

Seneca County Board Of Supervisors
Ovid Board Meeting
October 8, 2013

Call to Order

Thirteen members of the Board of Supervisors answered roll call. Mr. Lafler was not present.

Pledge of Allegiance and Moment of Silence

Welcome

Dan Motill, President of Friends of the Three Bears welcomed the Board of Supervisors to its annual meeting in Ovid, New York. Mr. Motill gave an update on the recent progress in the completion phase of restoring the Three Bears; and on the fundraising efforts by the Friends of the Three Bears and the community.

Petitioners

a. “Libraries Serving Seneca County - Sally Eller, President, Board of Trustees, Edith B. Ford Ovid Library, Stephen Zielinski, Superintendent of Schools, and Mark Benjamin, patron. The Ovid library offers resources and a location for several activities such as, After- School programs; reading programs; workforce training, youth groups, and literacy groups.

Submission of Claims for Audit

Mr. Prouty moved that the following claims, having gone through the proper auditing process be approved for payment.

Supervisors vouchers	totaling	\$	731,229.02
Workforce Development vouchers	totaling	\$	32,889.27
Self-Insurance vouchers	totaling	\$	9,904.02
County Airport vouchers	totaling	\$	21,470.92
Highway Transportation vouchers			
	Maintenance & State Snow	totaling	\$ 628,134.72
	Highway Machinery	totaling	\$ 100,068.01
	HIGHWAY TOTAL	\$	728,202.73
Sewer 1	totaling	\$	8,963.33
Sewer 2	totaling	\$	26,124.43
Water 1	totaling	\$	58,952.58
Financial Software Capital vouchers	totaling	\$	4,930.29
Airport Capital vouchers	totaling	\$	858.26

Courthouse Capital vouchers	totaling	\$	15,279.92
County Road 132 Capital vouchers	totaling	\$	66,748.24
Willard Wastewater Facility Capital vouchers	totaling	\$	4,289.00

Approval of Board Meeting Minutes

Minutes were approved for the August 27 special board meeting, the September 10 regular meeting, and the September 24 special meeting.

Reports of Standing Committees

Human Services Committee - Mr. McGreevy, Vice-Chairman. The committee approved one item to be referred to the Board of Supervisors for a resolution - the 2013 Resource Allocation Plan for state aid funding for youth programs. The Resource Allocation Plan is an annual plan that is submitted to the New York State Office of Children and Family Services to receive state aid funding for youth programs.

The committee authorized refilling the vacancy position of Social Welfare Examiner for HEAP on a temporary basis.

Public Safety Committee - Mr. Reynolds, Chairman. The Committee approved the following issues for referral to the Board of Supervisors for a resolution: (1) apply for funding for the Tactical Team Targeted Grant Program with New York State Office of Homeland Security and Emergency Services. This is a competitive program that will provide up to \$ 100,000 for innovative law enforcement projects that advance tactical team capabilities through the adaptation of standards; participate in the DHSES Office for Bombing Prevention’s SWAT Capability Analysis Program; encourage and support joint training among law enforcement specialty teams, including bomb squads and explosive detection canine teams; and promotes regional partnerships in the development of tactical team capabilities. Due to the deadline of the application, a special board meeting took place on September 24 to adopt the resolution; (2) Purchase Four 2014 Ford Interceptor SUV Patrol Vehicles for the Sheriff’s Office. Three of these vehicles are approved in the 2013 Seneca County budget. The fourth vehicle is to replace 2010 Dodge Crown Victoria with mileage in excess of 91,000 miles that was involved in an accident and declared “totaled” by the insurance company. Total price for four (4) requested vehicles is \$159,698.32; and (3) Purchase One 2014 Chevrolet Tahoe K9 Vehicle. This vehicle is used as a patrol vehicle as well as the transport vehicle for our Drug/Search canine. Total cost for this vehicle is \$41,080.82; and (4) Apply for grant with New York State Office of Indigent Legal Services. If awarded, this grant would provide Seneca County with up to \$100,000 each year for three years to improve Public Defender representation quality and reduce excessive caseloads. There is no local matching cost requirement for this grant.

Indian Affairs Committee - Mr. Shipley, Chairman. Mr. Shipley reported that the Cayuga Nation’s total tax debt to Seneca County is currently \$965,061.72, consisting of unpaid county, town and school taxes.

The Cayuga Nation owns fifty-seven parcels of land in Seneca Falls, which account for 991.06 acres with a total assessed value of that property is \$6,126,600; and 145.86 acres in the town of Varick. The assessed value of those parcels is \$379,900.

Oral arguments on the foreclosure of five parcels owned by the Cayuga Nation were scheduled for early September in the Second Circuit Court of Appeals was removed from the docket and has yet to be rescheduled until after the end of September so the Cayuga Nation and the BIA had more time to submit briefs. A new date has not been scheduled.

Planning, Development, Agriculture & Tourism Committee - Mr. Earle, Chairman. The Committee approved and recommended the following issues for a board resolution: (1) the appointment of Michael R. Smith of Waterloo to the Seneca County Planning Board; (2) authorize grant extensions and modifications for the Cayuga-Seneca Canal Trail and the Cayuga Lake Blueway Trail; accept the New York State Department of Transportation grant to upgrade fuel system at the Finger Lakes Regional Airport. The award grant is for \$298,000 and the local match is \$32,000.

Personnel Committee - Mr. Earle, Chairman. The Committee approved raises for five employees at management level that had completed five years of service, up to the market rate as provided in the management salary schedule: County Manager, First Assistant District Attorney, Fiscal Services Manager DHS, Risk Manager, and Public Health Deputy Director.

Environmental Affairs Committee - Mr. Churchill, Chairman. The Committee heard from Barbara Reese about the recycling education program she has initiated with students at Seneca Falls Middle School and with the assistance of Seneca County Cornell Cooperative Extension. The students are educated and trained to separate trash and recyclables in the school. The next phase is to begin composting in the schools. Romulus and Waterloo schools have similar programs. Mr. Churchill would like to see county funding towards this program.

Mr. Churchill reported on a meeting he attended in New York City, hosted by state officials from the DEC and the Governor's office on September 20, 2013 in New York City. Mr. Churchill was invited to attend because of the resolution adopted by the Board of Supervisors opposing the storage of liquid petroleum in the salt caverns in Seneca Lake. Mr. Churchill stressed to Commissioner Martens and others the strong opposition to the storage of LPG by the Board of Supervisors and surrounding counties and communities.

The committee discussed the proposed rail project by SMI, Inc. The Seneca Falls Town Planning Board scheduled a meeting on October 1 to receive public comment regarding the project and to vote on whether to approve it or not.

Public Health Services - Mrs. Cindy Garlick Lorenzetti, Chairwoman. At the September 24, 2013 meetings, the committee approved the following items and referred them to the Board of Supervisors for a

resolution: (1) for the Chairman of the Board of Supervisors to sign a contract renewal with John Tonzi for services of a Hearing Officer for the Health Department. The cost for these services will be \$125 per hearing. The funds are in the Public Health budget 10-115-5-4011-4700; (2) for the Chairman of the Board of Supervisors to sign a contract with Breaking Boundaries Occupational Therapy Services, PLLC for the Pre-School Program. The reimbursement rate is \$26.50 to \$40 per group session or \$60 to \$70 per individual session. The money is in the Public Health budget 2960.47.

There was also a discussion about improving the housing conditions in Seneca County. Mr. Peter Brown, Deputy Director of Planning & Community Development, discussed current building conditions in Seneca County, and short and long term strategies that the County may consider to improve conditions.

Public Works Committee - Mr. Kaiser, Chairman. John Snyder Associates presented a new design plan for the Waterloo courthouse project. This design maintains the integrity of the historical architectural features of the building; the old jail will be removed and the former office for the Sheriff would be for the District Attorney's offices and the E911 back up location; a sally port and additional parking spaces would be allowed for. The cost of this design is estimated to be \$2.5 to \$3 million.

The committee approved the (1) Snow & Ice Agreement (CHIPS) for the 2013-2014 season; (2) acceptance and adoption of the Route 318 sewer feasibility study done by Barton & Loguidice and Passaro Associates for the installation of sanitary sewers and a waste water treatment system from Waterloo Premium Outlets in Junius to the intersection of Route 414 in Tyre.

Government Operations Committee - Mr. Westfall, Chairman. The Committee voted in favor of referring the following issues to the Board of Supervisors for consideration: (1) to enter into a contract with Phoenix Graphics, Inc. for printing ballots. The contract would be for 5 years and the cost of the ballots would be reduced by \$0.9 cents going from \$.57 per ballot to \$.48 per ballot; (2) to revise the count policy regarding email, telephone and other electronic communications; and (3) create a county policy to provide adequate times and locations for at the workplace for use by nursing mothers.

Finance, Assessment & Insurance Committee - Mr. Prouty, Chairman. The committee approved for a resolution by the Board of Supervisors several amendments to the 2013 budget and the resolution is on the agenda for considerations.

Chairman's Remarks

Chairman Hayssen reported that the supervisors toured the depot prior to this evening's meeting. The towns of Varick and Romulus are interested in reopening the road on the depot that lies on the boundary of the two towns. Reopening the road would be a lot of work. The fence is maintained by the Army but that will cease when the Army moves out in 2015. Chairman Hayssen urged the Board of Supervisors to begin planning now if the county is interested in taking responsibility for any part of the depot and not wait until 2015.

Chairman Hayssen reiterated the Board of Supervisors' resolution opposing the rail spur proposed by SMI, Inc. He said there is an online petition opposing the rail spur that already has many signatures. He publicly requested that SMI, Inc. reconsider its rail spur.

County Manager Remarks

County Manager Rowe said the work continues on the 2014 budget before it is ready to be filed. In reference to the issue on LPG storage in Seneca Lake, he will be bringing a resolution opposing this issue to InterCounty of Western NY at its meeting on October 18 for consideration.

County Attorney's Remarks

County Attorney Fisher said that court procedures happened at the Ovid Courthouse up until the late 1990s. Judge DePasquale was the last county judge to sit on the bench at this location. Mr. Fisher's first criminal case was tried at the Ovid Courthouse.

Communications

126. From Seneca County IDA, Notice Letter dated October 2, 2013, of a Public Hearing scheduled on October 15, 2013 at 10:00 a.m. at the Seneca Falls Town Hall regarding the project for Sauder's Store, Inc. - Proposed Straight Lease Transaction.

127. A copy of a resolution adopted by the Town of Tyre, New York titled, "The Town Board of the Town of Tyre Opposes Seneca Meadows, Inc.'s Plans to Develop Railroad Operations at the Seneca Meadows Landfill.

128. A copy of a resolution adopted by the Town of Tyre, New York titled, "The Town Board of the Town of Tyre Opposes the Seneca County Industrials Development Agency's Financial Support to Seneca Meadows, Inc. and Call upon the Agency to Re-evaluate its Policies related to Financial Support to Companies.

129. A copy of the Seneca County Planning Board September 12, 2013 meeting minutes.

130. A copy of a letter dated September 23, 2013, from Connie G. Richardson, Coordinator, Seneca County Substance Abuse Coalition / Director of Community Partnerships United Way of Seneca County to Mitch Rowe, County Manager; Bob Hayssen, Chairman of the Seneca County Board of Supervisors; and Charlie Schillaci, Commissioner of DHS, acknowledging the dedicated grant-writing efforts of Peter Brown as the lead writer on the application for grant funding for Drug Free Community submitted by United Way. The grant was successful with the prospect of having five years of funding.

131. From Assemblyman Philip A. Palmesano, a copy of a letter acknowledging receipt of the resolution supporting the prevention of aquatic invasive species in New York's waterways adopted by the Seneca County Board of Supervisors.

132. From Carl Smith, resident of Waterloo, an email dated September 12, 2013, supporting the action of the Seneca County Board of Supervisors and urging them to continue their opposition to the rail project proposed by Seneca Meadows.

133. Copies of five emails directed to the Seneca County Board of Supervisors, urging the board to reconsider its opposition to the rail project proposed by Seneca Meadows. The emails are from the following: Kevin Smith, Executive Director, Seneca Cayuga ARC; Neil Teague, resident of Fayette; Eileen Temple, resident of Waterloo; Diane Draheim, Executive Director of the Seneca County House of Concern; and Phil Dressing, resident of Seneca Falls.

134. From New York State Department of Agriculture and Markets, a letter notifying Seneca County that the legislative body must cause a review of Agricultural District No. 6 as required by the Ag and Markets Law. Referred to the Planning, Development, Agriculture & Tourism Committee.

Resolutions & Motions

**BOARD OF SUPERVISORS AUTHORIZES AMENDMENTS TO
2013 SENECA COUNTY BUDGET**

RESOLUTION NO. 186-13 moved by Mr. Prouty; second by Mr. Kubasik and adopted by 682 ayes, and 68 not present (Lafler).

WHEREAS, amendments to the 2013 Seneca County Budget are necessary and appropriate; and

WHEREAS, funding is available in the object codes identified herein; and

WHEREAS, these amendments have been reviewed and approved by the Finance, Assessment and Insurance Committee at its meeting on September 24, 2013; now, therefore be it

RESOLVED, that the Board of Supervisors authorizes the following amendments to the 2013 Seneca County Budget:

OFA

From:	6572-4571 (Software Maintenance)	\$1,049.00
From:	6572-4561 (Liability)	\$1,747.00
From:	6572-4380 (Other Fees & Services)	\$4,904.00
To:	6572-4440 (Mileage)	\$7,700.00

E911

From:	3020-51100 (Salaries)	\$18,000.00
To:	3020-51300 (Overtime)	\$18,000.00

DHS

From:	106010 58600 SS01 (TA – Health Insurance)	\$7,615.00
From:	106010 58600 SS08 (Support Collection – Health Insurance)	\$23,640.00
From:	106010 58600 SS20 (DSS Adm – Health Insurance)	\$2,469.00
From:	106010 58600 SS30 (WMS – Health Insurance)	\$7,456.00
To:	106010 58600 SS02 (Services – Health Insurance)	\$36,559.00
To:	106010 58600 SS06 (Staff Dev – Health Insurance)	\$2,310.00
To:	106010 58600 SS33 (PCA Program – Health Insurance)	\$2,311.00

Public Health

From: 104010 54510 (Medical Supplies) \$9,000.00
To: 104010 54200 (Office Supplies) \$4,000.00
To: 104010 54550 (Other Supplies) \$4,000.00
To: 104010 52300 (Computer Equip) \$1,000.00

From: 104010 54700 (Contracts) \$11,000.00
From: 104010 54140 (Utilities) \$ 200.00
To: 104010 54230 (Telephone) \$4,500.00
To: 104010 54260 (Books and periodicals) \$100.00
To: 104010 54330 (Professional Fees) \$5,000.00
To: 104010 54410 (Vehicle Maint and repairs) \$1,000.00
To: 104010 54460 (Parking and Tolls) \$200.00

From: 104017 54700 (Medical Fees) \$5,000.00
To: 104010 54350 (Medical Fees) \$5,000.00

From: 101017 54390 (Lab) \$1,000.00
To: 104010 54390 (Lab) \$1,000.00

Environmental Health

From: 104011 54380 (Other Fees) \$200.00
To: 104011 54260 (Books) \$200.00

From: 104011 54700 (Contractual) \$2,500.00
To: 104011 54390 (Lab) \$2,500.00

Health Education

From: 104015 54280 (Miscellaneous) \$2,800.00
To: 104015 54200 (Office supplies) \$200.00
To: 104015 54450 (Hotel Meals) \$100.00
To: 104015 54550 (Other supplies) \$2,500.00

Disease Control

From: 104017 54700 (Contractual) \$34,300.00
To: 104017 54200 (Office supplies) \$100.00
To: 104017 54200 (Postage) \$200.00
To: 104017 54280 (Miscellaneous) \$1,000.00
To: 104017 54330 (Professional Fees) \$8,000.00
To: 104017 54350 (Medical Fees) \$25,000.00

Highway

From: 50-120-5-5130-4410 (Veh Repairs) \$7,000.00
To: 50-120-5-5130-4411 (Tires) \$7,000.00

Sheriff

From: 103151 54350 (Medical expenses) \$80,000.00
To: 103150 52600 (Road Patrol Vehicles) \$80,000.00

**SUPERVISORS REVISE POLICY NO. 101.717 "E-MAIL, TELEPHONE & OTHER
ELECTRONIC COMMUNICATIONS POLICY" FOR COUNTY EMPLOYEES
EFFECTIVE IMMEDIATELY**

RESOLUTION NO. 187-13 moved by Mr. Westfall; second by Mrs. Garlick Lorenzetti and adopted by 682 ayes, and 68 not present (Lafler).

RESOLVED, that the Seneca County Board of Supervisors approves changes to the Seneca County Policy Manual, No. 101.717 to read as follows:

PURPOSE:

To establish measures for the acceptable use of Seneca County's email, electronic hardware, software, communications systems, and associated data.

POLICY:

The information resources and systems (telephones, electronic hardware, software, electronic systems, email, fax machines, voicemail, computers, Internet, etc.) owned by Seneca County are to be used for County related business. These resources and systems are implemented for the specific purpose of supporting the County's mission, values, and goals. The network and internet are provided for staff to conduct research, prepare reports, and communicate with others in support of their job tasks. Users of the County computer and communication networks are responsible for adhering to the County's procedures designed to maintain the integrity and security of the communications network and for adhering to a high standard of professional and ethical communications.

Computers, fax machines, handheld communications devices and email systems are the property of Seneca County and should generally only be used for business purposes. All information received from or stored in these systems is the County's property. Users should have no expectation of privacy when using County property or communications networks.

These systems may not be used for any of the following purposes or any purpose that is illegal, immoral, unethical, dishonest, and inconsistent with the mission of the County or damaging to the County's reputation.

Impermissible uses include, but are not limited to, the following: harassment, libel or slander, fraud, theft, destruction of information resources, violations to other Information Systems policies and procedures, messages containing sexual comments or images, racial slurs, discriminatory comments or harassing comments are expressly prohibited. The same ethical conduct that applies to all County facilities also applies to these systems. Electronic security protocols defined in various government regulations (i.e. HIPPA) extend to usage of County electronic equipment.

De minimus personal use of the computers, cell phones and hardwired phones is permitted. The definition of “de minimus” is one or two personal phone calls or emails per day of short length (no more than five minutes).

Use of the Internet during scheduled breaks and lunch hours which conform to the policy will be allowed. Use of the Internet for unethical or immoral purposes is prohibited. This includes accessing pornographic and gambling sites, participation in chat rooms or social networking sites, use of the internet for catalog ordering and the like.

Any personal use of County property that results in a charge is the responsibility of the employee and must be reimbursed to the County immediately. This includes charges related to the use of cell phones and long distance, which must be reimbursed to the County immediately upon receipt of the bill.

Seneca County’s Information System is to be used by authorized users only. Authorized users are full and part time employees of Seneca County who have been assigned an access protocol by the network administrator at the request of the appropriate department head. No other persons are permitted to use county equipment or access county network systems. This includes access through any portable electronic devices.

Users are not to download software from any DVDs, disks, or other memory devices of any kind without prior authorization by the Information Technology Department. Users are not to download any software or programs of any kind from the internet without prior authorization by the Information Technology Department.

All passwords or access codes are the county’s property and no such codes may be used unless approved by the County. Seneca County reserves the right to inspect, examine, monitor, modify and/or upgrade any county owned information, computer, or telecommunication system. Monitoring may include, for example, listening to stored voice mail messages or monitoring emails (entering, leaving or stored on county systems, etc.). Use of the systems constitutes the user’s consent to this access and disclosures.

Except in emergency circumstances, when the contents of email are to be inspected, monitored, or disclosed without the holder’s consent, such actions must be authorized in advance and in writing by at least two of the following individuals: Chairman of the Board of Supervisors, County Manager, County Attorney, or Personnel Officer.

CONSEQUENCES OF VIOLATING POLICY

The information presented is intended to be illustrative of the range of acceptable and unacceptable uses of the internet and is not necessarily exhaustive. Questions about specific uses related to security issues or uses not enumerated in this policy statement should be directed

to the County Manager. Reports of specific unacceptable uses should be directed to the County Manager. Other questions about appropriate use should be directed to the Personnel Officer. The County will review alleged violations of this policy on a case-by-case basis. Clear violations of the policy will result in disciplinary actions as appropriate up to and including termination. Acts that are unlawful as prescribed by state or federal law will result in discipline up to and including termination and the involvement of the law enforcement community and district attorney's office.

SUPERVISORS CREATE POLICY

#510.200 "POLICY FOR SUPPORTING BREASTFEEDING EMPLOYEES"

RESOLUTION NO. 188-13 moved by Mr. Westfall; second by Mrs. Garlick Lorenzetti and adopted by 682 ayes, and 68 not present (Lafler).

RESOLVED, the Seneca County Board of Supervisors approves the creation of Seneca County Policy #510.200 "Policy for Supporting Breastfeeding Employees" to read as follows:

PURPOSE:

In recognition of the well documented health advantages of breastfeeding for infants and mothers, Seneca County provides a supportive environment to enable breastfeeding employees to express their milk during work hours.

POLICY:

Section 206-c of the New York State Labor Law provides the following "Right of Nursing Mothers to Express Breast Milk": "An employer shall provide reasonable unpaid break time or permit an employee to use paid break time or meal time each day to allow an employee to express breast milk for her nursing child for up to three years following child birth. The employer shall make reasonable efforts to provide a room or other location in close proximity to the work area, where an employee can express milk in privacy. No employer shall discriminate in any way against an employee who chooses to express breast milk in the work place".

Employees who are nursing mothers shall be allowed to use a reasonable unpaid break (up to thirty minutes) to express milk for a nursing child. An employee may choose to use 15 minutes of paid break time in conjunction with up to 15 minutes of unpaid break time and/or use unpaid meal time. An employee who takes unpaid breaks for the purpose of expressing breast milk may work before or after her normal work hours to make up the amount of time used during the unpaid break time.

The County will provide this break at least once every three hours if requested by the employee. This provision applies to nursing mothers for up to three years following childbirth.

The County will make a reasonable effort to provide a room or location, other than the restroom or toilet stall, within walking distance to the employee's work space, or other location in close proximity to work so that nursing mothers can express in private. An employee wishing to avail herself of this break is required to give the County advance notice, preferably prior to the employee's return to work following the birth of her child, to allow the County an opportunity to establish a location and to schedule leave time for multiple employees if needed.

SUPERVISORS ACCEPT AND ADOPT NYS ROUTE 318 SEWER FEASIBILITY STUDY

RESOLUTION NO. 189-13 moved by Mr. Kaiser; second by Mr. Shipley and adopted by 682 ayes, and 68 not present (Lafler).

WHEREAS, Seneca County has identified the New York State Route 318 Corridor as a priority for future economic development; and

WHEREAS, development of a wastewater treatment system is necessary for the corridor to reach its full potential; and

WHEREAS, the County commissioned a Feasibility Study to understand the scope and costs associated with development of a wastewater treatment system along the Corridor; and

WHEREAS, the firms of Barton & Loguidice and Passero Associates teamed to undertake and develop the Feasibility Study; and

WHEREAS, the Seneca County Board of Supervisors finds the report to be complete and thorough; now therefore be it

RESOLVED, that the Seneca County Board of Supervisors accepts and adopts the NYS Route 318 Sewer Feasibility Study.

SUPERVISORS SUPPORT REVISED SCOPE FOR WATERLOO COURTHOUSE PROJECT

RESOLUTION NO. 190-13 moved by Mr. Kaiser; second by Mr. Davidson and adopted by 682 ayes, and 68 not present (Lafler).

WHEREAS, the Seneca County Board of Supervisors recognizes the need to undertake renovations to the Waterloo Courthouse Complex in the Village of Waterloo; and

WHEREAS, the Board has determined that a change in scope for the project is both financially wise and more respectful of the site's history; and

WHEREAS, the revised scope will include demolition of the former Seneca County Jail and other buildings, restoration of the former Clerk's Office for the District Attorney's Office, limited new construction for court functions and a new 911 Back-Up facility, as well as site improvements to improve and maximize parking for court functions; and

WHEREAS, the revised scope is estimated to reduce project costs by thirty (30) percent; and

WHEREAS, this resolution was recommended for approval by the Public Works Committee on September 24, 2013; now therefore be it

RESOLVED, that the Seneca County Board of Supervisors supports revising the scope of the Waterloo Courthouse Project and proceeding as recommended.

CHAIRMAN OF THE BOARD AUTHORIZED TO SIGN SNOW AND ICE AGREEMENT
RESOLUTION NO. 191-13 moved by Mr. Kaiser; second by Mr. Earle and adopted by 682 ayes, and 68 not present (Lafler).

WHEREAS, the New York State Commissioner of Transportation and Seneca County have entered into an Agreement No. D089860 entitled “Snow and Ice Agreement between the New York State Department of Transportation and Seneca County”; and

WHEREAS, the term of said Agreement is for a period of three years commencing March 11, 1975 and the said Agreement provides that the parties may, at the end of each year of the term of the Agreement, extend such term for an additional year; and

WHEREAS, this agreement has been regularly extended since the original term; and

WHEREAS, the present term of the Agreement, as extended, expires June 30, 2014; and

WHEREAS, Section 7 of the said agreement provides that the Commissioner of Transportation shall furnish the County with a map for each term of the Agreement or for any extended term thereof, modified to show the changes, if any, to the State Highways affected by this Agreement; and

WHEREAS, Section 10 of the said Agreement provides for an annual update of the estimated expenditure to be determined by the Commissioner subject to the provisions of Section 10 at the time for extension of the Agreement; and

WHEREAS, the Public Works Committee approved extending this agreement on September 24, 2013; now, therefore be it

RESOLVED, that the aforementioned “Snow and Ice Agreement Between New York State Department of Transportation and the County of Seneca” is hereby extended for a period of one year, now to expire June 30, 2014, unless further extended; and be it

FURTHER RESOLVED, that the Chairman of the Board of Supervisors is hereby authorized and directed to sign an agreement on behalf of the County of Seneca with the New York State Department of Transportation to extend the Municipal Snow and Ice Agreement for the 2013/2014 season.

**CHAIRMAN OF THE BOARD OF SUPERVISORS AUTHORIZED AND DIRECTED TO SIGN
A CONTRACT WITH BREAKING BOUNDARIES OCCUPATIONAL THERAPY SERVICES,
PLLC. FOR THE PRE-SCHOOL PROGRAM**

RESOLUTION NO. 192-13 moved by Mrs. Garlick Lorenzetti; second by Mr. Westfall and adopted by 682 ayes, and 68 not present (Lafler).

WHEREAS, the Health Department is required to contract with professionals to provide services for the children enrolled in the Pre-School Program; and

WHEREAS, there is a need for occupational therapists to meet the demands in this program; and

WHEREAS, Breaking Boundaries Occupational Therapy Services, PLLC, 3860 Atlantic Avenue, Fairport, NY would like to contract with Seneca County to provide these services; and

WHEREAS, the money is in the Public Health Budget - Other Programs account 2960.47; and

WHEREAS, the Public Health Committee has authorized 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 Breaking Boundaries Occupational Therapy Services, PLLC to provide services for the Pre-School Program.

**CHAIRMAN OF THE BOARD OF SUPERVISORS AUTHORIZED AND DIRECTED TO SIGN
A CONTRACT RENEWAL FOR HEARING OFFICER FOR THE HEALTH DEPARTMENT**
RESOLUTION NO. 193-13 moved by Mrs. Garlick Lorenzetti; second by Mr. McGreevy and adopted by 682 ayes, and 68 not present (Lafler).

WHEREAS, the Health Department is required to have a Hearing Officer to conduct administrative hearings on behalf of the Board of Health; and

WHEREAS, the contract for the current hearing officer is in need of renewal; and

WHEREAS, John J. Tonzi, PO Box 314, Palmyra, NY, 14522 is the current hearing officer; and

WHEREAS, the cost for these services is \$125 per hearing; and

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

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

RESOLVED, that the Chairman of the Board of Supervisors is hereby authorized and directed to sign a contract renewal with John J. Tonzi for hearing officer for the Health Department.

In accordance with Seneca County Board of Supervisors Rules of Order #29, Mrs. Garlick Lorenzetti made a motion, second by Mr. Westfall, and carried by a majority of the board members present to introduce Resolution No. 194-13 without it having been reviewed by the Public Health Services Committee.

**CHAIRMAN OF THE BOARD OF SUPERVISORS AUTHORIZED TO SIGN AN AGREEMENT
WITH 2TRG FOR ELECTRONICS RECYCLING**

RESOLUTION NO. 194-13 moved by Mrs. Garlick Lorenzetti; second by Mr. Prouty and adopted by 682 ayes, and 68 not present (Lafler).

WHEREAS, the Annual Household Hazardous Waste Collection event will be held on November 2, 2013; and

WHEREAS, the Board of Supervisors previously authorized an agreement with RCR&R (Regional Computer Recycling & Recovery) for the electronics recycling (Resolution No. 148-13); and

WHEREAS, RCR&R would charge Seneca County a \$250 set-up fee and offer no reimbursement for e-waste collected; and

WHEREAS, the set-up charge was not known until after the resolution was passed; and

WHEREAS, 2TRG has offices at 122 North Genesee Street, Geneva NY; and

WHEREAS, 2TRG has agreed to provide this service at no cost to Seneca County and will reimburse the county at the rate of \$.03 per pound of acceptable e-waste collected; now, therefore be it

RESOLVED, that the Board of Supervisors revises resolution 148-13 and authorizes the Chairman of the Board of Supervisors to sign an agreement with 2TRG for the electronics waste recycling at the Annual Household Hazardous Waste Collection event.

SUPERVISORS SET SALARIES OF CERTAIN INDIVIDUALS AT THE MARKET RATE AS PROVIDED FOR IN THE MANAGEMENT SALARY SCHEDULE

RESOLUTION NO. 195-13 moved by Mr. Earle; second by Mrs. Garlick Lorenzetti and adopted by 682 ayes, and 68 not present (Lafler).

WHEREAS, beginning in 2007 management employees that had completed five years of service were moved to the market rate as provided for in the management salary schedule; and

WHEREAS, in the 2014 budget there are five management employees who will have completed five (5) years of service and should be moved on the salary schedule to the market rate as provided for in the management salary schedule; now, therefore be it

RESOLVED, that the Seneca County Board of Supervisors does hereby approve moving the following management employees to the market rate effective January 1, 2014:

County Manager

Deputy Director Public Health

First Assistant District Attorney

Fiscal Services Manager DHS

Risk Manager

Under discussion of Resolution No. 195-13, Mr. Churchill, referring to an email communication sent to members of the Board of Supervisors from Sharon Secor, former County Manager of Seneca County, asked if the resolution was in conflict with any policy of Seneca County.

Mrs. Corona, Personnel Officer explained that when the AMTEK study was adopted, it allowed for raises based on "step increases". After the fifth year of service with Seneca County, the employee would be at the market level. Because Seneca County discontinued step increases for management

employees, the practice continues of increasing a management employee's salary after five years of service to market level.

Mr. Churchill asked if there are any policies in place that requires management employees to do their job on-site (the county office building). Mrs. Corona replied that there was nothing to prevent a public officer from working off-site.

SUPERVISORS SUPPORT EXTENSION AND AMENDMENTS FOR TRAIL PROJECTS
RESOLUTION NO. 196-13 moved by Mr. Earle; second by Mr. Churchill and adopted by 682 ayes, and 68 not present (Lafler).

WHEREAS, Seneca County has been developing trail projects along the Cayuga-Seneca Canal and Cayuga Lake; and

WHEREAS, the trail projects are progressing with broad community support; and

WHEREAS, additional time and minor modifications are required to successfully complete the projects; and

WHEREAS, the additional time and modifications will not result in additional County costs for the projects; and

WHEREAS, this resolution was recommended for approval by the Planning, Development, Agriculture & Tourism Committee on September 24, 2013; now, therefore be it

RESOLVED, that the Seneca County Board of Supervisors supports requests to the New York State Department of State to extend and modify terms of completion for the trail projects.

**BOARD OF SUPERVISORS APPOINTS MICHAEL R. SMITH TO
SENECA COUNTY PLANNING BOARD**

RESOLUTION NO. 197-13 moved by Mr. Earle; second by Mr. Westfall and adopted by 682 ayes, and 68 not present (Lafler).

WHEREAS, the Seneca County Planning Board member designated from the Town of Waterloo has resigned; and

WHEREAS, Gary Westfall, Town of Waterloo Supervisor has recommended Michael R. Smith of 108 N. Virginia Street, Waterloo, NY; and

WHEREAS, this resolution has been reviewed and approved by the Planning, Development and Agriculture Committee on September 24, 2013; now, therefore be it

RESOLVED, Michael R. Smith is hereby appointed for the remainder of the term on the Seneca County Planning Board which expires on June 30, 2014.

**ACCEPTANCE OF NEW YORK STATE DEPARTMENT OF TRANSPORTATION (NYSDOT)
AIRPORT CAPITAL PROJECT FOR THE FINGER LAKES REGIONAL AIRPORT**

RESOLUTION NO. 198-13 moved by Mr. Earle; second by Mr. Churchill and adopted by 682 ayes, and 68 not present (Lafler).

WHEREAS, the NYSDOT has approved a grant for the updating of the Finger Lakes Regional Airport fuel facility and the purchase of a fuel truck; and

WHEREAS, the fuel facility is in need of repairs and expansion; and

WHEREAS, the total grant for \$298,000 with the Seneca County local Share of \$32,000 which has been budgeted for in the 2013 Airport Budget 30-101-5-5610 line item 4330; now, therefore be it

RESOLVED, that the Seneca County Board of Supervisors accepts the grant from the NYSDOT for the upgrade of the fuel system at the Finger Lakes Regional Airport and that the Chairman of the Board of Supervisors be authorized and directed to sign all necessary documentation to accept this NYSDOT grant subject to the approval of the Seneca County Attorney.

SENECA COUNTY APPLIES FOR NEW YORK STATE DIVISION OF

CRIMINAL JUSTICE SERVICES PUBLIC DEFENDER CASELOAD REDUCTION GRANT

RESOLUTION NO. 199-13 moved by Mr. Reynolds; second by Mr. Kubasik and adopted by 682 ayes, and 68 not present (Lafler).

WHEREAS, the New York State Office of Indigent Legal Services has published its competitive Upstate Quality Improvement and Caseload Reduction Grant request for proposal; and

WHEREAS, if awarded, this grant would provide Seneca County with up to \$100,000 each year for three years to improve Public Defender representation quality and reduce excessive caseloads; and

WHEREAS, there is no County matching funds requirement; and

WHEREAS, this request was reviewed and approved by the Public Safety Committee on September 24, 2013; now, therefore be it

RESOLVED, that the Chairman of the Seneca County Board of Supervisors is hereby authorized and directed to sign any and all necessary documents to apply for up to \$100,000 through the New York State Division of Criminal Justice Services Public Defender Caseload Reduction Grant Program.

RESOLUTION AUTHORIZING SHERIFF'S OFFICE TO PURCHASE VEHICLES

RESOLUTION NO. 200-13 moved by Mr. Reynolds; second by Mr. Davidson and adopted by 682 ayes, and 68 not present (Lafler).

WHEREAS, the Seneca County Sheriff's Office requires the purchase of four (4) vehicles under the New York State OGS contract PC65855 described as follows: Four (4) 2014 Ford Utility Police Interceptor AWD Police Patrol Vehicles with installed options, radio and computer equipment swaps, striping, new rhino bars, installation of striping and rhino punch bars, with funds approved in the 2013 budget - Sheriff Road Patrol – Vehicles (10-30-31-31-3113-000-000-000-52600) for a total package purchase price of \$159,698.32; and

WHEREAS, the Seneca County Sheriff's Office requires the purchase of one (1) vehicle under New York State OGS contract PC65853 described as follows: One (1) 2014 Chevrolet Tahoe (K9) patrol vehicle with installed options, radio and computer equipment swaps, striping and new rhino bar installed, K9 kennel and cage installed, with funds approved in the 2013 budget – Sheriff Road Patrol – Vehicles (10-30-31-31-3113-000-000-52600) for a total package purchase price of \$41, 080.82; and

WHEREAS, this resolution was approved by the Public Safety Committee September 24, 2013; now, therefore be it

RESOLVED, that the Seneca County Board of Supervisors does hereby authorize the Sheriff's Office to purchase four (4) 2014 Ford Utility Police Interceptor AWD and one (1) 2014 Chevrolet Tahoe with installation of radio and emergency equipment under New York State OGS Contracts PC65855 and PC65853 for a total cost of \$200,779.14 to be handled through 2013 Sheriff's Office Budget - Road Patrol Vehicles (10-30-31-31-3113-000-000-000-5250).

**BOARD OF SUPERVISORS TO APPROVE THE 2013 RESOURCE ALLOCATION PLAN
FOR STATE AID FUNDING FOR YOUTH PROGRAMS**

RESOLUTION NO. 201-13 moved by Mr. Davidson; second by Mr. Shipley and adopted by 682 ayes, and 68 not present (Lafler).

WHEREAS, the Resource Allocation Plan is an annual plan that is submitted to the New York State Office of Children and Family Services to receive state aid funding for youth programs; and

WHEREAS, the Youth Bureau received their 2013 allocation of \$49,562.00 and the Youth Board Resource Allocation Committee met on September 23, 2013 to allocate funds; and

WHEREAS, the Seneca County Youth Board approved the 2013 Resource Allocation Plan for State Aid at their September 23, 2013 board meeting; and

WHEREAS, the Human Services Committee approved the 2013 Resource Allocation Plan for State Aid Funding for Youth Programs on September 24, 2013; now, therefore be it

RESOLVED, that the Board of Supervisors approves the 2013 Resource Allocation Plan for State Aid Funding for Youth Programs and authorizes the Chairman of the Board to sign the Resource Allocation Plan documents for 2013.

Unfinished Business

Mr. Earle made a motion, second by Mr. Davidson and carried, to take from the table the following resolution.

Mr. Earle made a motion, second by Mr. Churchill and carried, to amend the resolution by changing the date of the public hearing to November 12, 2013.

Prior to the adoption of Resolution No. 202-13, County Attorney Frank Fisher explained the reason for carrying over this item from the September board meeting was because Chairman Hayssen

hopes to amend the bylaws relating to membership of the Seneca to make sure the proposed amendments of the bylaws did not contradict New York State Tax Law 1202-o. Although further research is required before the SCACOT bylaws are amended, Mr. Fisher advised that the resolution be adopted at this meeting because the current law expires in December 2013.

Mr. Shipley moved the previous question, second by Mr. Prouty and carried by two-thirds majority.

A RESOLUTION TO INTRODUCE PROPOSED LOCAL LAW C of 2013, ENTITLED “THE SENECA COUNTY HOTEL OR MOTEL OCCUPANCY TAX” AS AUTHORIZED BY §1202-o OF THE NEW YORK STATE TAX LAW AND SCHEDULED A PUBLIC HEARING
RESOLUTION NO. 202-13 moved by Mr. Earle; second by Mr. Prouty and adopted by 682 ayes, and 68 not present (Lafler).

WHEREAS, the local law imposing Seneca County’s Hotel-Motel Tax expires December 8, 2013 pursuant to the provisions of §1202-o of the New York State Tax Law; and

WHEREAS, the Planning, Development, Agriculture & Tourism Committee recommends extension of such local law for an additional three year period as provided for under §1202-o; now, therefore be it

RESOLVED, that proposed Local Law C of 2013 entitled "The Seneca County Hotel or Motel Occupancy Tax" 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. SHORT TITLE

This local law shall be known as the Seneca County Hotel or Motel Room Occupancy Tax.

SECTION 2. INTENT

The intent of this local law shall be to promote Seneca County in order to increase convention, trade show and tourist business in the County.

SECTION 3. TEXT

1. Definitions
2. Imposition of Tax
3. Transitional Provisions
4. Exempt Organizations
5. Territorial Limitations
6. Registration
7. Administration and Collection
8. Records to be Kept
9. Returns

10. Payment of Tax
11. Determination of Tax
12. Disposition of Revenues
13. Refunds
14. Reserves
15. Remedies Exclusive
16. Proceedings to Recover Tax
17. General Powers of the Treasurer
18. Administration of Oaths
19. Reference to Tax
20. Penalties and Interest
21. Returns to be Secret
22. Notices and Limitations of Time
23. Separability.

1. DEFINITIONS.

When used in this local law, the following terms shall mean:

(a) Person. An individual, partnership, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee, and any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of the foregoing.

(b) Operator. Any person operating a hotel or motel in the County of Seneca, including but not limited to, the owner or proprietor of such premises, lessee, sublessee, mortgagee in possession, licensee or any other person otherwise operating such hotel or motel.

(c) Hotel or Motel. Any facility providing lodging on an overnight basis as well as for longer periods and shall include those facilities designated and commonly known as “bed and breakfast”, inns, cabins, condominiums, cottages, campgrounds, lodges, tourist homes, convention centers, and vacation rentals. The term condominium shall mean and include those units rented or leased directly by the owner or through a real estate agency or rental management agency. The provisions of this section relating to campgrounds, shall only apply to those leases and rentals in which the campground provides overnight shelter or lodging, and shall not apply to the provision of services by a campground when the customer provides his or her own shelter or lodging.

(d) Occupancy. The use or possession, or the right to use or possess any room in a hotel or motel.

(e) Occupant. A person who, for a consideration, uses, possesses, or has the right to use or possess, any room in a hotel or motel under any lease, concession, permit, right of access, license to use or other agreement, or otherwise.

(f) Permanent Resident. Any occupant of any room or rooms in a hotel or motel for at least thirty (30) consecutive days shall be considered a permanent resident with regard to the period of such occupancy.

(g) Rent. The consideration received for occupancy valued in money, whether received in money or otherwise.

(h) Room. Any room or rooms of any kind in any part or portion of a hotel or motel, which is available for or let out for any purpose other than a place of assembly.

(i) Return. Any return filed or required to be filed as herein provided.

(j) Treasurer. The Treasurer of Seneca County.

2. IMPOSITION OF TAX.

On and after December 8, 2013, there is hereby imposed and there shall be paid a tax of three percent (3%) upon the rent for every occupancy of any room or rooms in a hotel, motel, or bed and breakfast in the County except that the tax shall not be imposed upon (1) permanent resident, or (2) exempt organizations as hereinafter set forth.

3. TRANSITIONAL PROVISIONS.

The tax imposed by this local law shall be paid upon any occupancy on and after December 8, 2013, although such occupancy is pursuant to a prior contract, lease or other arrangement. Where rent is paid on a weekly, monthly, or other term basis, the rent shall be subject to the tax imposed by this local law to the extent that it covers any period on and after December 8, 2013.

4. EXEMPT ORGANIZATIONS.

(a) Except as otherwise provided in this sub-section, any use or occupancy by any of the following shall not be subject to the tax imposed by this local law.

(1) The State of New York or any of its agencies, instrumentalities, public corporations (including a public corporation created pursuant to agreement or compact with another state or Canada) improvement districts or political subdivisions of the State;

(2) The United States of America, or any of its agencies and instrumentalities, insofar as it is immune from taxation;

(3) Any corporation, association, trust or community chest, fund or foundation, organized and operated exclusively for religious, charitable or educational purposes or for the prevention of cruelty to children or animals, and no part of the net earnings of which inures to the benefit of any private shareholder or individual and no substantial part of the activities of which is

carrying on propaganda, or otherwise attempting to influence legislation; provided, however, that nothing in this subdivision shall include an organization operated for the primary purpose of carrying on a trade or business for profit, whether or not all of its profits are payable to one or more organizations described in this subdivision

(b) Where any organization described in paragraph (3) of subdivision (a) of this Sub-section carries on its activities in furtherance of the purposes for which it was organized, in premises in which, as part of said activities, it operates a hotel or motel, occupancy of rooms in the premises and rents therefrom received by such corporation or association shall not be subject to tax hereunder.

5. TERRITORIAL LIMITATIONS.

The tax imposed by this local law shall apply only within the territorial limits of the County of Seneca.

6. REGISTRATION.

Within ten (10) days after the effective date of this local law, or in the case of operators commencing business after such effective date, within three (3) days after such commencement or opening, every operator shall file with the Treasurer a certificate of registration in a form prescribed by the Treasurer. The Treasurer shall within five (5) days after such registration issue without charge to each operator a certificate of authority empowering such operator to collect the tax from the occupant and duplicate thereof for each additional hotel or motel of such operator. Each certificate or duplicate shall state the hotel or motel to which it is applicable. Such certificates of authority shall be prominently displayed by the operator in such manner that it may be seen and come to the notice of all occupants and persons seeking occupancy. Such certificates shall be non-assignable and non-transferable and shall be surrendered immediately to the Treasurer upon the cessation of business at the hotel or motel named or upon its sale or transfer.

7. ADMINISTRATION AND COLLECTION.

(a) The tax imposed by this local law shall be administered and collected by the Treasurer or other fiscal officers of the County as he may designate by such means and in such manner as are other taxes which are now collected and administered by such officers or as otherwise are provided by this local law.

(b) The tax to be collected shall be stated and charged separately from the rent and shown separately on any record thereof, at the time when the occupancy is arranged or contracted for and charged for, and upon every evidence of occupancy or any bill or statement or charge made for said occupancy issued or delivered by the operator, and the tax shall be paid by the occupant

to the operator as trustee for and on account of the County, and the operator shall be liable for the collection thereof and for the tax. The operator and any officer of any corporate operator shall be personally liable for the tax collected or required to be collected under this local law, and the operator shall have the same right in respect to collecting the tax from the occupant, or in respect to nonpayment of the tax by the occupant as if the tax were a part of the rent for the occupancy payable at the time such tax shall become due and owing, including all rights and eviction, dispossession, repossession and enforcement of any innkeepers lien that he may have in the event of non-payment of rent by the occupant; provided, however, that the Treasurer or other fiscal officer or officers, employees or agents duly designated by him shall be joined as a party in any action or proceeding brought by the operator to collect or enforce collection of the tax.

(c) Where the occupant has failed to pay and the operator has failed to collect a tax as imposed by this local law, then in addition to all other rights, obligations and remedies provided, such tax shall be payable by the occupant directly to the Treasurer, and it shall be the duty of the occupant to file a return thereof with the Treasurer and to pay the tax imposed thereon to the County Treasurer within fifteen (15) days after such tax was due.

(d) The Treasurer may, whenever he deems it necessary for the proper enforcement of this local law, provide by regulation that the occupant shall file returns and pay directly to the Treasurer the tax herein imposed, at such times as returns are required to be filed and payment made over by the operator.

(e) The tax imposed by this local law shall be paid upon any occupancy on and after December 8, 2013, although such occupancy is had pursuant to a contract, lease or other arrangement made prior to such date. Where rent is paid or charged or billed, or falls due on either a weekly, monthly or other term basis, the rent so paid, charged, billed or falling due shall be subject to the tax herein imposed to the extent that it covers any portion of the period on and after December 8, 2013. Where any tax has been paid hereunder upon any rent which has been ascertained to be worthless, the Treasurer may by regulation provide for credit and/or refund of the amount of such tax upon application therefore as provided in sub-section thirteen of this local law.

(f) For the purpose of the proper administration of this local law and to prevent evasion of the tax hereby imposed, it shall be presumed that all rents are subject to tax until the contrary is established, and the burden of providing that a rent for occupancy is not taxable hereunder shall be upon the operator, except that, where by regulation pursuant to subdivision seven (d) of this sub-section, an occupant is required to file returns and pay directly to the Treasurer the tax

herein imposed, the burden of proving that a rent for occupancy is not taxable shall be upon the occupant. Where an occupant claims exemption from the tax under the provisions of subdivision four of this sub-section, the rent shall be deemed taxable hereunder unless the operator shall receive from the occupant claiming such exemption a certificate duly executed by an exempt corporation or association certifying that the occupant is its agent, representative, or employee, together with a certificate executed by the occupant that his occupancy is paid or to be paid by such exempt corporation or association, and is necessary or required in the course of or in connection with the occupant's duties as a representative of such corporation or association. Where deemed necessary by the operator, he may further require that any occupant claiming exemption from the tax furnish a copy of a certificate issued by the Treasurer certifying that the corporation or association therein named is exempt from the tax under subdivision four of this sub-section.

8. RECORDS TO BE KEPT.

Every operator shall keep records of every occupancy and of all rent paid, charged or due thereon and of the tax payable thereon, in such form as the Treasurer by regulation requires. Such records shall be available for inspection and examination at any time upon demand by the Treasurer or his duly authorized agent or employee and shall be preserved for a period of three (3) years, except that the Treasurer may consent to their destruction within that period or may require that they be kept longer.

9. RETURNS.

(a) Every operator shall file with the Treasurer a return of occupancy and of rents, and of the taxes payable thereon for the period ending the last day of February, May, August and November of each year, on and after December 8, 2013. Such returns shall be filed within twenty (20) days from the expiration of the period covered thereby. The Treasurer may permit or require returns to be made by other periods and upon such dates as he may specify. If the Treasurer deems it necessary in order to insure the payment of the tax imposed by this local law, he may require returns to be made for shorter periods than those prescribed pursuant to the foregoing provisions of this sub-section and upon such dates as he may specify.

(b) The forms of returns shall be prescribed by the Treasurer and shall contain such information as he may deem necessary for the proper administration of this local law. The Treasurer may require amended returns to be filed within twenty (20) days after notice and to contain the information specified in the notice.

(c) If a return required by this local law is not filed, or a return when filed is incorrect or insufficient on its face, the Treasurer shall take the necessary steps to enforce the filing of such a return or of a corrected return.

10. PAYMENT OF TAX.

At the time of filing a return of occupancy and of rents each operator shall pay to the Treasurer the taxes imposed by this local law upon the rents required to be included in such return, as well as all other monies collected by the operator acting or purporting to act under the provisions of this local law even though it be judicially determined that the tax collected is invalidly required to be billed shall be due from the operator and payable to the Treasurer on the date limited for the filing of the return for such period, without regard for whether a return is filed or whether the return which is filed correctly shows the amount of rents and the taxes due thereon. Where the Treasurer in his discretion deems it necessary to protect revenues to be obtained under this local law he may require any operator required to collect the tax imposed by this local law to file with him a bond, issued by a surety company authorized to transact business in this state and approved by the superintendent of insurance of this state as to solvency and responsibility, in such amount as the Treasurer may fix to secure the payment of any tax and/or penalties and interest due or which may become due from such operator. In the event that the Treasurer determines that an operator is to file such bond he shall give notice to such operator to that effect specifying the amount of the bond required. The operator shall file such bond within five (5) days after the giving of such notice, unless within such five (5) days the operator shall request in writing a hearing before the Treasurer at which the necessity, propriety and amount of the bond shall be determined by the Treasurer. Such determination shall be final and shall be complied with within fifteen (15) days after the giving of such notice thereof. In lieu of such bond, securities approved by the Treasurer or cash in such amount as he may prescribe, may be deposited which shall be kept in the custody of the Treasurer who may at any time without notice to the depositor apply them to any tax and/or interest or penalties due, and for that purpose the securities may be sold by him at public or private sale without notice to the depositor thereof.

11. DETERMINATION OF TAX.

If a return required by this local law is not filed, or if a return when filed is incorrect or insufficient, the amount of tax due shall be determined by the Treasurer from such information as may be obtainable and, if necessary, the tax may be estimated on the basis of external indices, such as number of rooms, location, scale of rents, comparable rents, type of accommodations and service, number of employees and/or other factors. Notice of such

determination shall be given to the person liable for the collection and/or payment of the tax. Such determination shall finally and irrevocably fix the tax unless the person against whom it is assessed, within thirty (30) days after giving of notice of such determination, shall apply to the Treasurer for a hearing, or unless the Treasurer of his own motion shall re-determine the same. After such hearing, the Treasurer shall give notice of his determination to the person against whom the tax is assessed. The determination of the Treasurer shall be reviewable for error, illegality or unconstitutionality or any other reason whatsoever by proceeding under article seventy-eight of the Civil Practice Law and Rules if application therefore is made to the Supreme Court within thirty (30) days after the giving of the notice of such determination. A proceeding under article seventy-eight of the Civil Practice Law and Rules shall not be instituted unless (a) the amount of any tax sought to be reviewed, with penalties and interest thereof, if any, shall be first deposited with the Treasurer and there shall be filed with the Treasurer an undertaking, issued by a surety company authorized to transact business in this state and approved by the superintendent of insurance of this state as to solvency and responsibility, in such amount as a justice of the Supreme Court shall approve to the effect that if such proceeding be dismissed or the tax confirmed, the petitioner will pay all costs and charges which may accrue in the prosecution of the proceeding, or (b) at the option of the applicant such undertaking filed with the Treasurer may be in a sum sufficient to cover the taxes, penalties and interest thereon stated in such determination plus the costs and charges which may accrue against it in the prosecution of the proceeding, in which event the applicant shall not be required to deposit such taxes, penalties and interest as a condition precedent to the applicant.

12. DISPOSITION OF REVENUES.

All revenues resulting from the imposition of the tax under the local laws shall be paid into the Treasury of Seneca County and shall be credited to and deposited in the general fund of the County, thereafter to be allocated only for tourism, promotion and development in Seneca County. The revenues derived from said tax shall be allocated only to enhance the general economy of the County of Seneca, its towns and villages through promotion of tourist activities, conventions, trade shows, special events, and other directly related and supported activities. Pursuant to New York State Tax Law §1202-o(9), the Seneca County Advisory Committee on Tourism shall be empowered to advise, recommend and administer the activities funded by the revenues generated by this tax. Said Committee shall include two members who shall not be members of the Chamber of Commerce when appointed, to be appointed by the Board of Supervisors and to serve at the pleasure of the Board, one of whom shall be the owner of

vacation rental property located in Seneca County in the vicinity of Seneca Lake and the other, the owner of vacation rental property located in Seneca County in the vicinity of Cayuga Lake. The determination of the vicinity within which such vacation rental properties resides and the determination of whether such property constitutes vacation rental property shall be entirely within the discretion of the Board of Supervisors.

13. REFUNDS.

(a) In the manner provided in this sub-section, the Treasurer shall refund or credit, without interest, any tax, penalty or interest erroneously, illegally or unconstitutionally collected or paid if application to the Treasurer for such refund shall be made within one (1) year from the payment thereof. Whenever a refund is made by the Treasurer, he shall state his reason therefore in writing. Such application may be made by the occupant, operator or other person who has actually paid the tax. Such application may also be made by an operator who has collected and paid over such tax to the Treasurer provided the application is made within one (1) year of the payment by the occupant to the operator, but no actual refund of monies shall be made to such operator until he shall first establish to the satisfaction of the Treasurer, under such regulations as the Treasurer may prescribe, that he has repaid to the occupant the amount for which the application for refund is made. The Treasurer may in lieu of any refund required to be made, allow credit therefore on payments due from the applicant.

(b) An application for a refund or credit made as herein provided shall be deemed an application for a revision of any tax, penalty or interest complained of and the Treasurer may receive evidence with respect thereto. After making this determination, the Treasurer shall give notice thereof to the applicant who shall be entitled to review of such determination by a proceeding pursuant to article seventy-eight of the Civil Practice Law and Rules, provided such proceeding is instituted within thirty (30) days after the giving of notice of such determination, and provided that a final determination of tax due was not previously made. Such a proceeding shall not be instituted unless an undertaking is filed with the Treasurer in such amount and with such sureties as a justice of the Supreme Court shall approve to the effect that if such proceedings be dismissed or the tax confirmed, the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding.

(c) A person shall not be entitled to a revision, refund or credit under this sub-section of a tax, interest or penalty which had been determined to be due pursuant to the provisions of sub-section thirteen of this local law where he has had a hearing or an opportunity for a hearing, as provided in said sub-section or has failed to avail himself of the remedies therein provided. No refund or credit shall be made of a tax, interest or penalty paid after a determination by the

Treasurer made pursuant to sub-section eleven of this local law unless it be found that such determination by the Treasurer was erroneous, illegal or unconstitutional or otherwise improper after a hearing or of his own motion or in a proceeding under article seventy-eight of the Civil Practice Law and Rules, pursuant to the provisions of said sub-section, in which event refund or credit without interest shall be made of the tax, credit or penalty found to have been overpaid.

14. RESERVES.

In cases where the occupant or operator has applied for a refund and has instituted a proceeding under article seventy-eight of the Civil Practice Law and Rules to review a determination adverse to him on his application for refund, the Treasurer shall set up appropriate reserves to meet any decision adverse to the County.

15. REMEDIES EXCLUSIVE.

The remedies provided by sub-sections eleven and thirteen of this local law shall be exclusive remedies available to any person for the review of tax liability imposed by this local law; and no determination or proposed determination of tax or determination on any application for refund shall be enjoined or reviewed by an action for declaratory judgment, an action for money had and received or by any action or proceeding other than a proceeding in the nature of a certiorari proceeding under article seventy-eight of the Civil Practice Law and Rules; provided, however, that a taxpayer may proceed by declaratory judgment if he institutes suit within thirty (30) days after a deficiency assessment is made and pays the amount of the deficiency assessment to the Treasurer prior to the institution of such suit and posts a bond for costs as provided in sub-section eleven of this local law.

16. PROCEEDINGS TO RECOVER TAX.

(a) Whenever any operator or any officer of a corporate operator or any occupant or other person shall fail to collect and pay over any tax and/or to pay any tax, penalty or interest imposed by this local law as therein provided, the County Attorney shall, upon the request of the Treasurer bring or cause to be brought an action to enforce the payment of the same on behalf of the County of Seneca in any court of the State of New York or of any other state or of the United States. If, however, the Treasurer in his discretion believes that any such operator, officer, occupant or other person is about to cease business, leave the state or remove or dissipate the assets out of which the tax or penalties might be satisfied, and that any such tax or penalty will not be paid when due, he may declare such tax or penalty to be immediately due and payable and may issue a warrant immediately.

(b) As an additional or alternate remedy, the Treasurer may issue a warrant, directed to the Sheriff commanding him to levy upon and sell the real and personal property of the operator or

officer of a corporate operator or other person liable for the tax, which may be found within the County for the payment of the amount thereof, with any penalties and interest, and the cost of executing the warrant, and to return such warrant to the Treasurer and to pay to him the money collected by virtue thereof within sixty (60) days after the receipt of such warrant. The Sheriff shall within five (5) days after the receipt of the warrant file with the County Clerk a copy thereof, and thereupon such Clerk shall enter in the judgment docket the name of the person mentioned in the warrant and the amount of the tax penalties and interest for which the warrant is issued and the date when such copy is filed. Thereupon the amount of such warrant so docketed shall become a lien upon the interest in real and personal property of the person against whom the warrant is issued. The Sheriff shall then proceed upon the warrant, in the same manner, and with like effect, as that provided for in respect to executions issued against property judgments of a court of record and for services in executing the warrant he shall be entitled to the same fees, which he may collect in the same manner. In the discretion of the Treasurer, a warrant of like terms, force and effect may be issued and directed to any officer or employee of the Treasurer and in the execution thereof such officer or employee shall have all the powers conferred upon the Sheriff, but shall be entitled to no fee or compensation in excess of the actual expenses paid in the performance of such duty. If a warrant is returned not satisfied in full, the Treasurer may from time to time issue new warrants and shall also have the same remedies to enforce the amount due thereunder as if the County has recovered judgment therefore and execution thereon has been returned unsatisfied.

(c) Whenever an operator shall make a sale, transfer, or assignment in bulk of any part or the whole of his hotel or motel or his lease, license or other agreement or right to possess or operate such hotel or motel or of the equipment, furnishings, fixtures, supplies or stock of merchandise, or the said premises or lease, license or other agreement or right to possess or operate such hotel or motel and the equipment, furnishings, fixtures, supplies and stock of merchandise pertaining to the conduct or operation of said hotel or motel, otherwise than in the ordinary and regular prosecution of business, the purchaser, transferee or assignee shall at least ten (10) days before taking possession of the subject of the sale, transfer or assignment, or paying therefore, notify the Treasurer by registered mail of the proposed sale and of the price, terms and conditions thereof whether or not the seller, transferor or assignor, has represented to or informed the purchaser, transferee or assignee that it owes any tax pursuant to this local law, and whether or not the purchaser, transferee or assignee has knowledge that such taxes are owing, and whether any such taxes are in fact owing. Whenever the purchaser, transferee or assignee shall fail to give notice to the Treasurer as required by the preceding paragraph or whenever the Treasurer

shall inform the purchaser, transferee or assignee that a possible claim for such tax or taxes exists, any sums of money, property or causes in action, or other consideration, which the purchaser, transferee or assignee is required to transfer over to the seller, transferor or assignor shall be subject to a first priority right and lien for any such taxes theretofore or thereafter determined to be due from the seller, transferor or assignor to the County, and the purchaser, transferee or assignee is forbidden to transfer to the seller, transferor or assignor any such sums of money, property or causes in action to the extent of the amount of the County's claim. For failure to comply with the provisions of this subdivision, the purchaser, transferee or assignee, in addition to being subject to the liabilities and remedies imposed under the provisions of article six of the Uniform Commercial Code, shall be personally liable for the payment to the County of any such taxes theretofore or thereafter determined to be due to the County from the seller, transferor, or assignor, and such liability may be assessed and enforced in the same manner as the liability for tax under this local law.

17. GENERAL POWERS OF THE TREASURER.

(a) In addition to the powers granted to the Treasurer in this local law, he is hereby authorized and empowered:

1. To make, adopt and amend rules and regulations appropriate to the carrying out of this local law and the purposes thereof;
2. To extend for cause shown, the time of filing any return for a period not exceeding thirty (30) days; and for cause shown, to remit penalties but not interest computed at the rate of six percent (6%) per annum; and to compromise disputed claims in connection with the taxes hereby imposed;
3. To request information from the Tax Commissioner of the State of New York or the Treasury Department of the United States relative to any person; and to afford information to such tax commission or such treasury department relative to any person, any other provision of this local law to the contrary notwithstanding;
4. To delegate his functions hereunder to a deputy Treasurer or any employee or employees of the Department of the Treasurer;
5. To prescribe methods for determining the rents for occupancy and to determine the taxable and non-taxable rents;
6. To require any operator within the County to keep detailed records of the nature and type of hotel maintained, nature and type of service rendered, the rooms available and rooms occupied daily, leases or occupancy contracts or arrangements, rents received, charged and accrued, the

names and addresses of the occupants, whether or not any occupancy is claimed to be subject to the tax imposed by this local law, and to furnish such information upon request to the Treasurer;
7. To assess, determine, revise and readjust the taxes imposed under this local law.

18. ADMINISTRATION OF OATHS AND COMPELLING TESTIMONY.

(a) The Treasurer or his employees or agents duly designated and authorized by him shall have power to administer oaths and take affidavits in relation to any matter or proceeding in the exercise of their powers and duties under this local law. The Treasurer shall have power to subpoena and require the attendance of witnesses and the production of books, papers, and documents to secure information pertinent to the performance of his duties hereunder and of the enforcement of this local law and to examine them in relation thereto, and to issue commissions for the examination of witnesses who are out of the state or unable to attend before him or excused from attendance.

(b) A justice of the Supreme Court either in court or at chambers shall have power summarily to enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of books, papers and documents called for by the subpoena of the Treasurer under this local law.

(c) Any person who shall refuse to testify or to produce books or records or who shall testify falsely in any material matter pending before the Treasurer under this local law shall be guilty of a misdemeanor, punishment for which shall be a fine of not more than one thousand dollars (\$1,000) or imprisonment for not more than one (1) year, or both such fine and imprisonment.

(d) The officers who serve the summons or subpoena of the Treasurer and witnesses attending in response thereto shall be entitled to the same fees as are allowed to officers and witnesses in civil cases in courts of record, except as herein otherwise provided. Such officers shall be the County Sheriff and his duly appointed deputies or any officers or employees of the Department of the Treasurer, designated to serve such process.

19. REFERENCE TO TAX.

Wherever reference is made in placards or advertisements or in any other publications to this tax, such reference shall be substantially in the following form: "Tax on occupancy of hotel or motel rooms", except that in any bill, receipt, statement or other evidence or memorandum of occupancy or rent charge issued or employed by the operator, the words "occupancy tax" will suffice.

20. PENALTIES AND INTEREST.

(a) Any person failing to file a return or to pay over any tax to the Treasurer within the time required by this local law shall be subject to a penalty of ten percent (10%) of the amount of tax

due; plus interest at the rate of one percent (1%) of such tax for each month of delay excepting the first month after such return was required to be filed or such tax became due; but the Treasurer if satisfied that the delay was excusable, may remit all or any part of such penalty, but not interest, at the rate of six percent (6%) per year. Such penalties and interest shall be paid and disposed of in the same manner as other revenues from this local law. Unpaid penalties and interest may be enforced in the same manner as the tax imposed by this local law.

(b) Any operator or occupant and any officer of a corporate operator or occupant failing to file a return required by this local law, or filing or causing to be filed, or making or causing to be made or giving or causing to be given any return, certificate, affidavit, representation, information, testimony or statement required or authorized by this local law, which is willfully false, and any operator and any officer of a corporate operator willfully failing to file a bond required to be filed pursuant to sub-section eleven of this local law, or failing to file a registration certificate and such date in connection therewith as the Treasurer may by regulation or otherwise require or to display or surrender the certificate of authority as required by this local law or assigning or transferring such certificate of authority and any operator and any officer of a corporate operator willfully failing to charge separately from the rent the tax herein imposed, or willfully failing to state such tax or any evidence of occupancy and on any bill or statement or receipt or rent issued or employed by the operator, or willfully failing or refusing to collect such tax from the occupant, and any operator and any officer of a corporate operator who shall refer or cause reference to be made to this tax in a form or manner other than that required by this local law, and any operator failing to keep the records required by subdivision eight of sub-section two of this local law, shall, in addition to the penalties herein or elsewhere prescribed, be guilty of a misdemeanor, punishment for which shall be a fine of not more than one thousand dollars (\$1000), or imprisonment for not more than one (1) year, or both such fine and imprisonment. Officers of a corporate operator shall be personally liable for the tax collected or required to be collected by such corporation under this local law, and subject to the penalties herein above imposed.

(c) The certificate of the Treasurer to the effect that a tax has not been paid, that a return, bond or registration certificate has not been filed, or that information has not been supplied pursuant to the provisions of this local law, shall be presumptive evidence thereof.

21. RETURNS TO BE SECRET.

(a) Except in accordance with proper judicial order, or as otherwise provided by law, it shall be unlawful for the Treasurer or any officer or employee of the Department of the Treasurer to divulge or make known in any manner the rents or other information relating to the business of

a taxpayer contained in any return required under this local law. The officers charged with the custody of such returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the Treasurer in an action or proceeding under the provisions of this local law, or on behalf of any party to any action or proceeding under the provisions of this local law when the returns or facts shown thereby are directly involved in such action or proceeding, in either of which events the court may require the production of, and may admit in evidence, so much of said returns or of the facts shown thereby, as are pertinent to the action or proceeding and no more. Nothing herein shall be construed to prohibit the delivery to a taxpayer or his duly authorized representative of a certified copy of any return filed in connection with his tax not to prohibit the publication of statistics so classified as to prevent the identification of particular returns and the items thereof, or the inspection by the County Attorney or other legal representatives of the County of the return of any taxpayer who shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding has been instituted for the collection of a tax or penalty. Returns shall be preserved for three (3) years and thereafter until the Treasurer permits them to be destroyed.

(b) Any violation of subdivision (a) of this sub-section shall be punishable by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment not exceeding one (1) year or both, in the discretion of the court, and if the offender be an officer or employee of the County he shall be dismissed from office and be incapable of holding any public office for a period of five (5) years thereafter.

22. NOTICES AND LIMITATIONS OF TIME.

(a) Any notice authorized or required under the provisions of this local law may be given by mailing the same to the person for whom it is intended in a post-paid envelope addressed to such person at the address given in the last return filed by him pursuant to the provisions of this local law, or in any application made by him, or if no return has been filed or application made, then to such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the receipt of the same by the person to whom addressed. Any period of time which is determined according to the provisions of this local law by the giving of notice shall commence to run from the date of mailing of such notice.

(b) The provisions of the Civil Practice Law and Rules or any other law relative to limitations of time for the enforcement of a civil remedy shall not apply to any proceeding or action taken by the County to levy, appraise, assess, determine or enforce the collection of any tax or penalty provided by this local law. However, except in the case of a willfully false or fraudulent return

with intent to evade the tax, no assessment of additional tax shall be made after the expiration of more than three (3) years from the date of the filing of a return; provided, however, that where no return has been filed as provided by this local law, such tax may be assessed at any time.

(c) Where, before the expiration of the period prescribed herein for the assessment of an additional tax, a taxpayer has consented in writing that such period be extended, the amount of such additional tax due may be determined at any time within such extended period. The period so extended may be further extended by subsequent consents in writing made before the expiration of the extended period.

23. SEPARABILITY.

If any provision of this local law, or application thereof to any person or circumstances, is held invalid, the remainder of this local law, and the application of such provisions to other persons or circumstances shall not be affected thereby.

SECTION 4. EXPIRATION DATE

Pursuant to Subdivision 10 of Section 1202-o of the New York State Tax Law, this local law shall expire three (3) years from the date of its inception.

SECTION 5. EFFECTIVE DATE

This local law shall take effect December 8, 2013, upon filing in the office of the Secretary of State as provided by the Municipal Home Rule Law.

And be it further

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

RESOLVED, that the County Board hold a public hearing on said proposed Local Law at the County Office Building, 1 DiPronio Drive, Waterloo New York at or about 6:00 P.M., on November 12, 2013; 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.

Special Order of the Day

The meeting was adjourned at 7:03 p.m.