

SENECA COUNTY BOARD OF SUPERVISORS

REGULAR MEETING

June 09, 2009

8:00 p.m.

Call to Order

Chairman Lafler called the meeting to order at 8:02 p.m.

Roll Call of Members by the Clerk

Eleven (11) members of the Board were present. Mr. Reynolds, Mr. Serven and Mr. Kaiser were absent.

Pledge of Allegiance and Moment of Silence

Petitions/Petitioners

Donna Cathy spoke about Finger Lakes Elder Abuse Coalition. She requested the support of the Board of Supervisors proclaiming June 15, 2009 as Elder Abuse Awareness Day in Seneca County.

Submission of Claims for Audit

Mr. Barto made a motion, seconded by Dr. Dresser and Mr. Mooney, and carried that the following vouchers have gone through the proper auditing process, be approved for payment.

Supervisors vouchers	#1284 – 1516	totaling	\$	199,967.17
OFA vouchers	#380 – 443	totaling	\$	98,893.93
Workforce Development vouchers	#113 – 138	totaling	\$	28,100.20
Insurance vouchers	#33 – 43	totaling	\$	52,904.88
Sheriff vouchers	#347 – 468	totaling	\$	129,037.57
County Airport vouchers	#51 – 57	totaling	\$	7,522.35
Highway Transportation vouchers				
Maintenance & State Snow	#144 – 170	totaling	\$	288,184.49
Highway Machinery	#171 – 196	totaling	\$	14,472.79
		Highway Total	\$	302,657.28
Highway Capital Voucher	#7	totaling	\$	3,949.72
Veterans Cemetery Capital Voucher	#6	totaling	\$	19,643.43

Reports of Standing Committees

Government Operations Committee, Mrs. Amidon, Chairperson, reported that the Committee continued the discussion on extending the terms of the county-at-large supervisor positions with the County Attorney and the committee approved the introduction of a local law and public hearing in

preparation for a permissive referendum for elections in November. The Committee also decided not to join a other counties in contesting the elimination of lever voting machines.

Public Works Committee, Mr. Davidson, Chairperson, said the Committee met with Rich Perrin from Genesee / Finger Lakes Regional Transportation Council about realigning Seneca County with Region 4 NYS Department of Transportation. Other recommendations by the Committee included hiring seasonal laborers for the Highway department using CHIPS funding; repairing and/or replacing the oil cooler in the building elevator because the elevator was inoperable recently; appointing Robert Kayser to represent the Town of Varick on the boards for the water an sewer districts, and continued discussions on ways to improve the availability and delivery of potable water throughout the County.

Public Safety Committee, Mr. Shipley, Chairman, said that the County Engineer provided information regarding the proposed Ontario County Gasification Plant and the proposed leachate line from the Ontario County Landfill to the City of Geneva's sanitary sewer system. The Committee also approved extending the contract to complete the project for improvements at the Fire Training Center facility located at the former Seneca Army Depot. The \$60,000 funding was secured in 2005 by Senator Nozzolio from the New York Department of State.

Planning, Development, Agriculture & Tourism Committee, Mrs. Amidon, Acting Chairperson, said the Committee met with Robert Aronson, Director of SCIDA and approved support of \$60,000 to the SCIDA instead of the \$120,000 that was previously approved. The Committee also approved grant documents for improvements to the Mama Bear building in Ovid, NY.

Finance, Assessment, & Insurance Committee, Mr. Barto, Chairman, indicated that his Committee approved the filling of part-time summer labor for the highway; paying the Chamber of Commerce July funds early because the Chamber had yet to receive funs from NYS; and approved the payment of \$60,000 to SCIDA.

County Manager's Remarks

The County Manager thanked the Office of Veterans Affairs for the new flags and stands and poles for the Board Room. She also thanked all of the Department Heads for their assistance in reviewing the DEIS. She attended the ribbon cutting this past weekend for the opening of the Canal Trail.

County Attorney's Remarks:

The County Attorney reminded the public to attend the Bureau of Indian Affairs public hearing on the Draft Environmental Impact Statement relating to the Cayuga Indian Nation Land Acquisition Project.

Communications

86. From NYS Assembly Minority Leader Brian J. Kolb, a letter of acknowledgment or receipt of a copy of Seneca County Board of Supervisors Resolution supporting the designation of Route 96-A, from Routes 5 & 20 to the Ovid Town line as the Sampson Veterans Memorial Highway.
87. A copy of minutes from the Finger Lakes Regional Airport Advisory Committee meeting on May 11, 2009; and a copy of its Executive Committee Minutes from its May 4, 2009 meeting.
88. A copy of minutes from the Seneca County Board of Health May 20, 2009 meeting.
89. From Aaron Shuman, Ithaca, New York, an electronic communication dated May 27, 2009, subject: Casella's Incinerator in Seneca and Ontario Counties.

Resolutions and Motions

TREASURER AUTHORIZED TO PAY MORTGAGE TAX

RESOLUTION NO. 120-09, moved by Mr. Barto, seconded by Mrs. Amidon and adopted by 617 ayes (Barto, Amidon, Davidson, Dresser, Same, Lafler, Terryberry, Hayssen, Mooney, Shipley and Westfall) and 133 absentees (Reynolds, Serven, Kaiser).

WHEREAS, the mortgage tax report for the period October 1, 2008 through March 31, 2009 has been filed; now, therefore, be it

RESOLVED, that the County Treasurer is hereby authorized and directed to pay to the municipalities of Seneca County the amount apportioned as follows:

TOWN	AMOUNT ALLOCATED	VILLAGE SHARE	TOWN SHARE
Covert	\$ 23,306.17	\$ 1,314.62	\$ 21,991.55
Fayette	34,995.53	2,034.70	32,960.83
Junius	6,963.01	0.00	6,963.01
Lodi	16,185.85	681.31	15,504.54
Ovid	12,453.50	846.61	11,606.89
Romulus	18,105.00	89.27	18,015.73
Seneca Falls	40,262.34	11,118.33	29,144.01
Tyre	3,751.57	0.00	3,751.57
Varick	15,899.47	0.00	15,899.47
Waterloo	34,816.25	6,539.79	28,276.46
TOTAL	\$206,738.69	\$22,624.63	\$184,114.06

**RESOLUTION REQUESTING HOME RULE LEGISLATION FOR EXTENSION OF
ADDITIONAL 1% SALES TAX**

RESOLUTION NO. 121-09, moved by Mr. Barto, seconded by Mr. Same and adopted by 557 ayes (Barto, Same, Davidson, Dresser, Lafler, Terryberry, Amidon, Hayssen, Mooney and Westfall), and 133 absentees (Reynolds, Serven, Kaiser).

WHEREAS, this Board of Supervisors requested that the New York State Legislature enact a special state law authorizing and empowering Seneca County to impose an additional one percent sales and compensating use tax; and

WHEREAS, Senator Nozzolio has introduced such legislation in the New York State Senate as Senate Bill No. S.5670; and

WHEREAS, Assemblyman Kolb has introduced identical legislation in the New York State Assembly as Assembly Bill No. A.8514; and

WHEREAS, following the introduction of the bills in the State Legislature, this Board has been advised that it must adopt a resolution authorizing the execution and filing of formal Home Rule Requests for each bill; and

WHEREAS, the Governmental Operations and Finance Committees recommend adoption of this resolution; now, therefore, be it

RESOLVED, that the Board of Supervisors of the County of Seneca approves the legislation set forth as Senate Bill No. S.5670 and Assembly Bill No. A.8514 which is entitled “An Act to amend the tax law, in relation to extending the expiration of the authorization to the County of Seneca to impose an additional one percent sales and compensating use tax”; and be it further

RESOLVED, that this Board approves the Home Rule Request for the passage of Senate Bill No. S.5670 and the Home Rule Request for the passage of Assembly Bill No. A.8514; and be it further

RESOLVED, that the Clerk of this Board of Supervisors be authorized and directed to execute the required Home Rule Requests and to transmit the appropriate forms to the Senate and Assembly Home Rule Counsels.

**CHAIRMAN OF THE BOARD OF SUPERVISORS AUTHORIZED AND DIRECTED TO SIGN
A CONTRACT WITH MANDEL THERAPY GROUP**

RESOLUTION NO. 122-09, moved by Mr. Hayssen, seconded by Mrs. Amidon and adopted by 617 ayes (Hayssen, Amidon, Barto, Davidson, Dresser, Same, Lafler, Terryberry, Mooney, Shipley and Westfall), and 133 absentees (Reynolds, Serven, Kaiser).

WHEREAS, the Health Department is required to secure contracts with individuals or group providers for the provision of professional services for the Early Intervention and 3-5 Programs; and

WHEREAS, Mandel Therapy Group, 8842 Route 90, King Ferry, New York provides services in the contiguous counties and would like to expand their service to Seneca County Children; and

WHEREAS, it will be necessary for the Chairman of the Board of Supervisors to sign this contract; and

WHEREAS, the money for this contract is in the Public Health Department 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 Mandel Therapy Group.

BOARD OF SUPERVISORS AUTHORIZE INCENTIVE PROGRAM FOR EMPLOYEE PARTICIPATION IN THE WORKSITE WELLNESS PROGRAM

RESOLUTION NO. 123-09, moved by Mr. Hayssen, seconded by Mr. Davidson and adopted by 617 ayes (Hayssen, Davidson, Barto, Dresser, Same, Lafler, Terryberry, Amidon, Mooney, Shipley and Westfall), and 133 absentees (Reynolds, Serven, Kaiser).

WHEREAS, the Board of Supervisors has approved the development and offering of a Worksite Wellness Program for all full-time and part-time county employees; and

WHEREAS, the County Worksite Wellness Committee has proposed the following incentives:
PROGRAM OVERVIEW:

The Seneca County Employee Wellness Committee's Incentive Program rewards employees for modifying health indicators that put them at risk for various forms of chronic diseases. Employees will earn points for making positive lifestyle changes such as participating in regular physical activity, quitting smoking and making healthy food choices, etc. (see explanation of points below).

Participating employees will be provided a monthly paper log to help them track their daily activities. Activity logs will be turned in monthly to designated members of the Employee Wellness Committee. The designated committee members will data enter points monthly into an electronic data system such as an excel document.

Employees will be challenged to accumulate a maximum of 1,000 points. Employees who earn 1,000 points will be eligible to receive a Wellness Day (an additional day of earned leave). Employees who earn 500 points can either bank their points or cash in their points. Employees who choose to bank their points at 500 will continue to earn points. Employees who cash in their points after reaching 500, will receive 4 hours of earned leave or ½ of a Wellness Day. If employees choose to cash in their points at 500 they will not be eligible to receive the full Wellness Day incentive.

Wellness Days will only be awarded annually.

Employees who exceed 1,000 points within a given year will be eligible to enter quarterly wellness drawings sponsored by the Wellness Committee.

EXPLANATION OF POINTS:

--Smoking: (non-smokers 100 annually; smokers 150 points a month)

- Employees who do not smoke will earn 100 points annually;
- Employees who smoke, but choose not to smoke for a day will earn 5 points for every day they do not smoke up to 100 points a month; or

- Employees who go smoke free for a month can earn 100 points a month for a maximum of 300 points or (3 months smoke free).

--Health Eating (150 points):

- Employees will receive one point for each serving of fruits or vegetables they consume. A maximum of 5 points can be earned per day or 150 points a month.

--Physical activity (200 points):

- It is recommended that people get at least 30 minutes of cardiovascular physical activity at least 5 days per week. 5 points will be awarded for every 30 minutes of physical activity up to 50 points a week or a maximum of 200 points a month.

--Education / Cessation or Weight Management Classes (50 points):

- Employees will earn 10 points per class or a maximum of 5 classes per month will be allowed. Employees will record each class they attend for weight management, smoking cessation or other health-related classes such as lunch and learn.

--Biometric Screenings (200 points):

- Employees will receive 200 points for their participation in offered bio-metric screening program. You may receive this once per year.

--Health Risk Assessment (100 points):

- Employees will receive 50 points for completing the Health Risk Assessment.
- An additional 50 points will be awarded to those employees who complete their HRA before scheduled bio-metric screening.

--Weight Management (100 points):

- Employees with BMI (Body Mass Index) measurements between 19 – 25 will receive 100 points annually.
- Employees whose BMI is above 25 will be awarded 10 points for every pound they lose up to 10 lbs a month.

--Additional Wellness Activities (50 points):

- Stress Management is an essential part of wellness. Employees can earn 10 points for additional wellness activities, for a maximum of 5 additional activities per month (hobbies, reading for pleasure, yoga, meditation, etc.); and

WHEREAS, the Public Health Committee, the Finance, Assessment and Insurance Committee, and the Personnel and Technology Committee have all unanimously endorsed these incentives for County Employees who participate in the Worksite Wellness Program; now, therefore, be it

RESOLVED, that the Board of Supervisors hereby authorizes the above stated annual employee incentives for all full-time and part-time county employees who participate in the worksite wellness program.

THE SENECA COUNTY BOARD OF SUPERVISORS TO APPROVE WIA CONTRACTS WITH FINGER LAKES WORKFORCE INVESTMENT BOARD FOR THE PERIOD JULY 1, 2009 TO JUNE 30, 2010 AND THE AMERICAN RECOVERY AND REINVESTMENT ACT FOR THE PERIOD OF JUNE 1, 2009 TO MAY 31, 2010

RESOLUTION NO. 124-09, moved by Mr. Mooney, seconded by Mr. Davidson and adopted by 617 ayes (Mooney, Davidson, Barto, Dresser, Same, Lafler, Terryberry, Amidon, Hayssen, Shipley and Westfall) and 133 absentees (Reynolds, Serven, Kaiser).

WHEREAS, the Seneca County Department of Workforce Development will provide a variety of services and programs utilizing funds available under the Workforce Investment Act; and

WHEREAS, it is necessary for the County to enter into a variety of financial contracts with the Finger Lakes Workforce Investment Board, acting as Grant Recipient for the Finger Lakes Workforce Investment Area; and

WHEREAS, adjustments will be made to the 2009 budget per any increase in line items in these grants; and

WHEREAS, the Seneca County Board of Supervisors does hereby approve the following contracts with Finger Lakes Workforce Investment Board:

WIA Youth	July 1, 2009 – June 30, 2010	\$85,987.00
WIA Adult	July 1, 2009 – June 30, 2010	62,736.00
WIA Dislocated Worker	July 1, 2009 – June 30, 2010	85,771.00
WIA Disability Program Navigator	July 1, 2009 – June 30, 2010	70,000.00
American Recovery and Reinvestment Act	June 1, 2009 – May 31, 2010	98,658.00; and

WHEREAS, these agreements have been reviewed by the Oversight Committee for Human Services and recommended for full Board approval; now, therefore, be it

RESOLVED, the Chairman of the Board of Supervisors is authorized and directed to sign such contracts on behalf of the County; and be it

FURTHER RESOLVED, that certified copies of this resolution be sent to the Finger Lakes Workforce Investment Board.

PROCLAMATION: ELDER ABUSE AWARENESS DAY – 2009

RESOLUTION NO. 125-09, moved by Mr. Mooney, seconded by Mr. Shipley and adopted by 617 ayes (Mooney, Shipley, Barto, Davidson, Dresser, Same, Lafler, Terryberry, Amidon, Hayssen and Westfall) and 133 absentees (Reynolds, Serven, Kaiser).

WHEREAS, the County has been informed by the International Network for the Prevention of Elder Abuse that June 15, 2009 is annual World Elder Abuse Awareness Day; and

WHEREAS, the Seneca County Office for the Aging and Division of Human Services in conjunction with the Finger Lakes Elder Abuse Coalition seek to educate the general public on issues of elder mistreatment and to facilitate legislative change for the protection of the vulnerable elderly; and

WHEREAS, elder abuse is grossly under reported because the elderly who are being abused find it very difficult to tell anyone and are usually ashamed and sometimes afraid; and

WHEREAS, nationally only 1 in 5 cases get reported; and

WHEREAS, Seneca Counties' older citizens laid the foundation for the state and nation we enjoy today; and

WHEREAS, abuse of older persons is a tragedy inflicted on a vulnerable segment of the population that crosses all socio-economic boundaries; and

WHEREAS, combating abuse of older people will help to improve the quality of life for seniors across Seneca County and New York State, and will allow senior citizens to continue to live as independently and vibrantly as possible; and

WHEREAS, Seneca County seniors should be treated with respect and dignity as they continue to serve as leaders, mentors, volunteers, and important and active members of our councils; and

WHEREAS, the County of Seneca honors the countless contributions of its senior citizens, and recognizes all efforts to end elder abuse as vital to the interests of the citizens of this County; now, therefore, be it

RESOLVED, that the Seneca County Board of Supervisors does hereby proclaim June 15, 2009 as World Elder Abuse Awareness Day; and be it

FURTHER RESOLVED, to urge both the public and private sectors to join with this Board in recognizing the contributions of all older Americans and the right of these Americans to live in peace and dignity without fear of abuse, and in particular, those older Americans who are residents of Seneca County.

BOARD OF SUPERVISORS TO REVISE 2009 WEATHERIZATION PROGRAM BUDGET
RESOLUTION NO. 126-09, moved by Mr. Mooney, seconded by Mrs. Amidon and adopted by 617 ayes (Mooney, Amidon, Barto, Davidson, Dresser, Same, Lafler, Terryberry, Hayssen, Shipley and Westfall) and 133 absentees (Reynolds, Serven, Kaiser).

WHEREAS, the County, as part of the New York State Division of Housing and Community Renewal Weatherization Assistance Program has received an increase in their base allocation for the 2009 program year; and

WHEREAS, the Weatherization Program has also received additional ARRA monies; and

WHEREAS, the total increase in 2009 Weatherization funds total \$265,889, which is 100% state and federal aide; now, therefore, be it

RESOLVED, that the Seneca County Board of Supervisors does hereby increase the 2009 Weatherization Budget as follows:

6550.1100 Full-time Salaries:	Increase from \$136,212 to \$155,252
6550.4350 Medical Fees:	Increase from \$300 to \$700
6550.4360 Advertising:	Increase from \$800 to \$1,700
6550.4380 Subcontractor:	Increase from \$23,000 to \$103,000
6550.4440 Employee Mileage:	Increase from \$3,000 to \$4,000
6550.4450 Training:	Increase from \$2,000 to \$6,000
6550.4550 Weatherization Supplies:	Increase from \$130,000 to \$280,000
6550.8100 Retirement:	Increase from \$15,528 to \$17,894
6550.8300 Social Security (FICA):	Increase from \$8,445 to \$9,566
6550.8400 Workers Comp:	Increase from \$2,695 to \$3,058
6550.8600 Hospitalization:	Increase from \$53,865 to \$60,265
6550.8700 Medicare:	Increase from \$1,975 to \$2,238
6550.4804 HEAP @ 60% of WX Funding	\$344,911
6550.4804 DOE @ 40% of WX Funding	\$229,941
6550-4804 WRAP	\$35,000
6550.4804 Other leveraged funds	\$72,237

SUPERVISORS ACCEPT \$56,250 NEW YORK OFFICE OF HOMELAND SECURITY

RESOLUTION NO. 127-09, moved by Mr. Shipley, seconded by Mr. Terryberry and adopted by 617 ayes (Shipley, Terryberry, Barto, Davidson, Dresser, Same, Lafler, Amidon, Hayssen, Mooney and Westfall) and 133 absentees (Reynolds, Serven, Kaiser).

WHEREAS, the New York State Office of Homeland Security has awarded the Seneca County Office of Emergency Services a \$56,250 grant through the 2008 State Homeland Security Program (SHSP) for the purpose of the development of capabilities to respond to improvised explosive device (IED) attacks, as well as to enhance the capabilities of the County's Emergency Responders; and

WHEREAS, the grant covers 100% of the costs, with no local match; and

WHEREAS, this request was reviewed and approved by the Public Safety Committee on May 26, 2009; now, therefore, be it

RESOLVED, that the Chairman of the Seneca County Board of Supervisors is hereby authorized and directed to sign all necessary contract documents for said grant; and be it

FURTHER RESOLVED, that the Seneca County Treasurer is hereby authorized and directed to amend the 2009 Seneca County Emergency SHSP 10-110-5-3642 budget for said grant as follows:

Add Revenue:	3642.3005	56,250	SHSP 2008 grant
Increase	3642.2400	41,900	Tech. Equipment
Increase	3642.4450	14,350	HazMat Team Expenses

RESOLUTION AUTHORIZING ADOPTION BY THE BOARD OF SUPERVISORS OF THE COUNTY OF SENECA OF LOCAL LAW NO. 2, YEAR 2009 PROHIBITING THE USE OF WIRELESS HANDSETS TO COMPOSE, READ OR SEND TEXT MESSAGES WHILE OPERATING A MOTOR VEHICLE IN SENECA COUNTY

RESOLUTION NO. 128-09, moved by Mr. Shipley, seconded by Mr. Terryberry and adopted by 617 ayes (Shipley, Terryberry, Barto, Davidson, Dresser, Same, Lafler, Amidon, Hayssen, Mooney and Westfall) and 133 absentees (Reynolds, Serven, Kaiser).

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 May 26, 2009 at 8:00 p.m. at the Seneca County Office Building, Waterloo, NY, to hear all interested parties on a proposed Local Law 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”; 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 May 26, 2009 at 8:00 p.m. at the Seneca County Office Building, Waterloo, NY, 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. 2 of the year 2009, 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 emails, 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 resolutions 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 the Clerk of the Board is directed to file a certified copy of the said local law and this resolution with the Office of the Secretary of State.

**RESOLUTION SUPPORTING THE PASSAGE OF ASSEMBLY BILL A.04368 / S.3701 – AN
ACT IN RELATION TO CREATING THE VOLUNTEER PEACE OFFICER BENEFIT
LAW AND TO AMEND THE EXECUTIVE LAW AND THE GENERAL MUNICIPAL LAW,
IN RELATION TO VOLUNTEER PEACE OFFICER PROGRAMS**

RESOLUTION NO. 129-09, moved by Mr. Shipley, seconded by Mrs. Amidon and adopted by 617 ayes (Shipley, Amidon, Barto, Davidson, Dresser, Same, Lafler, Terryberry, Hayssen, Mooney and Westfall) and 133 absentees (Reynolds, Serven, Kaiser).

WHEREAS, the New York State Association of Auxiliary Policy, a fraternal organization representing over 7,000 volunteers in over 60 Law Enforcement agencies in the State of New York, strongly supports legislation which seeks to create the “Volunteer Peace Officer Benefit Law” in relation to creating better benefits and protections for Volunteer and Auxiliary Police Officers throughout the state; and

WHEREAS, this bill will not only give these volunteers parity with Volunteer Fire Fighters & Volunteer Ambulance Works, it will standardize qualifications & training, and allow Village & Town Police Departments to conduct Volunteer Peace Officer Programs, which is not covered under the New York State Defense Emergency Act of 1951; and

WHEREAS, this bill will also allow the Auxiliary Police to patrol as “the eyes and ears of the police”, an activity which is also not covered by the NYSDEA of 1951; and

WHEREAS, in addition this bill states “upon successful completion of all required classes and tests, the applicant will be registered with the division as a volunteer peace officer and will have the legal status of a peace officer while performing authorized activities within the duties assigned by the local municipality”; and

WHEREAS, the Public Safety Committee approved this resolution at its meeting on May 26, 2009; now, therefore, be it

RESOLVED, that the Seneca County Board of Supervisors supports the passage of Assembly Bill A.04368 / Senate Bill S.3701 and directs the Clerk of the Board to send certified copies of this resolution to Assemblyman Heastie, Assembly Minority Leader Brian Kolb, Senator Addabbo, Senator Nozzolio, and the New York State Association of Auxiliary Police.

**CHAIRMAN AUTHORIZED TO SIGN CONTRACT DOCUMENTS EXTENDING FIRE
TRAINING FACILITY GRANT CONTRACT PERIOD**

RESOLUTION NO. 130-09, moved by Mr. Shipley, seconded by Mr. Same and adopted by 617 ayes (Shipley, Same, Barto, Davidson, Dresser, Lafler, Terryberry, Amidon, Hayssen, Mooney and Westfall) and 133 absentees (Reynolds, Serven, Kaiser).

WHEREAS, Senator Michael Nozzolio secured a New York State Department of State grant in 2005 in the amount of \$60,000 for improvements at the Fire Training Center facility located at the former Seneca Army Depot; and

WHEREAS, there is no County match of funds for this grant; and

WHEREAS, this resolution has been reviewed and approved by the Public Safety Committee; and

WHEREAS, the grant contract period must be extended to continue the project; now, therefore, be it

RESOLVED, the Chairman of the Seneca County Board of Supervisors is hereby authorized and directed to sign all necessary contract extension documents for said grant.

**BOARD OF SUPERVISORS EXTENDS TIME FOR TRANSFER OF ABANDONED
HIGHWAY PROPERTY**

RESOLUTION NO. 131-09, moved by Mr. Davidson, seconded by Mr. Shipley and adopted by 617 ayes (Davidson, Shipley, Barto, Dresser, Same, Lafler, Terryberry, Amidon, Hayssen, Mooney, and Westfall), and 133 absentees (Reynolds, Serven, Kaiser).

WHEREAS, a resolution directing the transfer of the former Mound Road property at the northwest corner of Routes 414 and 5 & 20 in Seneca Falls to the adjoining property owner under §118-a of the Highway Law for the sum of \$38,300 was passed by the Board on March 10, 2009; and

WHEREAS, such resolution provided ninety days for the Transferee to accept title and close on the property; and

WHEREAS, the Transferee has requested an extension to July 8, 2009 to complete such transfer; and

WHEREAS, this resolution has been reviewed by the Planning and Development Committee; now, therefore, be it

RESOLVED, that the Board of Supervisors hereby extends the time limits imposed by Board Resolution No. 61-09 regarding the transfer of abandoned county highway property to adjoining property owner until July 8, 2009.

**BOARD OF SUPERVISORS APPOINTS MEMBER TO FILL VACANCY ON DISTRICT
BOARD OF SENECA COUNTY SEWER DISTRICT NO. 2 AND WATER DISTRICT NO. 1**

RESOLUTION NO. 132-09, moved by Mr. Davidson, seconded by Mr. Hayssen and adopted by 617 ayes (Davidson, Hayssen, Barto, Dresser, Same, Lafler, Terryberry, Amidon, Mooney, Shipley and Westfall) and 133 absentees (Reynolds, Serven, Kaiser).

WHEREAS, the position of Robert Kayser on the District Boards of Seneca County Water District No. 1 and Seneca County Sewer District No. 2 expires this date pursuant to resolution of this Board No. 59-09 and dated March 10, 2009; and

WHEREAS, such appointment was to fill a vacancy left by the resignation of the Varick Town Supervisor whose position on the Boards of such district as Town Supervisor is established under the resolution forming such districts; and

WHEREAS, §261 of the New York State County Law empowers the Board of Supervisors to make such appointments to such District Boards; and

WHEREAS, the Public Works Committee nominates and recommends the appointment of Robert Kayser to continue in these positions; now, therefore, be it

RESOLVED, that the Board of Supervisors hereby appoints Robert Kayser to fill the position of the Varick Town Supervisor on the District Boards of Seneca county Water District No. 1 and Seneca County Sewer District No. 2 for a term to coincide with the term of office of the Varick Town Supervisor.

**MUSSELMAN TRIATHLON GRANTED PERMISSION TO USE SENECA COUNTY
ROADS FOR RACE ON JULY 18 AND 19, 2009**

RESOLUTION NO. 133-09, moved by Mrs. Amidon, seconded by Mr. Mooney and adopted by 617 ayes (Amidon, Mooney, Barto, Davidson, Dresser, Same, Lafler, Terryberry, Hayssen, Shipley and Westfall) and 133 absentees (Reynolds, Serven, Kaiser).

WHEREAS, the Musselman Triathlon, held each year in Seneca and Ontario County, will be on July 18 and 19, 2009; and

WHEREAS, as part of the permit process to hold the bike race, NYS Department of Transportation requires written permission from the municipalities for use of its roads mapped out on the bike portion of the race; and

WHEREAS, this resolution was approved by the Government Operations Committee at its meeting on May 26, 2009; now, therefore, be it

RESOLVED, that the Seneca County Board of Supervisors authorizes and directs the Chairman of the Board to send a letter of permission to NYS Department of Transportation for the Musselman Triathlon to use public roads within Seneca County for the bike race portion on July 18 and 19, 2009.

New Business:

Dr. Dresser moved a suspension of the rules to introduce a resolution approved by the Indian Affairs Committee at its meeting scheduled prior to the board meeting.

SUPERVISORS OPPOSE LAND-INTO TRUST APPLICATION OF CAYUGA INDIAN NATION

RESOLUTION NO. 134-09, moved by Dr. Dresser, seconded by Mr. Hayssen and adopted by 617 ayes (Dresser, Hayssen, Barto, Davidson, Same, Lafler, Terryberry, Amidon, Mooney, Shipley and Westfall) and 133 absentees (Reynolds, Serven, Kaiser).

WHEREAS, The Bureau of Indian Affairs (BIA) has released a Draft Environmental Impact Statement (DEIS) supporting the proposed fee-to-trust conveyance of certain real property owned by the Cayuga Indian Nation CIN) and located in Cayuga and Seneca Counties in the State of New York; and

WHEREAS, the DEIS acknowledges that the property in question is on “ancestral land” and therefore not on a current reservation, thus the CIN application is being treated improperly as an “on-reservation” rather than an “off-reservation” application; and

WHEREAS, the DEIS concludes erroneously that there would be no significant environmental impact if the approximately 125+ subject acres owned by the CIN were taken into federal trust for the use and benefit of the CIN because it fails to address, analyze and consider mitigation of significant negative impacts that will result from such action; and

WHEREAS, taking the subject land into trust would render it sovereign territory and therefore exempt from local property taxes, special district charges and other fees, thus reducing the revenue of relevant counties, towns, villages, and school, fire, water, and sewer districts; and

WHEREAS, despite the fact that the stated purpose of the CIN application is to foster activities that will result in economic growth for the Nation, the DEIS nevertheless contends incredulously that the CIN has “no plans for further development on the properties subject to the proposed action”; and

WHEREAS, the DEIS fails to take into consideration the fact that the CIN already owns some 765 additional acres in the Counties and intends to buy more with the intent of making future trust applications, and allegedly intends to acquire up to 64,015 such acres of ancestral land that the Nation contends would thereby become eligible for trust status; and

WHEREAS, the DEIS fails to take into consideration the fact that the CIN’s LakeSide Trading enterprises have driven other gas stations and convenience stores out of business and severely reduced the profits of others because the CIN has not collected state sales and excise taxes on motor fuel, tobacco, and other products sold, thereby also reducing the sales tax revenue of the Counties; and

WHEREAS, the DEIS treats gaming as an existing condition and makes no study of its prior impact or future impact on the community, stating only that “the Nation would provide information to its patrons regarding gambling addiction counseling services available in the area”; and

WHEREAS, the DEIS admits that the sole source of CIN’s tribal revenue is its gas station and convenience store businesses and gaming operations but does not acknowledge that the sale of untaxed cigarettes and its gaming operations were both determined to be illegal; and

WHEREAS, in Table 3.8-27 figures are omitted for the annual amount of purchases of cigarettes and gas outside the Counties, apparently for the purpose of hiding the enormous volume of sales of these untaxed items; and

WHEREAS, the DEIS states that “no members of the Nation are known to reside in Cayuga County / Seneca County” and that “[t]he proposed action is intended to further the lifestyle, cultural values and objectives of the Nation by advancing the Nation’s goals of re-establishing tribal presence in its former homeland.” Yet on the very same page (4.8-2) the document makes the incongruous statement that “[i]t is not anticipated that members of the Cayuga Nation would relocate to the Project area”; and

WHEREAS, the DEIS reports the median household income of CIN members to be \$26,722, compared to \$37,487 in Cayuga County and \$37,140 in Seneca County, but it provides no analysis of any potentially adverse impact upon the provision of State, County and local services, including social services, if the application were granted and members of CIN relocated to Cayuga and Seneca counties; and

WHEREAS, the DEIS minimizes the costs of road, water, and sewer infrastructure, police and fire protection, and other public services that would be provided to the subject properties without guaranteed reimbursement from the CIN; and

WHEREAS, land placed in trust is removed from local governmental jurisdiction in terms of air, soil, and water regulations, zoning and land use regulations, building codes, and other community standards, thereby exposing both humans and the environment to unnecessary health, safety and welfare risks; and

WHEREAS, the DEIS has failed to take into consideration the disruptive practical consequences of checker-boarded sovereign parcels, which practice was squarely rejected by the U.S. Supreme Court ruling in *City of Sherrill vs. The Oneida Indian Nation*; and

WHEREAS, the DEIS has failed to recognize the U. S. Supreme Court decision in *Carcieri vs. Salazar* which prohibited the Secretary of the Interior from taking land into trust for an Indian Tribe, such as the CIN, which was not federally recognized and under Federal jurisdiction in 1934; be it therefore

RESOLVED, the Seneca County Board of Supervisors rejects the preferred alternative contained in the DEIS and calls upon the BIA to elect the No Action alternative; and be it further

RESOLVED, the Seneca County Board of Supervisors calls upon the BIA to reject all further fee-to-trust applications of the CIN in accordance with the *Carcieri vs. Salazar* decision referred to above, and any other applicable law; and be it further

RESOLVED, a copy of this resolution shall be sent to Franklin Keel, Regional Director, Eastern Regional Office, Bureau of Indian Affairs, 545 Marriott Drive, Suite 700, Nashville, Tennessee 37214 so as to be received by July 6, 2009; and be it further

RESOLVED, a copy of this resolution shall be sent to the following public officials:

Barack Obama, President of the United States
Kenneth Salazar, Secretary of the Interior
Charles Schumer, United States Senator
Kirsten Gillibrand, United State Senator
Michael Arcuri, United States Congressman
David Paterson, Governor of the State of New York
Michael Nozzolio, New York State Senator
Brian Kolb, New York State Assembly Minority Leader

Mr. Barto moved a suspension of the rules to introduce a resolution approved by the Finance, Assessment & Insurance Committee at its meeting scheduled prior to the board meeting.

**BOARD OF SUPERVISORS AUTHORIZES ADVANCE PAYMENT OF JULY INSTALLMENT
DUE ON CONTRACT WITH SENECA COUNTY CHAMBER OF COMMERCE**

RESOLUTION NO. 135-09, moved by Mr. Barto, seconded by Mr. Shipley and adopted by 617 ayes (Barto, Shipley, Davidson, Dresser, Same, Lafler, Terryberry, Amidon, Hayssen, Mooney and Westfall) and 133 absentees (Reynolds, Serven, Kaiser).

WHEREAS, the Board of Supervisors has been made aware of a temporary shortfall in funding for the Chamber of Commerce in the amount of Twenty-two thousand four hundred ninety-seven and 40/100 Dollars (\$22,497.40) due to delays in payment to the Chamber of grants from the State of New York; and

WHEREAS, the Board recognizes the critical role played by the Chamber in promoting growth and tourism in Seneca County; and

WHEREAS, there is due and owing the Chamber in July on a contract with Seneca County, sums in excess of such temporary shortfall; and

WHEREAS, this resolution has been approved by the Finance, Assessment & Insurance Committee at its meeting on June 9, 2009; now, therefore, be it

RESOLVED, that the Board of Supervisors hereby authorizes and directs the Treasurer to pay presently to the Seneca County Chamber of Commerce, those sums due the Chamber in July, 2009 on the contract between the Chamber of Commerce and the County of Seneca dated January 1, 2009.

Also, under new business, Mr. Hayssen spoke about the fact that the parks are not being mowed. He suggested a letter, which Mrs. Amidon seconded. This will be on the Agenda in two weeks.

Special Order of the Day

Meeting was adjourned at 8:33 p.m.