

SENECA COUNTY BOARD OF SUPERVISORS

REGULAR MEETING

September 13, 2011

8:00 p.m.

Call to Order

Chairman Lafler called the meeting to order at 8:00 p.m.

Roll Call of Members by the Clerk

All members of the Board were present.

Presentations

Jennifer Thorpe, Mental Health Services Department, was recognized and awarded the Employee of the 2nd Quarter 2011 Award.

Public Hearing

The floor was opened to receive and hear public comment on proposed local law C of 2011. No comments were heard. The floor was closed to the public.

Proposed Local Law C of the Year 2011, Local Law C of 2011 entitled "A Local Law to Impose a Surcharge on Wireless Communications in Seneca County Pursuant to §308-a of the County Law" 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. Definitions

(a) "Place of primary use" shall mean the street address that is representative of where the customer's use of the wireless communications service primarily occurs, which address must be: (1) residential street address or the primary business street address of the customer; and (2) within the licensed service area of the wireless communications service supplier.

(b) "Wireless communications service supplier" means a telecommunications corporation that provides service within Seneca County.

(c) "System costs or other costs" means the costs associated with maintaining the telecommunications equipment and the telephone services necessary to provide an E911 system and costs associated with the design, construction, operation, maintenance, and administration of public safety communications networks serving Seneca County.

SECTION 2. Pursuant to Section 308 (a) of the County Law of the State of New York, there is hereby imposed a surcharge of thirty cents (\$.30) per month per wireless communications device which shall be reflected and made payable on bills rendered for wireless communications service that is provided to a customer whose place of primary use is within the County of Seneca. Wireless communication service suppliers shall begin to add the surcharge to all current service bills rendered on

or after January 1, 2012. Any wireless communications service supplier required to collect the surcharge pursuant to the provisions of this section shall be given a minimum of forty-five (45) days written notice prior to the date it shall begin to add such surcharge to the billings of its customers or prior to any modification to or change in the surcharge amount.

(a) Each wireless communications service supplier serving the County of Seneca shall act as a collection agent for the county and shall remit the funds collected pursuant to the surcharge imposed under the provisions of this section to the Seneca County Treasurer every month. Such funds shall be remitted no later than thirty (30) days after the last business day of the month.

(b) Each wireless communications service supplier shall be entitled to retain, as an administrative fee, an amount equal to two percent (2%) of its collections of the surcharge imposed under the provisions of this section.

(c) The surcharge required to be collected by a wireless communications service supplier shall be added to and stated separately in its billings to customers.

(d) Each wireless communications service customer who is subject to the provisions of this section shall be liable to the County of Seneca for the surcharge until it has been paid to the county except that payment to a wireless communications service supplier shall be sufficient to relieve the customer from further liability for such surcharge.

(e) No wireless communications service supplier shall have a legal obligation to enforce the collection of the surcharge imposed under the provisions of this section, provided, however, that whenever the wireless communications service supplier remits the funds collected to the County of Seneca, it shall also provide the County of Seneca with the name and address of any customer refusing or failing to pay the surcharge imposed under the provisions of this section and shall state the amount of such surcharge remaining unpaid.

(f) Each wireless communications service supplier shall annually provide to the County of Seneca an accounting of the surcharge amounts billed and collected.

(g) All surcharge monies remitted to the County of Seneca by a wireless communications service supplier shall be expended only upon authorization of the Seneca County Board of Supervisors and only for payment of system costs or other costs associated with the design, construction, operation, maintenance, and administration of public safety communications networks serving Seneca County. The County of Seneca shall separately account for and keep adequate books and records of the amount and source of all such monies and of the amount and object or purpose of all expenditures thereof. If, at the end of any fiscal year, the total amount of all such monies exceeds the amount necessary for payment of the above mentioned costs in such fiscal year, such excess shall be reserved and carried over for the payment of those costs in the following fiscal year.

SECTION 3. The County of Seneca shall be exempt from the surcharge imposed under this local law.

SECTION 4. This local law shall take effect on January 1, 2012, provided, however, that a wireless communications service provider may treat the address used by such supplier for any wireless communications customer under a service contract or agreement in effect on the date of the adoption hereof by the Board of Supervisors, as that wireless communications customer's place of primary use for the remaining term of such service contract or agreement, for purposes of determining the taxing jurisdiction with respect to taxes on wireless communication service.

Public Hearing

The floor was opened to receive and hear public comment on proposed local law D of the Year 2011, "A Local Law Prohibiting Smoking Upon All Real Property Owned or Leased By the County Of Seneca"

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 or, 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.

The following individuals made public comment and/or submitted written comments against the proposed local law: James Mitchell, resident, Town of Fayette; Rhonda Maher, Seneca County employee; Phil Snyder, Seneca County employee; Scott LaVigne, Director of Seneca County Community Counseling Services; Greg Wadhams, Seneca County employee; Kerry VanGee, Seneca County employee; Denise Jerome, resident, Town of Romulus

The following individuals made public comment and/or submitted written comments in support of the local law: Tim Ryan, M.D., member, Seneca County Board of Health; Jonathan Egan, member, Seneca County Board of Health; Dr. Scott McIntosh, Greater Rochester Area; Nicole Morrison, American

Cancer Society; Theresa Lahr, Seneca County employee and member of the Worksite Wellness Committee; Emily Sisson, resident, Town of Fayette and Manager of Wayne County Rural Health Network; Anna Dennis, resident, Town of Seneca Falls; and Penny Gugino, Tobacco Action Coalition.

Submission of Claims for Audit

Mr. Hayssen, Chairperson, made a motion, seconded by Mr. Reynolds, and carried that the following vouchers have gone through the proper auditing process, be approved for payment.

Supervisors vouchers	# 1925 - 2162	totaling	\$ 255,273.88
OFA vouchers	# 503 - 563	totaling	\$ 67,030.27
Workforce Development vouchers	# 227 - 262	totaling	\$ 32,413.01
Self Insurance vouchers	# 55 - 58	totaling	\$ 2,089.14
Sheriff vouchers	#479 - 536	totaling	\$ 104,057.88
County Airport vouchers	#90 - 102	totaling	\$ 46,902.63
Highway Transportation vouchers			
Maintenance & State Snow	# 170 - 194	totaling	\$ 77,807.45
Highway Machinery	# 282 - 318	totaling	\$ 222,041.76
	Highway Total		\$ 299,849.21
Water & Sewer	# 178 - 211	totaling	\$ 32,631.12
Airport Capital vouchers	# 16 - 17	totaling	\$ 9,225.83
Highway Capital vouchers	#8	totaling	\$ 5,878.45
Veterans Capital vouchers	# 29 - 32	totaling	\$ 103,433.82

Reports of Standing Committees

Planning, Development, Agriculture & Tourism Committee – Mrs. Amidon, Chair. The Committee approved: (1) authorization of a MICRO Loan to Timothy Dean / Dean Trucking for a \$25,000 loan at 5% for five (5) years. This financing will help the business with start-up for purchasing a dump truck. This project will create one (1) full-time job and one (1) part-time job; and (2) the appointment of August Gillon as a member of the Finger Lakes Regional Airport Advisory Committee; and (3) a contract with Twin Lakes Snowmobile Association naming Seneca County as a Sponsor making it necessary to receive the pass-through funding available to Snowmobile Trails. In order for funds to be distributed to the Twin Lakes Snowmobile Association when they are received from the state, a renewal of the contract between the county and Twin Lakes Snowmobile Association needs to be signed. The proposed contract will be for the 2011-2012 and the 2012-2013 seasons.

Public Works Committee – Mr. Davidson, Chairman. The Committee approved: (1) retaining Popli Design Group from Penfield NY to complete the space needs analysis for the County Courthouse

Facility. The proposed fee for the analysis is \$23,940; and (2) refilling a vacant full-time Account Clerk position by promotion and refill a part-time Account Clerk position vacated by above promotion in the Highway Department.

Human Services Committee – Mr. Mooney, Chairman. The Committee approved: (1) contracting with New York State Energy Research Development Authority (NYSERDA) for its EMPOWER New York Program to deliver energy efficiency and energy use education to income eligible customers of participating utilities for the period October 1, 2011 – September 30, 2012. This would be an additional revenue source of approx. \$30,000 a year; and (2) the appointment of Michael L. Davis, Business Manager-IBEW Local Union 840 to the Finger Lakes Workforce Investment Board.

Public Health Services Committee – Mr. Kubasik, Chairman. The Committee approved: (1) a contract with Rochester Primary Care Network provide preventative dental health services in Seneca County schools. The cost for these services will be billed to insurance, if available. If no insurance is available, the Health Department will pay the Rochester Primary Care Network \$45 per child. All children enrolled in the school will be offered free dental screening, dental exam by the dentist, cleaning, fluoride treatment and home care instructions and/or dental services at their parent’s expense. Parents will be offered a sliding fee scale for payment options. The costs for these services and supplies are approximately \$5,000 per year; and (2) a Contract with Nancy Fuhr Bonn as a Service Provider for the Early Intervention and 3-5 Programs to provide Licensed Clinical Social Work services to children enrolled in the Early Intervention and 3-5 Programs.

Finance, Assessment & Insurance Committee – Mr. Hayssen, Chairman. The Committee approved: (1) the appropriation of \$3,000.00 to the firm of Midey and Mirras for legal services associated with the establishment of the Sampson Veterans Memorial Cemetery Association as a 501(c)(3); and (2) extending the additional rate of sales tax as authorized under §1210 of the New York State Tax Law to November 30, 2013; and (3) refilling a vacant full-time Account Clerk position by promotion and refill a part-time Account Clerk position vacated by above promotion in the Highway Department.

Chairman’s Remarks

Chairman Lafler recognized the efforts of Mr. Kubasik and Mr. Sciotti, County Treasurer regarding the preparation of the 2012 budget.

Chairman Lafler recognized David Dresser, Mr. Shipley and Mr. Same, and County Attorney Fisher for meeting with Lieutenant Governor Duffy to discuss the Indian issue affecting Seneca County.

Chairman Lafler recognized Mr. Kaiser and Mr. Churchill for their efforts as members of the County Manager Search Committee. There are approximately ten candidates chosen for a background check. The next step is to choose between three and six candidates for interviews.

Communications:

114. Letters supporting the proposed Local Law banning smoking from county owned / leased property from the following people: Ian M. Cole, County Administrator – Livingston County; Joan Hendrix, Library Director – Interlaken Public Library; Stephen Parker Zielinski, Principal, South Seneca Middle School; Timothy J. Ryan, M.D.; Joseph A. Lorenzetti, M.D.; Gregory Young, M.D., Associate Commissioner of Health, Western Region, New York State Department of Health.

115. A copy of the Finger Lakes Regional Airport Advisory Committee meeting minutes for September 14, 2011.

116. From Seneca County IDA, copies of the signed Annual Financial Disclosure Forms and No Conflict of Interest Forms for Newly Appointed Seneca County EDC Board Members: Kenneth Riemer and C. Mitchell Rowe.

117. A copy of the Seneca County IDA August 4, 2011 meeting minutes.

Resolutions and Motions

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

RESOLUTION NO. 188-11, moved by Mr. Hayssen, seconded by Mr. Churchill and adopted.

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

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

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

Pursuant to the authority of section 1210 of the Tax Law, in addition to the sales and compensating use taxes imposed by sections 2 and 4 of this resolution, there is hereby imposed and shall be paid an additional one percent rate of sales and compensating use taxes, for the period beginning December 1, 2002 and ending November 30, 2013. Such additional taxes shall be identical to the taxes imposed by such sections 2 and 4, and shall be administered and collected in the same manner as such taxes. All of the provisions of this resolution relating to or applicable to the administration and collection of the taxes imposed by such sections 2 and 4 shall apply to the additional taxes imposed by this section, including the applicable transitional provisions, limitations, special provisions, exemptions, exclusions, refunds and credits as are set forth in this resolution, with the same force and effect as if those provisions had been incorporated in full into this section and had expressly referred to the additional taxes imposed by this section.

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

(B) With respect to the additional tax of one percent imposed for the period beginning December 1, 2002, and ending November 30, 2013, in respect to the use of property used by the purchaser in this County prior to December 1, 2001.

SECTION 3. This enactment shall take effect December 1, 2011.

**SUPERVISORS AMEND RULES OF THE BOARD TO HOLD SEPTEMBER 27, 2011
COMMITTEE AND BOARD OF SUPERVISORS MEETINGS AT THE FORMER COUNTY
COURTHOUSE IN OVID, NEW YORK**

RESOLUTION NO. 189-11, moved by Mr. Kaiser, seconded by Mr. Prouty and adopted.

RESOLVED, that the Seneca County Board of Supervisors does hereby amend the Rules of Order to hold the committee meetings and board meeting for September 27, 2011 at the former County Courthouse in Ovid, New York at 5:30 p.m. and 8:00 p.m. respectively.

**CHAIRMAN OF THE BOARD AUTHORIZED TO SIGN AGREEMENT BETWEEN SENECA
COUNTY AND FINGER LAKES COMMUNITY COLLEGE TO OFFER COLLEGE LEVEL
COURSES IN SENECA COUNTY**

RESOLUTION NO. 190-11, moved by Mr. Kaiser, seconded by Mr. Prouty and adopted.

WHEREAS, Finger Lakes Community College (FLCC) offers college-level courses in satellite locations in Seneca County; and

WHEREAS, 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; and

WHEREAS, this resolution was approved by the Board of Supervisors Human Services Committee at its meeting on August 23, 2011; now, therefore, be it

RESOLVED, that the Chairman of the Board of Supervisors is hereby authorized and directed to sign an agreement with the Finger Lakes Community College to offer college-level courses in satellite locations in Seneca County for the 2011-2012 year.

**CHAIRMAN OF THE BOARD OF SUPERVISORS AUTHORIZED AND DIRECTED TO SIGN
A CONTRACT EXTENSION WITH THE NEW YORK STATE DEPARTMENT OF HEALTH
FOR THE TOBACCO ENFORCEMENT PROGRAM**

RESOLUTION NO. 191-11 moved by Mr. Kubasik, seconded by Mr. Mooney and adopted.

WHEREAS, in order to align the Tobacco Enforcement Program Grant with the State Fiscal Year, the New York State Department of Health is awarding a six month contract extension to the Health Department; and

WHEREAS, the contract period will be from October 1, 2011 through March 31, 2012 and will be in the amount of \$12,476; and

WHEREAS, it is necessary for the Chairman of the Board of Supervisors to sign this contract extension to receive these funds; and

WHEREAS, the funds are in the Public Health Budget 10-115-5-4011-4700; and

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

RESOLVED, that the Chairman of the Board of Supervisors is hereby authorized and directed to sign the contract extension with the New York State Department of Health for the Tobacco Enforcement Program.

**CHAIRMAN OF THE BOARD OF SUPERVISORS AUTHORIZED TO SIGN A CONTRACT
WITH CATHY BOND FOR EMERGENCY PREPAREDNESS PLANNING**

RESOLUTION NO. 192-11, moved by Mr. Kubasik, seconded by Mr. Davidson and adopted.

WHEREAS, Cathy Bond is a consultant who has been working with the Health Department on Emergency Preparedness Planning for six years; and

WHEREAS, under the Emergency Preparedness Grant (August 10, 2011 to August 9, 2012) her duties include the assessment of current plans, re-write and updating of local plans, the development of new plans per New York State Department of Health deliverable contract requirements, the facilitation of drills and exercises and the completion of After Action Reports; and

WHEREAS, she also performs quarterly staff trainings and Influenza Like Illness (ILI), daily surveillance at schools, provider offices, nursing homes and day care centers; and

WHEREAS, she will receive \$60 per hour, not to exceed \$35,000 per grant year; and

WHEREAS, the funds for these expenses are in the Public Health budget 10-115-5-4014-4370; 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 Cathy Bond for consulting work under the Emergency Preparedness Grant.

**CHAIRMAN OF THE BOARD OF SUPERVISORS AUTHORIZED TO SIGN
AN AGREEMENT FOR ELECTRONICS RECYCLING**

RESOLUTION NO. 193-11, moved by Mr. Kubasik, seconded by Mrs. Amidon, and adopted.

WHEREAS, Regional Computer Recycling and Recovery, 7318 Victor-Mendon Road, Victor, NY, provided electronics recycling services for the Annual Household Hazardous Waste Collection Day for the last two years; and

WHEREAS, there are no anticipated expenditures for this as RCR&R will reimburse the Health Department at \$0.03 per lb. for the recovery of all eligible electronics (computers, computer peripherals,

monitors, terminals, fax machines, printers, scanners, televisions, audio/visual equipment, mice and other equipment designated under the New York State Electronic Recycling Equipment and Reuse Act), for this year; and

WHEREAS, the Public Health Committee has recommended approval of this contract; now, therefore, be it

RESOLVED, that the Chairman of the Board of Supervisors is hereby authorized and directed to sign an agreement with Regional Computer Recycling and Recovery for the electronics recycling.

AUTHORIZE CHAIRMAN OF THE BOARD TO SIGN CONTRACT BETWEEN SENECA COUNTY AND NYS DIVISION OF CRIMINAL JUSTICE SERVICES FOR THE PROBATION ELIGIBLE DIVERSION PROGRAM JANUARY 1, 2011 THROUGH DECEMBER 31, 2011

RESOLUTION NO. 194-11, moved by Mr. Davidson, seconded by Mr. Prouty and adopted.

WHEREAS, New York State has enacted laws to promote more efficient jail and prison population management and the development of Alternatives to Incarceration projects; and

WHEREAS, the State Legislature has appropriated funds for the continuation of existing Probation Eligible Diversion programming services for certain offenders throughout the State; and

WHEREAS, the application for said funds submitted by the Seneca County Probation Department was approved by New York State Division of Criminal Justice Services for funding not exceeding \$5222.00; and

WHEREAS, the Board of Supervisors Public Safety Committee approved this resolution at its meeting on August 23, 2011; now, therefore, be it

RESOLVED, that the Chairman of the Board of Supervisors be authorized and directed to sign the contract between NYS Division of Criminal Justice Services and Seneca County for the Probation Eligible Diversion Program.

AMEND OFFICE OF EMERGENCY SERVICE'S HOMELAND SECURITY GRANT BUDGET

RESOLUTION NO. 195-11, moved by Mr. Davidson, seconded by Mr. Kubasik and adopted.

WHEREAS, the New York State Homeland Security grants run in a three or four year cycle; and

WHEREAS, the Office of Emergency Services has the 2008, 2009, and 2010 grants open; and

WHEREAS, the New York State Homeland Security has requested counties to spend down the grants and close out open grants; and

WHEREAS, the Public Safety Committee approved the amendment at its meeting on August 23, 2011; now, therefore, be it

RESOLVED, that the County Treasurer is authorized and directed to amend the SHSP Grant Budget 10-110-5-3642 as follows:

Increase:	3642-2400 Technical Equipment	\$20,000
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Increase:	3642-2600 Vehicles	\$16,000
Increase Revenue:	10-319-3-3005 SHSP Grant	\$36,000

SUPERVISORS AWARD BID FOR MOTOR GRADER

RESOLUTION NO. 196-11, moved by Mr. Davidson, seconded by Mrs. Amidon and adopted.

WHEREAS, Seneca County advertised solicitations for bids for a 2011 Heavy Duty All-Wheel Drive Motor Grader; and

WHEREAS, three bids were received, the lowest being from Five Star Equipment of East Syracuse, New York in the amount of \$226,000.00; and

WHEREAS, the Public Works Committee of the Seneca County Board of Supervisors recommended accepting the bid from Five Star Equipment on August 23, 2011; now, therefore, be it

RESOLVED, that the Seneca County Board of Supervisors does hereby award the 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; and be it

FURTHER RESOLVED, that the Chairman of the Seneca County Board of Supervisors does hereby authorize and direct the Seneca County Highway Superintendent to purchase one (1) 2011 John Deere 672G Motor Grader from Five Star Equipment of East Syracuse, New York in the amount of \$226,000.00 with funds appropriated from the 2011 Highway Road Machinery Vehicle Account 50-120-5-5130-2600.

New Business

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

**BOARD OF SUPERVISORS APPROVES CONSULTANT CONTRACT
WITH DR. DAVID DRESSER**

RESOLUTION NO. 197-11, moved by Mr. Shipley, seconded by Mrs. Amidon and adopted.

WHEREAS, the Board of Supervisors recognizes the volume of knowledge and experience of matters related to the Indian Land Claim and its successor issues, attributable to former Supervisor Dr. David Dresser; and

WHEREAS, Dr. Dresser has offered to attend the up-coming NYSAC conference in support of the County in its continuing conflict with the Cayuga Indian Nation of New York; and

WHEREAS, the Board of Supervisors wish to accept the offer of Dr. Dresser's assistance at the conference; now, therefore, be it

RESOLVED, the Seneca County Board of Supervisors authorize and direct the Chairman to execute a consultant contract with Dr. David Dresser for purposes of retaining his services at the September 2011 NYSAC conference.

SUPERVISORS URGE GOVERNOR TO COLLECT SALES AND EXCISE TAXES ON NATIVE AMERICAN BRAND CIGARETTES AND ENFORCE LAWS PROHIBITING THE POSSESSION OF UNSTAMPED OR IMPROPERLY STAMPED CIGARETTES

RESOLUTION NO. 198-11, moved by Mr. Shipley, seconded by Mr. Davidson and adopted.

WHEREAS, the U. S. Court of Appeals has issued a unanimous decision upholding the authority of the State of New York to collect taxes on cigarette sales made on reservation land to non-Indians; and

WHEREAS, that ruling made no distinction between cigarettes manufactured on a reservation with an Indian brand and those manufactured off reservation with a non-Indian brand; and

WHEREAS, Section 471-e of New York State Tax Law states that “all cigarettes sold on an Indian reservation to non-members of the Nation or tribe or to non-Indians shall be taxed”; and

WHEREAS, “all” means ALL; and

WHEREAS, special exemptions for Native American brands would violate federal cigarette manufacturing laws and principles of federal Indian Law; and

WHEREAS, recognizing a generic Native American brand exemption would violate federal and state equal protection guarantees; and

WHEREAS, failure to collect state sales and excise taxes on Native American brand cigarettes would produce a fiscal, public health, law enforcement and public policy disaster; and

WHEREAS, Section 1814e of New York State Tax Law, which sets penalties for the possession of unstamped or unlawfully stamped cigarettes, makes no distinction between Native American brand and non-Native American brand cigarettes; and

WHEREAS, the State of New York is now enforcing laws requiring sales and excise taxes to be collected on non-Indian brand cigarettes delivered to Native American stores for resale to non-Indians; be it therefore

RESOLVED, the Seneca County Board of Supervisors urges Governor Cuomo to see that sales and excise taxes are collected on Native American brand cigarettes and that laws prohibiting the possession of unstamped or improperly stamped cigarettes are enforced.

Mrs. Garlick Lorenzetti inquired about sales tax and how it is determined which county collects the sales tax on purchases. Specifically, is it the county where the buyer resides, or where the business is located? Her primary concern is that the Town of Fayette has two zip codes, one is Seneca County and the other is Ontario County. The issue would be researched by County Attorney Fisher.

Special Order of the Day

The meeting was adjourned at 9:37 p.m.