARD OF SUPERVISORS

REGULAR MEETING

AND

PUBLIC HEARING

April 28, 2009

8:00 p.m.

Call to Order

The meeting was called to order at 8:03 p.m.

Roll Call of Members by the Clerk

Twelve members of the Board of Supervisors answered roll call. Mr. Davidson and Mr. Shipley were absent.

Pledge of Allegiance and Moment of Silence

Public Hearing

For the purpose of providing an opportunity for citizens to offer comments and input on the re-certification of Agricultural District #12 which is a merging of Districts #2, #7, and #12, which include areas within the towns of Romulus, Ovid, Lodi, and Covert. Also to receive comment on the property that has requested to be included in or removed from the Agricultural District. No comments were heard.

Presentation:

First Quarter 2009 Report – Seneca County Tourism was presented by Fred Gaffney, Executive Director, Chamber of Commerce. A copy of the report is on file at the Office of the Clerk of the Board of Supervisors.

Approval of Minutes

Meeting minutes for February 4, 2009 and March 10, 2009 were approved as written.

Reports of Standing Committees

The following issues were reviewed by the Government Operations Committee. Proclaim April 30, 2009 as LAW DAY in Seneca County. The Committee approved this action and it would be before the Board of Supervisors later in the agenda. The County Engineer proposed the use of methane gas from Seneca Meadows Landfill to be used as an energy source for the county building. He was directed by the Committee to research the costs and benefits of this proposal. The County Attorney reported on amending Local Law No. 1 of 1972 which created the positions of the four county supervisors elected by Seneca Falls and Waterloo. He said that the County Board has jurisdiction on appointing these positions in the event that they are vacated before the elected term expired. The Committee directed the County Attorney to research the process of changing the terms of these positions.

The Human Services Committee approved recommendations made by the Vacancy Committee to refill the position of Employment & Training Assistant in Workforce.

The Indian Affairs Committee discussed the scheduling of several meetings, particularly a meeting of the area's business leaders, for the purpose of preparing comments to submit to the BIA public hearing on the DEIS as well as to inform the public county-wide on the negative impact it would have on the county if the Cayuga Nation was granted land-into-trust status.

The Personnel & Technology Committee approved the Worksite Wellness Program for county employees, which includes an incentive rewarding employees who register for biometric testing with a day off providing 85% of all employees register.

The Planning, Development, Agriculture & Tourism Committee approved amending the membership language in the bylaws of the Finger Lakes Airport Advisory Committee to read "A representative of the Seneca County IDA and/or staff member of the Seneca County Department of Planning and Community Development Department of the as members of the FLAAC", because of the separation of the IDA and the Planning Department. The issue to appropriate \$120,000 to the Seneca County IDA was laid on the table until the next meeting.

The Public Health Services Committee approved the propped Worksite Wellness Program and the incentive that contingent on 85% of the total number of employees participating, employees who register will receive a day off.

The Finance, Assessment & Insurance Committee approved the Worksite Wellness Program; however, Mr. Barto questioned whether other alternative for incentives should be reviewed. The Committee also approved recommendations by the Vacancy Committee to refill seasonal laborer positions in the Highway Department, and the Employment & Training position in Workforce.

#### County Attorney's Remarks

Mr. Fisher informed the Board that the civil action VanCleaf v. Seneca County was dismissed by the district court in favor of Seneca County.

#### Communications:

66. Minutes of the Genesee/Finger Lakes Regional Planning Council's March 12, 2009 meeting.
67. Minutes of the InterCounty of Western New York March 20, 2009 meeting.
68. Notice of Withdrawal dated April 8, 2009, of the Draft Environmental Impact Statement for the fee-to-trust application of the Cayuga Indian Nation of New York.
69. From Beth Gorton, a dairy farmer from Madison County, a letter dated April 13, 2009 requesting a resolution from Seneca County Board of Supervisors in support of the Federal Milk Marketing Improvement Act of 2007 Senate Bill "S.1722" which considers the cost of production when

determining raw milk prices paid to farmers and having a farmer-funded supply management plan. Referred to the Planning, Development, Agriculture & Tourism Committee.

**RESOLUTIONS AND MOTIONS**

**CHAIRMAN OF THE BOARD OF SUPERVISORS AUTHORIZED AND DIRECTED TO  
SIGN A CONTRACT FOR SERVICE PROVISION FOR THE  
EARLY INTERVENTION AND 3-5 PROGRAMS**

RESOLUTION NO. 91-09, moved by Mr. Hayssen, seconded by Mr. Mooney and adopted by 659 ayes (Hayssen, Mooney, Reynolds, Barto, Serven, Dresser, Kaiser, Same, Lafler, Terryberry, Amidon, Westfall) and 91 absentees (Davidson, Shipley).

WHEREAS, Kathy Sinkiewicz, OT (Occupational Therapist) would like to contract with the Seneca County Health Department to provide OT visits to children enrolled in the Early Intervention or 3-5 Program; and

WHEREAS, the Health Department is required to establish contracts with service providers for these programs; and

WHEREAS, the funds for these contracts are in the Public Health budget 2960.470 and 4145.470; and

WHEREAS, the Public Health Committee has approved this contract; now, therefore be it

RESOLVED, that the Chairman of the Board of Supervisors is hereby authorized and directed to sign a contract with Kathy Sinkiewicz for the Early Intervention and 3-5 programs.

**SUPERVISORS APPROVE RENEWAL OF LEASE ON COUNTY HOUSE ROAD PROPERTY**

RESOLUTION NO. 92-09, moved by Mr. Kaiser, seconded by Mr. Reynolds and adopted by 659 ayes (Kaiser, Reynolds, Barto, Serven, Dresser, Same, Lafler, Terryberry, Amidon, Hayssen, Mooney, Westfall) and 91 absentees (Davidson, Shipley).

WHEREAS, vacant County property belonging to the County consisting of approximately 26 acres, located on County House Road has been previously leased for a three year term to Mark Lott, of Lott Farms, LLC at an annual rental of \$1,237.51; and

WHEREAS, it is found to be in the best interest of Seneca County to renew such lease; and

WHEREAS, such lease is exempt from the requirement of competitive bidding under the provisions of Local Law Number 2 of 2005; and

WHEREAS, the Planning and Development Committee recommends renewal of such lease for an additional term of three years; now, therefore be it

RESOLVED, that the Seneca County Board of Supervisors does hereby authorize and direct the Chairman to execute a renewal of the lease of the real property belonging to Seneca County and consisting

of approximately 26 acres of land located on County House Road at an annual rental of \$1,237.51 for an additional term of three years.

**BOARD OF SUPERVISORS MEMORIALIZES SUPPORT FOR THE DESIGNATION OF NEW YORK STATE ROUTE 96-A AS THE SAMPSON VETERANS MEMORIAL HIGHWAY**  
RESOLUTION NO. 93-09, moved by Mr. Kaiser, seconded by Mr. Westfall and adopted by 659 ayes (Kaiser, Westfall, Reynolds, Barto, Serven, Dresser, Same, Lafler, Terryberry, Amidon, Hayssen, Mooney) and 91 absentees (Davidson, Shipley).

WHEREAS, Seneca County recently accepted title to lands formerly part of the Sampson Air Force and Naval Base for the purpose of developing a Veterans Memorial Cemetery; and

WHEREAS, the Sampson Veterans Memorial Cemetery will provide a lasting and fitting tribute to those who have served our country; and

WHEREAS, the site of the veterans cemetery once served as a naval training station during World War II and trained 411,429 sailors after it was established in 1942. Sailors trained at Sampson fought and participated in every major naval battle of World War II. The base was later used as an Air Force Basic Training Center; and

WHEREAS, the Sampson WWII Navy Veterans Museum is located at the site, as is Sampson State Park, and down the road is the former Seneca Army Depot, which served as an ammunition and storage supply facility during World War II, the Vietnam War, Korean Conflict and Gulf War; and

WHEREAS, New York State Route 96-A serves as the principal point of access to each of these community assets; and

WHEREAS, designation of Route 96-A would serve to further memorialize the efforts of our county's service men and women; and

WHEREAS, this resolution has been reviewed and approved by the Public Works Committee on April 14, 2009; now, therefore be it

RESOLVED, that the Seneca County Board of Supervisors supports the designation of New York Route 96-A as the Sampson Veterans Memorial Highway, as provided for in Article 12 of the New York State Highway Law.

**A RESOLUTION AUTHORIZING COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)  
FUNDS TO N.E. ENTERPRISES**

RESOLUTION NO. 94-09, moved by Mr. Kaiser, seconded by Mr. Terryberry and adopted by 659 ayes (Kaiser, Terryberry, Reynolds, Barto, Serven, Dresser, Same, Lafler, Amidon, Hayssen, Mooney, Westfall) and 91 absentees (Davidson, Shipley).

WHEREAS, Seneca County has received Community Development Block Grant (CDBG) funds from the United States Department of Housing and Urban Development (HUD) to make economic development loans; and

WHEREAS, businesses to whom these monies have been loaned are repaying the loans, thereby establishing a revolving loan fund for business development and job creation; and

WHEREAS, a loan application has been received and reviewed by the CDBG Loan Review Committee and found to be satisfactory and in full compliance with regulations and guidelines applicable to the Revolving Loan Program; and

WHEREAS, this \$100,000 loan at 5% interest for five years for N.E. Enterprises, will finance working capital for the company, and will help retain 24 full-time and 8 part-time jobs with collateral being a mortgage position on the property located at 291 Gravel Road, Seneca Falls, New York; and

WHEREAS, this resolution has been reviewed and approved by the Planning, Development, Agriculture & Tourism Committee on April 16, 2009; now, therefore be it

RESOLVED, that the Seneca County Board of Supervisors approves the proposed loan for the sum of One Hundred Thousand Dollars (\$100,000) under the CDBG Program from funds account no. 272310840 under the terms and conditions provided for such loans through the Department of Housing and Urban Development and the CDBG Loan Committee; and be it

FURTHER RESOLVED, that the Chairman of the Board of Supervisors is authorized and directed to sign such documents as are necessary to secure the County's position as lien holder as to such collateral.

**SUPERVISORS REAPPOINT SINICROPI PERSONNEL OFFICER**

RESOLUTION NO. 95-09, moved by Mr. Same, seconded by Mrs. Amidon and adopted by 659 ayes (Same, Amidon, Reynolds, Barto, Serven, Dresser, Kaiser, Lafler, Terryberry, Hayssen, Mooney, Westfall) and 91 absentees (Davidson, Shipley).

WHEREAS, the term of office of the Seneca County Personnel Officer expires on May 1, 2009, and

WHEREAS, the County Manager has recommended the reappointment of Frank J. Sinicropi to the position of Personnel Officer; now, therefore be it

RESOLVED, that the Seneca County Board of Supervisors does hereby reappoint Frank Sinicropi as Seneca County Personnel Officer for a six year term to expire May 1, 2015.

**A RESOLUTION TO INTRODUCE PROPOSED LOCAL LAW B OF 2009 TO PROHIBIT THE USE OF WIRELESS HANDSETS TO COMPOSE, READ OR SEND TEXT MESSAGES WHILE OPERATING A MOTOR VEHICLE IN SENECA COUNTY**

RESOLUTION NO. 96-09, moved by Mrs. Amidon, seconded by Dr. Dresser and adopted by 659 ayes (Amidon, Dresser, Reynolds, Barto, Serven, Kaiser, Same, Lafler, Terryberry, Hayssen, Mooney, Westfall) and 91 absentees (Davidson, Shipley).

WHEREAS, the provisions of §1225-c of the Vehicle and Traffic Law of the State of New York provides for the prohibition of the use of mobile telephones on the highways of the State, and

WHEREAS, Section 1225-c V&T does not however prohibit the use of such devices or similar communications devices to compose, read or send text messages while operating a motor vehicle; and

WHEREAS, Seneca County recognizes the fact that text messaging while driving is a growing problem on our roads, that this activity by its very nature involves the driver taking hands off the wheel and eyes off the road, and is a clear distraction that leads to accidents and fatalities and that often, it is the younger, less experienced driver who texts while driving; and

WHEREAS, until such time as the New York State legislature passes a similar law or amends Section 1225-c of the Vehicle and Traffic Law, Seneca County needs to address this problem; now, therefore be it

RESOLVED, that proposed Local Law B of 2009 entitled “A LOCAL LAW PROHIBITING THE USE OF WIRELESS HANDSETS TO COMPOSE, READ OR SEND TEXT MESSAGES WHILE OPERATING A MOTOR VEHICLE IN SENECA COUNTY ” be and the same is hereby introduced before the Board of Supervisors of Seneca County, New York to read in substantially the following form: Be it enacted by the Board of Supervisors of the County of Seneca as follows:

Section 1: Title

This law shall be known as the “Local Law To Prohibit The Use Of Wireless Handsets To Compose, Read Or Send Text Messages While Operating A Motor Vehicle In Seneca County”.

Section 2. Declaration of Intent

Text messaging while driving is a growing problem on our roads. This activity by its very nature involves the driver taking hands off the wheel and eyes off the road, and is a clear distraction that leads to accidents and fatalities. Often, it is the younger, less experienced driver who texts while underway. Until such time as the New York State legislature passes a similar law, Seneca County needs to address this problem with a local law.

Section 3. Definitions

As used in this law, the following terms shall have the meanings indicated:

A) “Hands-free” shall mean the manner in which a wireless handset is operated for the purpose of composing, reading or sending text messages, by using an internal feature or function, or through an attachment or addition, including but not limited to an ear piece, head set, remote microphone or short-range wireless connection, thereby allowing the user to operate said device without the use of the hands.

- B) “Motor vehicle” shall mean any vehicle that is self-propelled by a motor, including but not limited to, automobiles, trucks, vans, buses, construction vehicles, etc.
- C) “Inoperability” shall mean a motor vehicle that is incapable of being operated or being operated in a safe and prudent manner due to mechanical failure, including but not limited to engine overheating or tire failure.
- D) “Person” shall mean any natural person, corporation, unincorporated association, firm, partnership, joint venture, joint stock association or other entity or business organization of any kind.
- E) “Stopped” shall mean not in motion.
- F) “Text message”, also referred to as short messaging service (SMS), shall mean the process by which users send, read or receive messages on a wireless handset, including but not limited to, text messages, instant messages, electronic or e-mails, in order to communicate with any person or device.
- G) “To use” shall mean to hold a wireless handset in one’s hand.
- H) “Wireless Handset” shall mean a portable electronic or computing device, including cellular telephones and personal digital assistants (PDAs) capable of transmitting data in the form of a text message.

#### Section 4. Prohibition

No person shall use a wireless handset to compose, read, or send text messages while operating a motor vehicle on any public street or public highway within Seneca County.

#### Section 5. Exceptions

- A. Notwithstanding Section 4, this law shall not be construed to prohibit the use of any wireless handset by:
  - i. Any law enforcement, public safety or police officers, peace officers, emergency services officials, first aid, emergency medical technicians and personnel, and fire safety officials in the performance of duties arising out of and in the course of their employment as such;
  - ii. A person using a wireless handset to contact any individual listed in subsection (i); or
  - iii. A person using a wireless handset inside a motor vehicle while such motor vehicle is parked, standing or stopped and is removed from the flow of traffic, in accordance with applicable laws, rules or ordinances, or is stopped due to the inoperability of such motor vehicle.
  - iv. Any person who holds a valid amateur radio operator’s license issued by the FCC and who operates a duly licensed portable mobile transmitter and in connection therewith a receiver or receiving set.
- B. Notwithstanding Section 4., this law shall not be construed to prohibit a person operating a motor vehicle from utilizing a hands-free wireless handset.

#### Section 6. Penalties

A violation of Section 4 of this local law shall constitute an offense and be punishable by a fine not to exceed \$150.00 for each single violation. Each such violation shall constitute a separate and distinct offense.

This local law shall be enforced by the Seneca County Sheriff's Office and may be enforced by any other law enforcement agency having jurisdiction.

#### Section 7. Effect of Other Laws

This local law shall be null and void on the day that New York statewide legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this local law, or in the event that a pertinent state or federal administrative agency issues and promulgates regulations preempting such action by Seneca County. The Board of Supervisors may determine via resolution whether identical or substantially similar statewide legislation or preempting regulations have been enacted for the purposes of triggering the provision of this section.

#### Section 8. Severability

If any section, subsection, sentence, clause, phrase or other portion of this local law is for any reason declared unconstitutional, or invalid or in whole or in part by any court of competent jurisdiction, such portion shall be deemed severable and such unconstitutionality or invalidation shall not affect the validity of the remaining portions of this law which remaining portions shall remain in full force and effect.

#### Section 9. Effective date

This local law shall take effect thirty days after filing in the Office of the Secretary Of State pursuant to section 27 of the Municipal Home Rule Law; and be it

FURTHER RESOLVED, that copies of the aforesaid proposed local law be laid upon the desks of each member of the County Board; and be it

FURTHER RESOLVED, that the County Board hold a public hearing on said proposed Local Law at the County Office Building, 1 DiPronio Drive, Waterloo New York at or about 8:00 p.m. on May 26, 2009; and be it

FURTHER RESOLVED, that the Clerk of the Board publish or cause to be published a notice of said public hearing in the official newspapers of the County at least ten (10) days prior thereto.

### **SUPERVISORS AUTHORIZE LEASE AGREEMENT RENEWAL**

#### **SENECA COUNTY-VFW MEMORIAL POST, #6433**

RESOLUTION NO. 97-09, moved by Mr. Reynolds, seconded by Mr. Mooney and adopted by 659 ayes (Reynolds, Mooney, Barto, Serven, Dresser, Kaiser, Same, Lafler, Terryberry, Amidon, Hayssen, Westfall) and 91 absentees (Davidson, Shipley).

WHEREAS, a lease agreement between Seneca County and the VFW Memorial Post, #6433, with its principal offices at the corner of Chestnut Street and West Elisha Street, Village of Waterloo, New York has been in existence for several years and is in need of renewal; and

WHEREAS, the new lease contains the same language and content as the expired lease with the exception of the removal of the parking guidelines that were followed by the Seneca County Sheriff's Department, necessary to accommodate the VFW Memorial Post, #6433 during specified activity nights.

WHEREAS, it is agreed upon in the lease that the parking area used during the daytime hours between 8 a.m. to 5 p.m. on the days the Seneca County Courthouse is open for its employees and used by the general public will be kept in good order and repair including but not limited to, striping and snow removal; and

WHEREAS, the Public Works Committee approved this resolution at its meeting on April 14, 2009; now, therefore be it

RESOLVED, that the Seneca County Board of Supervisors does hereby authorize the renewal of the lease agreement between Seneca County and the VFW Memorial Post, #6433, with a beginning date of January 1, 2009 and will expire on December 31, 2009; and be it

FURTHER RESOLVED, that the Chairman of the Board of Supervisors is hereby authorized and directed to sign the lease renewal agreement along with the Commander of the VFW Post, #6433.

**RESOLUTION PROCLAIMING APRIL 30 AS LAW DAY IN SENECA COUNTY**

RESOLUTION NO. 98-09, moved by Mrs. Amidon, seconded by Mr. Same and adopted by 659 ayes (Amidon, Same, Reynolds, Barto, Serven, Dresser, Kaiser, Lafler, Terryberry, Hayssen, Mooney, Westfall) and 91 absentees (Davidson, Shipley).

WHEREAS, Law Day is a celebration of our nation's great heritage of liberty, justice and equality under the law; and

WHEREAS, this is the fifty-first observance of Law Day since 1958, when President Eisenhower proclaimed the first Law Day a "day of national dedication to the principle of government under law "; and

WHEREAS, all youth need to understand their rights and responsibilities under the law to become effective participants in our nation's civic life; and

WHEREAS, the Law Day 2009 theme is "A Legacy of Liberty: Celebrating LINCOLN'S Bicentennial"; and

WHEREAS, the County of Seneca, through its Criminal Justice Advisory Board has instituted a program to teach our children about Law Day and the Legal System; now, therefore be it

RESOLVED, that the Board of Supervisors of Seneca County hereby proclaims Thursday, April 30, 2009 as Law Day, and urges the citizens, schools, businesses, and media of Seneca County to use this occasion to preserve and strengthen the rule of law; and be it

FURTHER RESOLVED, that the Board of Supervisors hereby recognizes the members of the Seneca County Criminal Justice Advisory Board and the youths participating in “Law Day” for their assistance and commitment to teaching and learning of our great heritage of liberty under the law.

Special Order of the Day

The meeting was adjourned at 8:39 p.m.