

Seneca County Board of Supervisors

Regular Meeting

August 23, 2011

8:00 p.m.

Call to Order

Chairman Lafler called the meeting to order at 8:03 p.m.

Roll Call of Members by the Clerk

All members of the Board answered roll call.

Pledge of Allegiance and Moment of Silence

Reports of Standing Committees:

Public Health Committee - Mr. Kubasik, Chairman. The Committee approved: (1) a contract with Regional Computer and Recycling and Recovery Electronics Recycling for the Household Hazardous Waste Collection; (2) a contract with Cathy Bond, Consultant for the Emergency Preparedness and Office of Homeland Security Grants for \$60 per hour, not to exceed \$35,000 per grant year; (3) a contract extension with the New York State Department of Health for the Tobacco Enforcement Program Grant for the period from October 1, 2011 through March 31, 2012 and will be in the amount of \$12,476.

Government Operations Committee - Mr. Kaiser, Chairman. The Committee approved: (1) the agreement with Finger Lakes Community College (FLCC) for college-level courses in satellite locations in Seneca County. No cost shall incur to Seneca County for the operation of these courses except for the normal operational charge backs per credit hour specified under community college law; (2) to have the second board meeting in September and committee meetings at the Papa Bear in Ovid, NY; (3) and had a discussion without conclusion for the purpose of gauging the interest of restructuring the current schedule for the board and committee meetings. There was no action / decision at this time.

Indian Affairs Committee - Mr. Shipley, Chairman. The Committee recommended two resolutions: (1) calling upon State Senator Nozzolio and Assemblyman Kolb to submit legislation to establish a system of tax collection on Indian sales of all goods to non-Indians; and (2) a resolution expressing support by the Board of Supervisors of NYSAC's resolution urging tax collection on all sales of products by Indians to non-Indians and for Chairman Lafler to send a letter to Steve Acquario, NYSAC Executive Director stating the same.

Public Safety Committee - Mr. Davidson, Chairman. The Committee approved: (1) the purchase of a 6 X 6 Utility Vehicle using funding from the 2008 State Homeland Security Grant. Bibbens Sales & Service from Weedsport submitted a sole bid of \$12,851.97. This is 100% Homeland Security funds; and (2) the Probation Eligible Diversion Program Contract #T-523457 between Seneca County and NYS Division of Criminal Justice Services. Each year NYS DCJS awards contracts to probation departments

for enhanced supervision of felony offenders. These offenders are targeted due to their high risk of State incarceration status. For the year 1/1/2011 – 12/31/2011, NYS is awarding Seneca County \$5,222.00 to divert these offenders from state prison; and (3) amending the State Homeland Security Grant Budget. The grants run in a 3 or 4 year cycle. Currently, the Office of Emergency Services has the 2008, 2009, and 2010 grants open. The NYS OHS has requested counties to spend down the grants and close out open grants; and (4) Amend resolution No. 161-11 regarding public hearing on proposed Local law C of 2011. Due to lack of published notice of a public hearing regarding proposed local law C, it is proposed that resolution No. 161-11 be amended to provide for a new public hearing date so that the required notice may be published.

Public Works Committee - Mr Davidson, Chairman. The Committee approved: (1) requests for proposals seeking professional services for Water and Sewer Infrastructure Master Planning to aid in the process of unified water and sewer costs and extending services to areas in need. As part of the master plan existing infrastructure would be documented, potential growth areas in the County would be identified, a hydraulic model of the water system would be developed and recommendations for improvements would be made; and (2) Highway Superintendent Roy Gates informed the Committee that the Highway Department anticipates going out for bid to purchase a lowboy trailer as they are not on state bid at this time. Specifications are being compiled and bid packets will be available as requested; and (3) awarding a bid to Five Star Equipment of East Syracuse, New York for a 2011 John Deere 672G Motor Grader at a cost not to exceed \$226,000.00.

Under new business for the Public Works Committee, a discussion took place regarding the metal wheels on Amish buggies and the affect on county roads. It was suggested the county board meet with the leaders of the Amish community regarding the issue.

Finance, Assessment & Insurance Committee - Mr. Hayssen, Chairman. The Committee met in executive session to discuss settlement of litigation pending before the United States District Court for the western District of New York related to such employees and to former prisoners of the Sheriff's Department and to consult with and obtain legal advice from counsel in regard thereto. No action was taken when the committee convened in open session.

Chairman's Remarks

Chairman Lafler reminded everyone that a dedication ceremony is scheduled for September 18, 2011 for the purpose of erecting a historic marker denoting the heritage of the Seneca County Army Depot.

Communications

105. From Lorrie S. Naegele, RMC, Geneva Town Clerk, Notice of Public Hearing on proposed Local Law 2-2011, "Establishing a Moratorium on Manure Storage and Handling Facilities", on September 7, 2011 at 7:00 p.m. at the Geneva Town Hall.

106. A petition with 138 signatures requesting that the proposed local law banning smoking on county owned or leased property exempt the Seneca Connections Drop-In Center.

107. A Petition with 66 signatures opposing the proposed local law banning smoking on county owned or leased property.

108. From Janie L. Nusser, Superintendent, South Seneca Central School District, a letter supporting the proposed local law by Seneca County to ban smoking on all county owned and leased property.

109. From Kathleen O'Neill, Communications Manager, American Lung Association in New York, an email dated August 12, 2011 supporting smoke free public spaces and the proposed local law by Seneca County to ban smoking on all county owned and leased property.

110. From the Seneca County Board of Health and Public Health staff, nine letters supporting the proposed local law banning smoking on county owned or leased property.

111. From Jose Acevedo, M.D., President & CEO, Finger Lakes Health, a letter supporting the proposed local law banning smoking on county owned or leased property.

112. From Phil Knapp, a copy of an article originally appearing in the February 21, 2011 issue of The New American titled, "Your Hometown & the United Nations' Agenda 21: Businesses – and their jobs – are fleeing California at breakneck speed because of costly, even abusive regulations meant to adhere to UN standards. Is your state next?"

113. From the Office of NYS Comptroller State and Local Retirement System, a listing of the members that retired under the program(s), their final average salary (FAS) and the individual cost for each member. The Incentive cost is included in the estimated Annual Invoice that due on February 1, 2012. Referred to the Treasurer Office and Personnel Office.

Resolutions and Motions

BOARD OF SUPERVISORS AUTHORIZES BUDGET TRANSFERS

RESOLUTION NO. 176-11, moved by Mr. Hayssen, seconded by Mr. Davidson, and adopted.

WHEREAS, due to prolonged contract negotiations between the Seneca County Sheriff's Employee Association (SCSEA) and the County of Seneca, the 2011 budget was constructed using 2009 salaries for SCSEA members; and

WHEREAS, the Board of Supervisors, in Resolution No. 251-10, supported the agreement reached between the Seneca County Sheriff's Employee Association and the County of Seneca; and

WHEREAS, the agreement included certain wage and benefit provisions that necessitate an increase in the related budget accounts; and

WHEREAS, the required increases have been computed by the Personnel Officer and reviewed by the Finance Committee on August 9, 2011; now, therefore, be it

RESOLVED, that the County Treasurer is directed by the Board of Supervisors to transfer the following amounts from the Contingent Fund to the designated wage and benefit accounts:

E911:

| | |
|--------------------|-----------|
| 10-110-5-3020-1100 | \$ 64,990 |
| 10-110-5-3020-8100 | 9,099 |
| 10-110-5-3020-8300 | 4,029 |
| 10-110-5-3020-8400 | 1,300 |
| 10-110-5-3020-8700 | 942 |

Sheriff – Administration:

| | |
|--------------------|-----------|
| 10-110-5-3110-1100 | \$ 13,550 |
| 10-110-5-3110-8100 | 2,575 |
| 10-110-5-3110-8300 | 840 |
| 10-110-5-3110-8400 | 271 |
| 10-110-5-3110-8700 | 196 |

Sheriff – Civil:

| | |
|--------------------|--------|
| 10-110-5-3112-1100 | \$ 335 |
| 10-110-5-3112-8100 | 64 |
| 10-110-5-3112-8300 | 21 |
| 10-110-5-3112-8400 | 7 |
| 10-110-5-3112-8700 | 5 |

Sheriff – Corrections

| | |
|--------------------|-----------|
| 10-110-5-3112-1100 | \$197,248 |
| 10-110-5-3112-8100 | 37,477 |
| 10-110-5-3112-8300 | 12,229 |
| 10-110-5-3112-8400 | 3,945 |
| 10-110-5-3112-8700 | 2,860 |

Contingent Fund:

| | | |
|--------------------|------------------|------------------|
| 10-101-5-1990-4700 | | \$351,983 |
| | ----- | ----- |
| | <u>\$351,983</u> | <u>\$351,983</u> |

**BOARD OF SUPERVISORS AUTHORIZES COUNSEL TO SETTLE CIVIL ACTION
ENTITLED JOHNSON, ET. AL. V. SENECA COUNTY, ET. AL.**

RESOLUTION NO. 177-11, moved by Mr. Hayssen, seconded by Mrs. Amidon, and adopted.

WHEREAS, the matters of Johnson, Backus and Davidoff v. Seneca County, et. al. remain pending before the District Court for the Western District of New York under Docket No. 08-CV-6459L has been pending since 2008; and

WHEREAS, the firm of Nixon Peabody has been retained to represent the interests of Seneca County therein; and

WHEREAS, the Board of Supervisors after consultation with counsel and in the interest of bringing the litigation to a conclusion, wishes to authorize its representative to engage in and finalize settlement negotiations in said action on behalf of the County; now, therefore, be it

RESOLVED, that the Seneca County Board of Supervisors authorizes the firm of Nixon Peabody to settle the interests of Seneca County in the matter of Johnson, et al v. Seneca County, et al, actions pending before the Federal District Court for the Western District of New York, Docket No. 08-CV-6459L, in accordance with a certain Stipulation proposed by Counsel and approved by the Finance Committee in executive session, the specific terms of which Stipulation to remain confidential pending execution in full by all parties to such litigation and filing of the fully executed document with and approval by the Court.

**CHAIRMAN OF THE BOARD OF SUPERVISORS AUTHORIZED TO SIGN A BUDGET
AMENDMENT FOR THE HOMELAND SECURITY GRANT**

RESOLUTION NO. 178-11, moved by Mr. Kubasik, seconded by Mr. Shipley and adopted.

WHEREAS, the Health Department needs to amend the current budget for the homeland security grant; and

WHEREAS, there will be no costs to the county for this amendment; and

WHEREAS, this amendment is necessary to make needed payments for purchases and services provided within the grant allowances; and

WHEREAS, the Public Health Committee approved this amendment on August 9, 2011; now, therefore, be it

RESOLVED, that the Chairman of the Board of Supervisors is hereby authorized and directed to sign the budget amendment for the homeland security grant.

**CHAIRMAN OF THE BOARD OF SUPERVISORS AUTHORIZED AND DIRECTED
TO SIGN A CONTRACT WITH CLEAN VENTURE, INC.**

RESOLUTION NO. 179-11, moved by Mr. Kubasik, seconded by Mr. Kaiser and adopted.

WHEREAS, the health department solicited bids for the Annual Household Hazardous Waste Collection event; and

WHEREAS, three sealed bids for this event were received; and

WHEREAS, Clean Venture, Inc., 36 Butler Street, Elizabeth, NJ 07206 submitted the lowest bid for the services; and

WHEREAS, the prices included: set up fee: \$1,000; charge per household: \$37.00; and

WHEREAS, the money for this contract is in the Public Health Department budget 10-115-5-4011-4700; and

WHEREAS, the Public Health Committee has recommended approval of a contract with Clean Venture, Inc.; now, therefore, be it

RESOLVED, that the Chairman of the Board of Supervisors is hereby authorized and directed to sign the contract with Clean Venture, Inc., for the annual Household Hazardous Waste Collection event.

A RESOLUTION TO INTRODUCE LOCAL LAW D OF 2011 TITLE “A LOCAL LAW PROHIBITING SMOKING UPON ALL REAL PROPERTY OWNED OR LEASED BY THE COUNTY OF SENECA”

RESOLUTION NO. 180-11, moved by Mr. Kubasik, seconded by Mr. Same and adopted by 472 ayes (Kubasik, Same, Reynolds, Garlick Lorenzetti, Prouty, Lafler, Amidon, Mooney), and 278 nays (Serven, Davidson, Kaiser, Churchill, Hayssen, Shipley).

WHEREAS, the Board of Supervisors recognizes the significant impact that smoking has on the health of residents of the County; and

WHEREAS, although the Board also recognizes the rights of individuals to choose to smoke if they so desire, it also recognizes the right and obligation of the County to control activities on County property and at County operated facilities, consistent with the interests and the health of those who work and conduct business on County owned or leased premises; and

WHEREAS, this resolution has been reviewed and approved by the Public Health Committee; now, therefore, be it

RESOLVED, that Local Law D of 2011 titled “A Local Law Prohibiting Smoking upon All Real Property Owned or Leased by the County of Seneca” be and the same is hereby introduced before the Board of Supervisors of Seneca County, New York to read in substantially the following form:

Section 1: Findings

The Board of Supervisors of the County of Seneca finds that smoking on real property owned or leased by the County should be prohibited in order to:

- A) Protect the public health, safety and general welfare by eliminating exposure to secondhand smoke.

- B) Acknowledge the need of nonsmokers, especially children, to breathe smoke-free air, recognizing the danger to public health which secondhand smoke causes.
- C) Recognize that the need to breathe air free of the disease-causing toxins in secondhand smoke should have priority over the desire to and convenience of smoking on real property owned or leased by the County.
- D) Recognize the right and benefit to municipal residents and visitors to be free from unwelcome secondhand smoke while on real property owned or leased by the County.

Section 2: Application of Article to County-Owned and Leased Real Property

All real property owned or leased by the County of Seneca shall be subject to the provisions of this Local Law. The term “real property” shall include real estate, lands and any structures, buildings or facilities located upon said real estate and lands. The term “real property” shall not include roadways and right of ways located within the county road system established under Section 115 of the New York State Highway Law.

Section 3: Regulation of Smoking upon County-Owned and Leased Real Property

- A) “Smoking” shall mean inhaling of, exhaling of, burning of, or carrying of any lighted cigar, cigarette, pipe, weed, or other plant in any manner or in any form.
- B) Smoking shall be prohibited upon all real property owned or leased by the County of Seneca, except when located within a moving motor vehicle which is in the process of exiting or entering real property owned or leased by the County of Seneca.

Section 4: Posting of Signs

SMOKING IS PROHIBITED, or NO SMOKING signs, using the international NO SMOKING symbol – consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it, shall be prominently and conspicuously posted upon the entrance to all real property where smoking is regulated by this Article. NO SMOKING signs shall be protected from tampering, damage, removal, or concealment.

Section 5: Enforcement

- A) For the purpose of this Local Law the term “enforcement officer” shall mean the Seneca County Board of Health, or its designee.
- B) The enforcement officer may cause to have issued and served upon the person complained against, a written notice, together with a copy of the complaint made against him, which shall specify the provisions of this Local Law of which such person is said to be in violation and a statement of the manner in which that

person is said to violate it and shall require the person so complained against to answer the charges of such complaint at a public hearing before a Hearing Officer designated by the Board of Health at a time not less than fifteen (15) days after the date of service of notice.

- C) The Board of Health may serve, together with a copy of the complaint, a stipulation offer to the person complained against. The stipulation offer shall allow the person complained against to enter into a stipulation under the terms and conditions as set forth in the stipulation offer. The person complained against shall have the option of entering into the stipulation or proceeding with a formal hearing before a Hearing Officer designated by the Seneca County Board of Health.
- D) If the Hearing Officer determines, after a hearing, that a violation of this Local Law has occurred, a civil penalty may be imposed by the enforcement officer pursuant to Section 6 of this Local Law. Nothing herein shall be construed to prohibit an enforcement officer from commencing a proceeding for injunctive relief to compel compliance with this Local Law.
- E) Any person who desires to register a complaint under this Local Law may do so with any appropriate enforcement officer.
- F) Any person who elects to seek review of a final decision or order of the Hearing Officer shall file a notice of appeal with the Seneca County Department of Health within 15 days of receipt of a copy of the decision and order of the Officer. The notice of appeal is to be accompanied by a brief or memorandum outlining the specific reasons why the decision and order should be changed. The filing of a notice of appeal will stay the collection of any fine or imposition of a penalty or order until the Board has rendered its decision. Appeals shall be made upon the record of the hearing and are to be made without physical appearance of the appellant unless requested by the appellant in the notice of appeal. Any appeal in which an appearance is made by the appellant will be open to the public.
- G) Appeals shall be reviewed by the Seneca County Board of Health which shall issue its decision in writing within thirty days of the later of, receipt of the appeal or of the appearance of the appellant before the Board. A copy of the decision shall be provided by mail to the appellant.
- H) The decision of any Board of Health shall be reviewable pursuant to Article seventy-eight of the Civil Practice Law and Rules.

- I) The enforcement officer, subsequent to any appeal having been finally determined, may bring an action to recover the civil penalty provided in Section 6 of this Local Law.

Section 6: Violations and Penalties

- A) It shall be unlawful for any person to smoke in any area where smoking is prohibited by the provisions of this Local Law.
- B) Any person who violates any provision of this Local Law shall be guilty of a violation, punishable by a civil penalty not to exceed one thousand dollars (\$1,000.00).

Section 7: Other Applicable Laws

This Local Law shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

Section 8: Severability

If any provision, clause, sentence, or paragraph of this Local Law or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the other provisions of this Local Law which can be given effect without the valid provision or application, and to this end the provisions of this Local Law are declared to be severable.

Section 9: Effective Date

This local law shall take effect immediately upon filing with the Secretary of State in accordance with Section 27 of the New York State 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, One DiPronio Drive, Waterloo, New York at or about 8:00 p.m. on September 13, 2011; 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.

During the discussion of Resolution No. 180-11, Supervisors Kaiser, Churchill, Davidson and Hayssen expressed why they voted against the resolution. There were several specific reasons cited including outside smoking does not force anyone to inhale second hand smoke; this is an example of government imposing on individuals rights; the law could not be enforced and we should not be relying on employees and the public to report smoking on county property so that a fine can be imposed; and it

would be a better idea to move the designated smoking area far away from the main building and away from populated areas.

Supervisors Lafler, Same and Garlick Lorenzetti voiced their support for the resolution stating it was a policy that benefits the whole the same as mandatory seat belt use in a moving vehicle; adopting the resolution means that the Board of Supervisors would hold a public hearing thus the opportunity to hear what the public / employees opinion; and 48% of Medicaid recipients are smokers and the monetary assistance they receive is being used to purchases cigarettes. The County should set a good example for good health by prohibiting smoking on the property.

**CHAIRMAN OF THE BOARD OF SUPERVISORS AUTHORIZED AND DIRECTED TO SIGN
A CONTRACT WITH SUE LIPINOVA TO PROVIDE PHYSICAL THERAPY SERVICES FOR
THE EARLY INTERVENTION AND 3-5 PROGRAMS**

RESOLUTION NO. 181-11, moved by Mr. Kubasik, seconded by Mrs. Garlick Lorenzetti and adopted.

WHEREAS, the Health Department is required to maintain contracts with individuals or agencies to provide professional services for the Early Intervention and 3-5 (Pre-School) programs); and

WHEREAS, Sue Lipinoga, meets the qualifications as a Physical Therapist and would like to provide Physical Therapy to children enrolled in these programs; and

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

WHEREAS, it is necessary for the Chairman of the Board of Supervisors to sign this contract; 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 contracts with Sue Lipinoga for the provision of services to children enrolled in the Early Intervention and 3-5 Pre-School Programs.

**CHAIRMAN OF THE BOARD OF SUPERVISORS AUTHORIZED AND DIRECTED TO SIGN
A CONTRACT WITH ONTARIO COUNTY FOR THE CANCER SERVICES PROGRAM**

RESOLUTION NO. 182-11, moved by Mr. Kubasik, seconded by Mr. Davidson and adopted.

WHEREAS, Ontario County Public Health is the lead agency for the Cancer Services Program for Ontario, Seneca, and Yates Counties; and

WHEREAS, Ontario County Public Health will be contracting with Seneca County Public Health to provide services to include: perform outreach and education; enroll clients in the programs and ensure follow through; and

WHEREAS, the period for this grant is April 1, 2011 through March 31, 2012; and

WHEREAS, the Health Department will be compensated in the amount of \$31,136 for these services; and

WHEREAS, this revenue is included in the Health Department budget; 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 Ontario County for the Cancer Services Program.

CHAIRMAN OF THE BOARD TO SIGN 2012 SENECA COUNTY REINTEGRATION PROJECT AGREEMENT WITH THE YOUTH ADVOCATE PROGRAMS, INC.

RESOLUTION NO. 183-11, moved by Mr. Mooney, seconded by Mr. Same and adopted.

WHEREAS, the Division of Human Services would like to renew the agreement with the Youth Advocate Program, Inc. (YAP) for the Seneca County Reintegration Project; and

WHEREAS, the agency is proposing to serve up to 10 youth at any one time with up to 12.5 youth receiving services annually; and

WHEREAS, YAP will successfully return 85% of the youth back into the community; and

WHEREAS, the proposed operating budget for the proposed program is not to exceed \$250,633;

WHEREAS, this funding is currently available in the 2011 budget, under line item 10-125-5-6070-4747, and planned for in the 2012 budget; and

WHEREAS, this plan has been reviewed and approved by the Human Services Committee on August 9, 2011; now, therefore, be it

RESOLVED, the Board authorizes the approval of the 2012 Seneca County Reintegration Project with the Youth Advocate Programs, Inc.; and be it

FURTHER RESOLVED, the Chairman of the Board is authorized and directed to sign the 2012 Seneca County Reintegration Project with the Youth Advocate Programs, Inc.

AUTHORIZE PURCHASE OF A 6 X 6 UTILITY VEHICLE FOR EMERGENCY SERVICES

RESOLUTION NO. 184-11, moved by Mr. Davidson, seconded by Mrs. Amidon and adopted.

WHEREAS, in the FY2009 NYS Office of Homeland Security Grant the purchase of a Utility Vehicle has been authorized at no cost to the County; and

WHEREAS, this purchase has been approved in the 2011 Budget; and

WHEREAS, through a bid process Cottrell Bibbens Sales & Service, 3282 E Brutus Street, Weedsport, NY was the low bidder at \$12,851.97; and

WHEREAS, the Public Safety Committee approved the purchase of said trailer at its meeting on August 23, 2011; now, therefore, be it

RESOLVED, the Director of Emergency Services is hereby authorized to purchase a Utility Vehicle.

**A RESOLUTION TO AMEND BOARD OF SUPERVISORS RESOLUTION NO. 161-11
REGARDING PROPOSED LOCAL LAW C ESTABLISHING A WIRELESS TELEPHONE
USAGE CHARGE PURSUANT TO §308-A OF NEW YORK STATE COUNTY LAW**

RESOLUTION NO. 185-11, moved by Mr. Davidson, seconded by Mr. Same and adopted by 544 ayes (Davidson, Same, Reynolds, Garlick Lorenzetti, Prouty, Lafler, Amidon, Hayssen, Mooney, Kubasik) and 206 nays (Serven, Kaiser, Churchill, Shipley).

WHEREAS, the Board of Supervisors approved resolution no. 161-11, introducing proposed Local Law C, establishing a wireless telephone usage charge pursuant to §308-a of New York State County Law; and

WHEREAS, there was insufficient time for advertisement of the public hearing in order to adopt such proposed local law provided under such resolution; and

WHEREAS, the Public Safety Committee has reviewed and approved this resolution; now, therefore, be it

RESOLVED, that the clause contained in said resolution which directs that a public hearing on the adoption of such local law be held on August 23, 2011, be amended to read as follows:

RESOLVED, that the County Board hold a public hearing on said proposed Local Law at the County Office Building, One DiPronio Drive, Waterloo, New York at or about 8:00 p.m. on September 13, 2011; and, be it further

RESOLVED, that the Clerk to 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.

During the discussion of Resolution No. 185-11, Supervisors Shipley and Churchill stated they would be voting against the resolution because it is double taxation. Mr. Kubasik stated that he would be voting in favor of the resolution because the revenue from the surcharge would reduce the property tax.

New Business:

The Search Committee for the County Manager position reviewed forty-four applications for the position. After the preliminary review the number of applications was reduced to twenty-one.

The engineering firms that submitted specs for the old jail and the courthouse project were interviewed and the initial thirteen specs received was reduced to five engineering firms to consider.

Mr. Shipley moved the suspension of the rules to introduce the following resolutions:

**SUPERVISORS URGE SENATOR NOZZOLIO AND ASSEMBLYMAN KOLB TO PREPARE
AND INTRODUCE LEGISLATION FOR AN ALTERNATE COLLECTION OF TAXES ON
GOODS SOLD BY INDIAN TRIBAL ENTERPRISES TO NON-INDIANS**

RESOLUTION NO. 186-11, moved by Mr. Shipley, seconded by Mrs. Garlick Lorenzetti and adopted.

WHEREAS, New York State Tax Law levies taxes on sales of goods within the State of New York, without regard to the race of the seller of the site of the sale within the State; and

WHEREAS, state and federal courts have authorized use of a probable demand system as an alternative to the coupon system for the collection of taxes on the sales of cigarettes to non-Indians on Indian reservations; and

WHEREAS, Lakeside Trading stores in both Seneca County and Cayuga County, and the Skydancer store in Seneca County, continue to sell gasoline, Indian produced cigarettes and other commodities to non-Indians without collecting state sales and excise taxes in violation of New York State Tax Law; and

WHEREAS, law-abiding, non-Indian owned retailers which must collect these taxes continue to suffer from the unfair price advantage created when Lakeside Trading stores and Skydancer store sell gasoline, cigarettes, and other commodities without charging the taxes due from their customers; now, therefore, be it

RESOLVED, the Seneca County Board of Supervisors hereby calls upon State Senator Michael Nozzolio, and State Assemblyman Brian Kolb to prepare and submit legislation in their respective branches of the State Legislature to establish a system of tax collection on Indian sales of all good to non-Indians.

Prior to voting on Resolution 186-11, Mr. Kaiser moved it be amended by inserting the word Skydancer in the third and fourth whereas clauses.

**SUPERVISORS SUPPORT RESOLUTION OF NEW YORK STATE ASSOCIATION OF
COUNTIES REQUESTING PASSAGE OF LEGISLATION FOR AN
ALTERNATE COLLECTION OF TAXES ON GOODS SOLD BY INDIAN TRIBAL
ENTERPRISES TO NON-INDIANS**

RESOLUTION NO. 187-11, moved by Mr. Shipley, seconded by Mr. Hayssen and adopted.

WHEREAS, the Board of Supervisors has passed a resolution urging passage of legislation designed to collect lawfully due taxes on sales of products by Indians and Indian Tribes to non-Indian; and

WHEREAS, it has come to the attention of the Board of Supervisors that New York State Association of Counties will address a similar resolution at its September Fall Conference; now, therefore, be it

RESOLVED, the Seneca County Board of Supervisors hereby expresses its support of New York State Association of Counties resolution urging passage of legislation by the State Legislature to establish a system of tax collection on Indian sales of all good to non-Indians; and be it further

RESOLVED, that the Chairman of the Board of Supervisors is authorized and directed to send a letter to the Chairman of New York State Association of Counties so stating their support.

Special Order of the Day

The meeting was adjourned at 8:44 p.m.