

Seneca County Board of Supervisors
Regular Meeting & Public Hearing
November 12, 2013

Call to Order

Chairman Hayssen called the meeting to order at 6:00 p.m.

Roll Call of Members by the Clerk

All members of the Board of Supervisors answered roll call.

Pledge of Allegiance and Moment of Silence

Public Hearing:

To receive comments on proposed Local Law 3 of 2013, "The Seneca County Hotel or Motel Occupancy Tax". The floor was opened to the public for comment regarding proposed local law 3 of 2013. No comments, written or oral, were received. The public hearing was moved closed.

Presentation:

Employee of the 2nd Quarter 2013 Award - Rhonda Maher, Computer Operator, Information Technology Department

Petitioner:

Matt Clark, SMI, Inc. employee - "Jobs in the community". The theme of Mr. Clark's comments focused on the on-the-job training and career building he received from SMI, Inc. when he began working for them right after high school. He thanked the Board of Supervisors for supporting industrial development that offers opportunities, not only for professional careers, but also for high school graduates, to gain experience and training for a lifetime career in Seneca County.

Submission of Claims for Audit

Mr. Prouty moved, second by Mr. Kubasik that the following vouchers having gone through the proper auditing process; now, therefore be it

RESOLVED, that said bills be approved for payment.

Supervisors vouchers	totaling	\$	1,069,288.12
Workforce Development vouchers	totaling	\$	23,638.57
Self-Insurance vouchers	totaling	\$	12,990.28
County Airport vouchers	totaling	\$	134,116.07
Highway Transportation vouchers			
Maintenance & State Snow	totaling	\$	232,972.38
Highway Machinery	totaling	\$	41,621.92
	HIGHWAY TOTAL	\$	274,594.30

Sewer 1	totaling	\$	12,250.72
Sewer 2	totaling	\$	28,680.84
Water 1	totaling	\$	4,441.69
Financial Software Capital vouchers	totaling	\$	2,700.00
Airport Capital vouchers	totaling	\$	633,620.21
Veterans Cemetery Capital vouchers	totaling	\$	364.63
County Road 132 Capital vouchers	totaling	\$	38,907.06
Willard Wastewater Facility Capital vouchers	totaling	\$	4,289.00

Approval of Board Meeting Minutes

Meeting minutes for the October 8, 2013 regular board meeting and October 26, 2013 special board meeting were approved as printed.

Reports of Standing Committees

Human Services Committee - Mr. Davidson, Chairman. The Committee approved the Annual Plan for Aging services for the period April 1, 2014 – March 31, 2015. A resolution is on the agenda for consideration by the Board of Supervisors and authorizing the Chairman of the Board to sign the Office for the Aging Annual Implementation Plan. The committee also approved the abolishment of one Senior Caseworker position and creating and filling one Caseworker position in the Division of Human Services.

Public Safety Committee - Mr. Reynolds, Chairman. The Committee approved creating a Part-time Senior Clerk position in the Sheriff’s Office Records Department. The full-time clerk is retiring. She will be hired as part-time and focus on pistol permit applications and assist in the records department.

Mr. Reynolds also said that the solar panels at the Law Enforcement Center are installed and operational. He said they could be seen from the road. He recommended that if they haven’t yet, to go to the LEC and view the solar panels.

Indian Affairs Committee - Mr. Shipley, Chairman. The 2nd Circuit Court has rescheduled the date to hear the case between Seneca County and the Cayuga Nation regarding foreclosures on property the Nation owns in Seneca County. The new date is January 7, 2014.

Mr. Shipley also brought attention to Communication #135 - which is a copy of a letter from Senator Schumer to the BIA urging a meeting to discuss the alleged application submitted by the Cayuga Nation without local input or notification. Senator Schumer personally spoke with Assistant Secretary Washburn of the BIA.

Planning, Development, Agriculture & Tourism Committee - Mr. Earle, Chairman. The Committee approved and recommended a board resolution authorizing the advertisement of the public comment period to be the month of December on Agricultural District #6, which includes property in the Towns of Junius, Tyre, Waterloo and Seneca Falls. This is the first step in the review process.

Environmental Affairs Committee - Mr. Churchill, Chairman. The Committee heard a presentation by Seneca Lake Area Partners in 5 Counties (SLAP-5) on the Seneca Lake Watershed Management Plan Initiative. Edith Davey, the Conservation Educator for Ontario County SWCD, will speak about the Watershed Management Plan and a Memorandum of Understanding (MOU) presented to Seneca Lake Watershed municipalities and to those municipalities that use drinking water from the lake to formalize an agreement to work cooperatively to protect and preserve the Lake.

The Committee also heard from Marjorie Torelli on Product Stewardship & Extended Producer Responsibility (EPR). EPR is an environmental policy approach in which producers (brand owners and importers) accept responsibility for the management of post-consumer products, so those who produce products help bear the costs of recycling and responsible disposal.

The Committee recommended a resolution supporting legislation which will give producers the incentive to design products that are less toxic and easier to reuse and recycle by requiring such producers to help bear the costs for the proper recycling and responsible disposal for their hazardous and hard to recycle products; and a resolution specifically for extended producer responsibility legislation for the collection and disposition of discarded mercury thermostat devices.

The Committee also recommended a resolution to create a sub-committee to investigate opportunities to expand and enhance the current county recycling program.

Public Health Services Committee - Mrs. Garlick Lorenzetti, Chairwoman. The Committee recommended a board resolution authorizing the Chairman of the Board of Supervisors to sign the contract to accept funding for the immunization program for the health department. The multi-year grant period is April 1, 2013 through March 31, 2018. The total grant award is \$150,000 (\$30,000 per year for five years).

Public Works Committee - Mr. Kaiser, Chairman. The Committee authorized refilling four seasonal MEO positions for plowing snow and two seasonal Part-time Dispatchers for the winter season. These position are for the Highway Department and are effective December 1, 2013 or when necessary.

The Committee also recommended awarding the bid for the roof replacement at Willard Wastewater Treatment Facility to WCA Roofing & Sheet Metal in an amount not to exceed \$104,500.00; and recommended accepting the design proposal from John Snyder Architect for the courthouse renovation project. Total fee amount is \$293,700 with reimbursable expenses not-to-exceed \$21,000.

Government Operations Committee - Mr. Westfall, Chairman. The Committee recommended a board resolution (1) scheduling the December committee meetings, originally set for December 24, to occur on December 17 beginning at 5:30 p.m.; (2) a board resolution creating a domestic violence policy for the county.

The Committee also approved refilling a Motor Vehicle License Clerk position effective January 1, 2014. The department has been understaffed for almost a year.

Finance, Assessment & Insurance Committee - Mr. Prouty, Chairman. The Committee recommended a board resolution (1) adopting the county equalization rates for 2014 county tax apportionment. The rates are as follows: Covert-Lodi-Ovid-Romulus-Varick- 95.00% Fay-SF 88% Junius -Tyre 100.00% and Waterloo 100%; (2) scheduling a public hearing for the 2014 tentative count budget for November 19, 2013 at 6:00 p.m.; (3) several budget amendments requiring board authorization; and (4) authorizing the re-levy of past Due water and sewer charges to 2014 property tax bills.

Chairman's Remarks

Chairman Hayssen read an email from Patty Sacco, Wine Country Circuit Coordinator for the annual AKC dog show held at Sampson State Park. The organizers for the four day dog show were considering relocating because of economic reasons to the New York State Fairgrounds in Syracuse, NY after twenty-seven years at Sampson State Park. Chairman Hayssen and the Board of Supervisors responded to the possible relocations

County Manager Remarks

Philip Snyder, Network Administrator, accepted a new position in Illinois. He will be joining the private sector at the end of the month.

Friends of the Three Bears received the Paul Malo Award given by the Landmark Society. The award recognizes the Friends as outstanding advocates for the restoration of the Three Bears municipal complex in Ovid.

The Tentative Budget for fiscal year 2014 was filed on November 1 with the Clerk of the Board of Supervisors. The public hearing for the tentative budget is scheduled for November 19.

Senator Nozzolio obtained \$150,000 of state funding toward the next stage of renovations for the cemetery. The money will help finish work on the interior of the chapel to be used year round.

County Attorney's Remarks:

Should anyone inquire about any litigation, current or pending, involving Seneca County and the Cayuga Nation refer them to County Attorney Frank Fisher in the law department.

Communications:

135. A copy of an email to Supervisor Shipley from Senator Schumer's office stating that Senator Schumer contacted Assistant Secretary Washburn, urging the Federal Bureau of Indian Affairs to meet with local Seneca & Cayuga County officials to explain the status of the Cayuga Tribe's Land-into-

trust application - after dismissal in 2011, the application is reportedly being reconsidered without local input or notification.

136. A copy of a letter to Monique Hartgrove, United States Department of the Interior, Bureau of Indian Affairs from Philip G. Spellane, Harris Beach, LLP, requesting information and a copy of another application submitted by the Cayuga Nation after the dismissal of the first application in 2011.

137. A copy of the Seneca County Tentative Budget for fiscal year 2014.

138. A copy of the official resolutions adopted by county delegates at the New York State Association of Counties 2013 Fall Seminar.

139. A copy of a resolution adopted by the Town Board of Varick, opposing Seneca Meadows, Inc.'s May 28, 2013 plans to develop railroad operations at the Seneca Meadows Landfill.

140. A copy of Resolution No. IL 045-13 adopted by the Niagara County Legislature, requesting New York State to establish residency requirements in order to receive welfare benefits.

141. A copy of Resolution No. 159 adopted by the Delaware County Board of Supervisors, requesting introduction of Home Rule legislation authorizing imposition of a wireless surcharge in Delaware County Department of Emergency Services.

142. A copy of Resolution No. 160 adopted by the Delaware County Board of Supervisors, urging New York State to restore the historic 50/50 State/Local cost sharing for the State's Mandated Safety Net Program or provide more program control to local Social Service Districts commensurate with counties increased fiscal responsibility for the program.

143. A copy of Resolution No. 161 adopted by the Delaware County Board of Supervisors, calling on the Governor and State Legislature to continue to partner with counties to successfully reform juvenile justice programs while avoiding cost shifts to counties' Department of Social Services.

144. A copy of Resolution No. 303 adopted by the Essex County Board of Supervisors, supporting statewide ballot proposal #5 - "In relation to a land exchange in the state forest preserve with NYCO Minerals, Inc."

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

146. A copy of the September 12, 2013 meeting minutes of the Genesee/Finger Lakes Regional Council.

147. A copy of the September 18, 2013 committee meeting of the Seneca County Board of Health.

RESOLUTIONS & MOTIONS

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

RESOLUTION NO. 204-13 moved by Mr. Prouty; second by Mr. Kubasik and adopted by 750 ayes.

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 October 22, 2013; now therefore be it

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

HIGHWAY

Decrease:	40-120-5-5110-2001 (Bridge Projects)	\$7,000.00
Increase:	40-120-5-5110-4380 (Fees & Services)	\$7,000.00

COMMUNITY COUNSELING

Decrease:	104320-54350 (Medical Fees)	\$4,000.00
Increase:	104310-54350 (Medical Fees)	\$4,000.00
Decrease:	104320-51100 (Salaries)	\$3,000.00
Increase:	104339-54280 (Program Supplies)	\$3,000.00

SHERIFF CORRECTIONAL FACILITY

Decrease:	3150-51100 (Correctional Facility Salaries)	\$1,359.60
Increase:	3150-51400 (Correctional Facility Severance)	\$1,359.60

DHS TEMPORARY ASSISTANCE

Decrease:	6002-51100-SS01 (Temporary Assistance Salaries)	\$1,244.10
Increase:	6002-51400-SS01 (Temporary Assistance Severance)	\$1,244.10

WATER DISTRICT NO. 1

Increase:	318310-42140 (Metered Water Sales)	\$50,000.00
Increase:	318310-54141 (Purchase of Water)	\$50,000.00

LEVY PAST DUE WATER AND SEWER CHARGES TO 2014 TAX BILLS

(as amended)

RESOLUTION NO. 205-13 moved by Mr. Prouty; second by Mr. Reynolds and adopted by 750 ayes.

WHEREAS, charges for unpaid water and sewer accounts have accumulated in 2013; and

WHEREAS, the relevy of unpaid charges are provided for in New York State Law; and

WHEREAS, the following accounts are more than 60 days past due and subject to relevy:

PROPERTY ADDRESS	AMOUNT
Seneca Bio Energy	\$585.40

Top Quality Hay Processing	\$585.40
Spring Meadows Associates, LP	\$10,703.31
Hooser, Thomas & Nancy	\$40.81
Lahiri, Joydeep	\$1,028.70
Dranias, Sandra L.	\$952.86
Keller, John & Joseph	\$546.25
Sinkiewicz, Steve & Kathy	\$115.00

Now, therefore, be it

RESOLVED, that said past due water and sewer charges in Seneca County Water District No.1, Seneca County Sewer District No. 1, and Seneca County Sewer District No. 2, be levied on the 2014 Tax Bill for subject properties to the extent that such accounts remain past due as of December 1, 2013.

Under discussion for Resolution No. 205-13, Mr. Kubasik made a motion, second by Mr. Davidson, and carried to amend the main motion by inserting the text *“to the extent that such accounts remain past due as of December 1, 2013”*.

Mr. Earle asked if the property owners are notified about the deadline date. The town is the municipality that is responsible for re-levies and submits them to the county by December 1.

County Manager Rowe stated that since the recent shut-off policy was adopted in May, \$15,000 in revenue has been generated.

ADOPT EQUALIZATION RATES

RESOLUTION NO. 206-13 moved by Mr. Prouty; second by Mr. Kubasik and adopted by 750 ayes.

RESOLVED, that the Seneca County Board of Supervisors does hereby adopt the following County Equalization Rates supplied by the New York State Board of Real Property Services for 2014 County Tax apportionment in accordance with Section 840 of the Real Property Tax Law:

Covert	95.00
Fayette	88.00
Junius	100.00
Lodi	95.00
Ovid	95.00
Romulus	95.00
Seneca Falls	88.00
Tyre	100.00
Varick	95.00
Waterloo	100.00

BOARD OF SUPERVISORS RESCHEDULES DECEMBER COMMITTEE MEETINGS

RESOLUTION NO. 207-13 moved by Mr. Westfall; second by Mr. Davidson and adopted by 750 ayes.

WHEREAS, the Board of Supervisor's December, 2013 Committee meetings are currently scheduled to occur on the evening of December, 24; and

WHEREAS, the Government Operations Committee has approved a resolution rescheduling the Board's December 2013 Committee meetings; now, therefore, be it

RESOLVED, that the Seneca County Board of Supervisors Committee meetings currently scheduled for the fourth Tuesday in December, 2013 shall be held instead on Tuesday, December 17, 2013 beginning at 5:30 P.M. at the County Office Building in the Board of Supervisors Room; and be it further

RESOLVED, that the Clerk of the Board of Supervisors is hereby authorized and directed to provide notice of such meetings as required by law.

SUPERVISORS CREATE POLICY NO. 510.300

**"DOMESTIC VIOLENCE AND THE WORKPLACE" POLICY
FOR COUNTY EMPLOYEES EFFECTIVE IMMEDIATELY**

RESOLUTION NO. 208-13 moved by Mr. Westfall; second by Mr. Shipley and adopted by 750 ayes.

RESOLVED, the Seneca County Board of Supervisors approves the creation of Seneca County Policy Manual 510.300 "Domestic Violence and the Workplace" to read as follows:

Purpose:

Domestic violence permeates the lives and compromises the safety of thousands of New York state and local employees each day, with tragic, destructive, and often fatal results. Domestic violence occurs within a wide spectrum of relationships, including married and formerly married couples, couples with children in common, couples who live together or have lived together, gay, lesbian, bisexual and transgender couples, and couples who are dating or who have dated in the past.

Domestic violence is defined as a pattern of coercive tactics, which can include physical, psychological, sexual, economic and emotional abuse perpetrated by one person against an adult intimate partner, with the goal of establishing and maintaining power and control over the victim. In addition to exacting a tremendous toll from the individuals it directly affects, domestic violence often spills over into the workplace, compromising the safety of both victims and co-workers resulting in lost productivity, increased health care costs, increased absenteeism, and increased employee turnover.

The purpose of this Policy is to identify and prescribe County practices that will promote safety in the workplace and respond effectively to the needs of victims of domestic violence.

Policy:

Seneca County, to the fullest extent possible without violating any existing rules, regulations, statutory requirements, contractual obligations or collective bargaining agreements, designates and directs appropriate management, supervisory, and/or human resources staff to implement the following policy.

Definitions:

For purposes of this policy, the following terms will be defined as follows.

Domestic Violence: A pattern of coercive tactics, which can include physical, psychological, sexual, economic and emotional abuse, perpetrated by one person against an adult intimate partner, with the goal of establishing and maintaining power and control over the victim.

Intimate Partner: Includes persons legally married to one another; persons formerly married to one another; persons who have a child in common, regardless of whether such persons are married or have lived together at any time, couples who live together or have lived together, or persons who are dating or who have dated in the past, including same sex couples.¹

Abuser: A person who perpetrates a pattern of coercive tactics which can include physical, psychological, sexual, economic, and emotional abuse against an adult intimate partner, with the goal of establishing and maintaining power and control over the victim.

Victim: The person against whom an abuser directs coercive and/or violent acts.

¹ This definition may extend to other circumstances such as the abuse of a parent by an adult child, but the primary focus of this policy is adult, intimate partner violence.

Guidelines

I. Employee Awareness

Seneca County shall increase awareness of domestic violence and inform employees of available sources of assistance.

Information on domestic violence is conspicuously posted and available where employees can obtain it without having to request it or be seen removing it, such as in break/lunch rooms, rest rooms, and other appropriate locations in the County Office Buildings. This information is also posted on the bulletin board located in the Personnel Office. Such information includes available sources of assistance such as the Seneca County Victim Assistance Program, Employee Assistance Program, local domestic violence service providers, the NYS Domestic Violence and Sexual Assault hotline, and/or Seneca County employees who are trained and available to serve as confidential sources of information, support, and referral.

II. Non-Discriminatory and Responsive Personnel Policies for Victimized Employees

Victims of domestic violence shall not be discriminated against. Seneca County prohibits inquiries about a job applicant's current or past domestic violence victimization, and prohibits employment

decisions to be based on any assumptions about or knowledge of such exposure New York State Law makes it a crime for employers to penalize an employee who, as a victim or witness of a criminal offense, is appearing as a witness, consulting with a district attorney, or exercising his/her rights as provided in the Criminal Procedure Law, the Family Court Act, and the Executive Law. This law requires employers, with prior day notification, to allow time off for victims or subpoenaed witnesses to exercise his/her rights as provided in the Criminal procedure Law, the Family Court Act, and the Executive Law [Penal Law §215.14]. If there are any questions or concerns regarding the leave that must be granted to victims or subpoenaed witnesses, contact the Seneca County Personnel Office.

III. Workplace Safety Plans

In the event a domestic violence incident occurs within the workplace or on the grounds adjacent to the workplace (i.e. front sidewalk, parking lot, etc.), emergency personnel shall be notified immediately by dialing 911. Once 911 is called, the employee shall notify his/her immediate supervisor.

Seneca County will consult with victimized employees to assist in developing and implementing individualized workplace safety plans, which may include, when appropriate, advising co-workers and, upon request, the employee's bargaining representative, of the situation; setting up procedures for alerting security and/or the police; temporary relocation of the victim to a secure area; escort for entry to and exit from the building; responding to telephone, fax, e-mail or mail harassment; and keeping a photograph of the abuser and/or a copy of any existing court orders of protection in a confidential on-site location and providing copies to security personnel.

Seneca County shall comply and assist with enforcement of all known court orders of protection, particularly orders in which abusers have been ordered to stay away from the work site. Seneca County will discuss with the employee a plan on how to best proceed to ensure the safest possible work environment for the employee and the rest of the staff. With permission of the employee, this may include: providing a copy of the order of protection and/or photo of the perpetrator to security personnel; discussion of who should be told, such as identifying supervisors or colleagues who would be able to assist with the identification of the perpetrator, and creating a workplace safety plan.

IV. Privacy

Information related to an employee being a victim of domestic violence shall be kept confidential, to the extent permitted by law and County policy, and shall not be divulged without the written consent of the victimized employee, unless the County determines that maintaining said confidentiality puts the victim or other employees at risk of physical harm, is required by law, or is

deemed necessary to enforce an order of protection. In such circumstances where a determination has been made that to maintain confidentiality puts the victim or other employees at risk of physical harm, only individuals (County employees and/or safety and security personnel and/or rescue and first aid personnel) as deemed necessary by the County to protect the safety of the victim and/or other employees or to enforce an order of protection shall be given such information. Only the minimum amount of information necessary to protect the safety of the victim and/or other employees or enforce an order of protection will be disclosed.

V. Accountability for Employees Who Are Offenders

Employees who engage in the following behavior: (1) using County resources to commit an act of domestic violence; (2) committing an act of domestic violence from or at the workplace or from any other location while on official county business; or (3) using their job-related authority and county resources in order to negatively affect victims and/or assist perpetrators in locating a victim and/or in perpetrating an act of domestic violence will be subject to discipline for such acts, up to and including termination.

In cases in which the County has found that an employee has threatened, harassed, or abused an intimate partner at the workplace using county resources such as work time, workplace telephones, FAX machines, mail, e-mail or other means, said employee shall be subject to corrective or disciplinary action in accordance with existing collective bargaining unit agreements, statutes and regulations.

In cases in which Seneca County has verification that an employee is responsible for a domestic violence-related offense, or is the subject of any order of protection, including temporary, final or out-of-state order, as a result of domestic violence, and said employee has job functions that include the authority to take actions that directly impact victims of domestic violence and/or actions that may protect abusers from appropriate consequences for their behavior, the County shall determine if corrective action is warranted, in accordance with existing collective bargaining unit agreements, statutes and regulations.

In cases in which any employee intentionally uses his/her job-related authority and/or intentionally uses county resources in order to negatively impact a victim of domestic violence, assist an abuser in locating a victim, assist an abuser in perpetrating acts of domestic violence, or protect an abuser from appropriate consequences for his behavior, said employee shall be subject to corrective or disciplinary action, in accordance with existing collective bargaining unit agreements, statutes and regulations.

VI. Firearms

Pursuant to New York State and federal law, a person convicted of a domestic violence-related crime or subject to an order of protection, under certain circumstances, forfeits the right to legally possess a firearm or long gun. Additionally, federal law contains prohibitions relating to shipping, transportation, or receiving firearms or ammunition.

In addition to complying with the law, employees who are authorized to carry a firearm as part of their job responsibilities are required to notify the agency if they are arrested on a domestic violence-related offense and/or served with an order of protection. Under certain circumstances, such employees are responsible for surrendering their firearms to the issuing agency or to the appropriate police agency.

Should an employee fail to comply with the requirements set forth in V said employee shall be subject to corrective or disciplinary action, in accordance with existing collective bargaining unit agreements, statute or regulations, In addition, the appropriate law enforcement agency shall be notified for possible criminal action.

**SUPERVISORS AWARD BID FOR ROOF REPLACEMENT AT
WILLARD WASTEWATER TREATMENT FACILITY**

RESOLUTION NO. 209-13 moved by Mr. Kaiser; second by Mr. Serven and adopted by 750 ayes.

WHEREAS, the Board of Supervisors has authorized a bid solicitation for replacement of the roof at the Willard Wastewater Treatment Facility; and

WHEREAS, the Board of Supervisors has authorized borrowing up to a maximum of \$400,000 to support capital improvements at the facility; and

WHEREAS, sealed bids for replacement of the roof were opened on November 6, 2013; and

WHEREAS, the lowest responsible bidder for the preferred option, adhered EDPM membrane roofing, is WCA Roofing & Sheet Metal Co., Inc., with offices at 10 Corporate Circle, East Syracuse, NY, with a bid of \$104,500.00; and

WHEREAS, WCA Roofing has committed to complete the project in 2013; and

WHEREAS, completion of the roof project is desirable and necessary; now therefore be it

RESOLVED, that the Board of Supervisors authorizes and directs the Chairman to sign a contract for replacement of the roof at the Willard Wastewater Treatment Facility with WCA Roofing & Sheet Metal in an amount not to exceed \$104,500.00.

**SUPERVISORS AUTHORIZE DESIGN SERVICES FOR
WATERLOO COURTHOUSE PROJECT**

RESOLUTION NO. 210-13 moved by Mr. Kaiser; second by Mr. Prouty and adopted by 750 ayes.

WHEREAS, Seneca County has embarked on redevelopment of the Waterloo Courthouse Complex; and

WHEREAS, Seneca County has solicited the services of John Snyder Architects, 142 East State Street, Ithaca, NY to design and oversee the project; and

WHEREAS, the project will involve demolition of the former jail, restoration of the former Sheriff's House and related site and building improvements; and

WHEREAS, the construction estimate for the project is \$2.5 to \$3.0 million; and

WHEREAS, Seneca County desires to have design and bid documents in place for a bid letting prior to the 2014 construction season; and

WHEREAS, John Snyder Architects has submitted a proposal to provide Seneca County with desired services in an amount not to exceed \$293,700, with reimbursable expenses to not exceed \$21,000; now therefore be it

RESOLVED, that the Chairman of the Board of Supervisors be authorized and directed to sign a contract with John Snyder Architects for design and construction services in an amount not to exceed \$293,700, with reimbursable expenses to not exceed \$21,000.

Recess:

Chairman Hayssen called a recess in order for him to sign the contract between Seneca County and John Snyder Architects. Mr. Snyder, who was in attendance, said he is eager and looking forward to begin work.

Return to regular session:

**CHAIRMAN OF THE BOARD OF SUPERVISORS AUTHORIZED AND DIRECTED TO SIGN
A CONTRACT WITH THE NEW YORK STATE DEPARTMENT OF HEALTH
IMMUNIZATION PROGRAM FOR THE IMMUNIZATION ACTION PLAN**

RESOLUTION NO. 211-13 moved by Mrs. Garlick Lorenzetti; second by Mr. Kaiser and adopted by 750 ayes.

WHEREAS, the New York State Department of Health has awarded the Health Department a grant for the administration of the Immunization Action Plan for Seneca County; and

WHEREAS, the grant period is April 1, 2013 through March 31, 2018; and

WHEREAS, the total grant award is \$150,000 (\$30,000 per year for five years); and

WHEREAS, in order to receive this funding it is necessary for the Chairman of the Board of Supervisors to sign the contract; and

WHEREAS, this funding is included in the Health Department budget; and

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

RESOLVED, that the Chairman of the Board of Supervisors is hereby authorized and directed to sign a contract with the New York State Department of Health for the Immunization Action Plan Grant.

**SUPERVISORS SUPPORT EXTENDED PRODUCER RESPONSIBILITY
LEGISLATION IN NEW YORK STATE**

RESOLUTION NO. 212-13 moved by Mr. Churchill; second by Mrs. Garlick Lorenzetti and adopted by 750 ayes.

WHEREAS, manufactured goods and packaging constitute approximately 75% of the materials managed by solid waste authorities in the United States based on figures reported by the U.S. Environmental Protection Agency; and

WHEREAS, residents, businesses, and local municipal governments in New York State are required to fund the management of discarded manufactured goods and packaging; and

WHEREAS, hazardous and hard-to-recycle product management costs are expected to increase substantially in the short term unless policy changes are made; and

WHEREAS, there can be significant environmental and human health impacts associated with improper management of hazardous products; and

WHEREAS, New York State policy currently calls for local governments to take responsibility for achieving waste diversion goals, which is an unfunded mandate; and

WHEREAS, the municipal waste management system in the United States was established a century ago to manage far simpler and more homogeneous wastes like ashes, food scraps and horse manure, rather than the manufactured goods and packaging which dominate today's municipal waste; and

WHEREAS, local governments in Seneca County have no input into the design or marketing of products, make no profit from the products, and do not have the resources to adequately address the rising volume of discarded products; and

WHEREAS, costs paid by citizens, businesses, and local governments to manage products are, in effect, subsidies to producers that enable and encourage producers to design products for disposal and without regard to end of life management; and

WHEREAS, Extended Producer Responsibility ("EPR") is an environmental policy approach in which producers (brand owners and importers) accept responsibility for the management of post-consumer products, so those who produce products help bear the costs of recycling and responsible disposal; and

WHEREAS, some corporate producers have implemented so-called "take-back" efforts which have been helpful but there is a need for consistent industry-wide practices and this can only be accomplished by EPR legislation on a State or Federal level; and

WHEREAS, when producers are responsible for ensuring their products are reused or recycled responsibly, and when health and environmental costs are included in the product price, there is an incentive to design products that are more durable, easier to repair and recycle, and less toxic; and

WHEREAS, EPR is a form of industry-led recycling that creates jobs and economic development in direct proportion to the amount of material recycled while businesses that provide take-back opportunities for their customers or participate in EPR programs can gain a distinct advantage in the marketplace, create customer loyalty, and enhance the image of their brand; and

WHEREAS, the Seneca County Board of Supervisors supports statewide efforts to hold product producers responsible for hazardous product discard management and other product waste management costs; and

WHEREAS, the Seneca County Board of Supervisors encourages the State of New York to transfer responsibility for the costs of managing certain products at end-of-life to producers (brand owners and first importers); now therefore be it

RESOLVED, that the Seneca County Board of Supervisors urges the New York State Legislature to enact EPR legislation which will give producers the incentive to design products that are less toxic and easier to reuse and recycle by requiring such producers to help bear the costs for the proper recycling and responsible disposal for their hazardous and hard to recycle products.

SUPERVISORS SUPPORT CREATION OF SPECIAL RECYCLING COMMITTEE

RESOLUTION NO. 213-13 moved by Mr. Churchill; second by Mr. Lafler and adopted by 750 ayes.

WHEREAS, Seneca County has a mandatory recycling program; and

WHEREAS, the Board of Supervisors recognizes the need and importance for solid waste recycling in the County; and

WHEREAS, the Board of Supervisors believes that this is an appropriate time to evaluate opportunities for greater participation in recycling in the County; and

WHEREAS, the creation of a Special Committee pursuant to Rule 27 of the Rules of Order will best serve the evaluation of opportunities; now, therefore be it

RESOLVED, that the Board of Supervisors supports the creation of a Special Recycling Committee; and be it further

RESOLVED, that the Chairman of the Board of Supervisors shall appoint members to serve on said Special Committee.

SUPERVISORS URGE STATE REPRESENTATIVES TO ENACT

PRODUCER RESPONSIBILITY LEGISLATION FOR

MERCURY THERMOSTATS SOLD IN NEW YORK STATE

RESOLUTION NO. 214-13 moved by Mr. Churchill; second by Mr. Shipley and adopted by 750 ayes.

WHEREAS, exposure to mercury leads to serious adverse health effects; and

WHEREAS, mercury containing thermostats are a significant source of preventable mercury pollution; the US EPA estimates that 2 million - 3 million thermostats come out of service in the US each year; and

WHEREAS, each thermostat contains four grams of mercury; about 800 times more mercury than a compact fluorescent bulb; and

WHEREAS, over the last 15 years, the use of mercury in US thermostat manufacturing has been reduced from 13-21 tons annually, to less than one ton per year; attributed to state legislation banning the sale of new mercury thermostats and the ending of mercury thermostat production by Honeywell, White Rodgers, and General Electric; and

WHEREAS, millions of mercury thermostats containing several hundred tons of mercury are still in US homes and businesses; and

WHEREAS, an industry sponsored, voluntary recycling program, called the Thermostat Recycling Corporation (TRC) has collected, according to the US EPA, less than 5% of the mercury thermostats that came out of service; and

WHEREAS, TRC collected 3,774 thermostats for all of NY State in 2008; about 1 % of the mercury containing thermostats that are discarded each year in NY; and

WHEREAS, nationally, as well as in New York State and Seneca County, almost all such mercury thermostats are tossed in with the regular trash stream; and

WHEREAS, several states have enacted legislation to establish programs whereby manufacturers of such mercury thermostat devices would be responsible for the collection, recycling/reuse, or proper disposal of discarded mercury thermostat devices, which may include using existing collecting and consolidation infrastructure or creating a new jointly managed system with processors, reuse organizations, waste management public entities, retailers, and others; and

WHEREAS, on February 27, 2013 the New York State Association of Reduction, Reuse and Recycling (NYSAR3), through Resolution strongly supported State representatives for legislation that mandates producer responsibility for mercury thermostat devices. NYSAR3, along with Seneca County, urges the New York State Legislature to pass legislation requiring producers of such mercury thermostat devices to set up and fund programs to deal with their collection and proper disposition; and

WHEREAS, Seneca County believes any proposed legislation should require the following: Manufacturer-funded incentive for each mercury-containing thermostat returned, if the DEC determines that minimum performance standards set forth in the legislation are not achieved; and

WHEREAS, any retailers selling thermostats must also participate in any collection program developed by the product manufacturers; now, therefore be it

RESOLVED, that along with the New York State Association of Reduction, Reuse and Recycling, the Seneca County Board of Supervisors does hereby urge New York State legislative representatives to promptly compromise both house bills and enact extended producer responsibility legislation for the collection and disposition of discarded mercury thermostat devices. This Resolution shall take effect immediately; and be it further

RESOLVED, that a copy of this Resolution be sent to Senator Michael F. Nozzolio, Assemblyman Brian Kolb, Assemblyman Philip Palmesano, and Governor Andrew Cuomo.

**CLERK OF BOARD AUTHORIZED TO ADVERTISE FOR PUBLIC COMMENT PERIOD
REGARDING RE-CERTIFICATION OF AGRICULTURAL DISTRICT #6**

RESOLUTION NO. 215-13 moved by Mr. Earle; second by Mr. Davidson and adopted by 750 ayes.

WHEREAS, Seneca County has received from the New York State Department of Agriculture and Markets the 30 Day Notice that the Seneca County Agricultural District #6 which includes parcels within the Towns of Junius, Tyre, Waterloo, and Seneca Falls is due for review and re-certification; and

WHEREAS, notice of a Public Comment Period must be advertised and posted as directed in Agriculture and Markets Law; and

WHEREAS, this resolution has been reviewed and approved by the Planning, Development, Agriculture & Tourism Committee on October 22, 2013; now, therefore be it

RESOLVED, that the Clerk of the Board of Supervisors is hereby authorized and directed to advertise for a Public Comment Period to be the month of December 2013 to provide an opportunity for citizens to offer comments and input on the re-certification of Agricultural District #6; and be it further

RESOLVED, that said notice shall also be posted in at least five places within Agricultural District #6.

**RESOLUTION AUTHORIZING ADOPTION BY THE BOARD OF SUPERVISORS OF THE
COUNTY OF SENECA OF LOCAL LAW NO. 3, OF THE YEAR 2013,
“THE SENECA COUNTY HOTEL OR MOTEL OCCUPANCY TAX”**

RESOLUTION NO. 216-13 moved by Mr. Earle; second by Mr. Kaiser and adopted by 750 ayes.

WHEREAS, a resolution was duly adopted by the Board of Supervisors of the County of Seneca for a Public Hearing to be held by said County on November 12, 2013 at 6:00 p.m. at the Seneca County Office Building, Waterloo, NY, to hear all interested parties on a proposed Local Law entitled “The Seneca County Hotel or Motel Occupancy Tax”; and

WHEREAS, notice of said public hearing was duly advertised in the official newspapers of the County of Seneca; and

WHEREAS, said public hearing was duly held on November 12, 2013 at 6:00 p.m. at the Seneca County Office Building, Waterloo, NY, and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said proposed Local Law, or any part thereof; and

WHEREAS, the Board of Supervisors of the County of Seneca, after due deliberation, finds it in the best interests of the County of Seneca to adopt said Local Law;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of the County of Seneca hereby adopts Local Law No. 3 of the year 2013, as follows:

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 therefor, 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.

**CREATION OF PART-TIME SENIOR CLERK POSITION FOR
THE SHERIFF'S OFFICE RECORDS DIVISION**

RESOLUTION NO. 217-13 moved by Mr. Reynolds; second by Mr. Davidson and adopted by 682 ayes, and 68 nays (Kubasik).

WHEREAS, a retirement in the Records Division has created a void of highly trained personnel to be responsible for the issuance of pistol permits and the collateral paperwork necessary to maintain the proper records for said pistol permits; and

WHEREAS, the Seneca County Sheriff requested authorization from the Board of Supervisors to create a Part-time Senior Clerk position at the Law Enforcement Center in the Records Division; and

WHEREAS, the creation and filling of said part-time position will allow the Division to retain the person highly knowledgeable of the pistol permit functions and regulations; and

WHEREAS, this resolution has been reviewed and approved by the Vacancy Committee and the Public Safety Committee on October 22, 2013; and

WHEREAS, the 2014 Sheriff's Office budget reflects the monies for this position; now, therefore be it

RESOLVED, that the Board of Supervisors does hereby authorize the creation of the above Part-time Senior Clerk position for the Sheriff's Office Records Division.

**SUPERVISORS AUTHORIZE THE CREATION AND FILLING OF ONE (1) FULL-TIME
CASEWORKER POSITION AND THE ABOLISHMENT OF ONE (1) FULL-TIME SENIOR
CASEWORKER POSITION EFFECTIVE IMMEDIATELY**

RESOLUTION NO. 218-13 moved by Mr. Davidson; second by Mr. Reynolds and adopted by 750 ayes.

WHEREAS, the Human Services Committee has approved abolishing (1) full-time Senior Caseworker position at their last committee meeting on October 22, 2013; and

WHEREAS, the Human Services Committee has approved the creation/filling of (1) full-time Caseworker position at their last committee meeting on October 22, 2013; now, therefore be it

RESOLVED, the Seneca County Board of Supervisors does hereby abolish (1) full-time Senior Caseworker position effective immediately; and be it further

RESOLVED, the Seneca County Board of Supervisors does hereby create and authorize filling of (1) full-time Caseworker position effective immediately.

**CHAIRMAN OF THE BOARD OF SUPERVISORS AUTHORIZED TO SIGN THE
OFFICE FOR THE AGING ANNUAL IMPLEMENTATION PLAN FOR
SERVICES AND FUNDING APPLICATIONS**

RESOLUTION NO. 219-13 moved by Mr. Davidson; second by Mr. McGreevy and adopted by 750 ayes.

WHEREAS, the Seneca County Office for the Aging is required to submit the Annual Implementation Plan for Aging Services for the period April 1, 2014 - March 31, 2015 for Seneca County, which includes funding applications; and

WHEREAS, one public hearing was held on September 24, 2013 at 2276 County Road 139, Ovid, NY and one public hearing was held on September 26, 2013 at 1 DiPronio Drive, Waterloo, NY regarding said plan; now, therefore be it

RESOLVED, that the Chairman of the Board of Supervisors is hereby authorized and directed to sign the Office for the Aging Annual Implementation Plan for Aging Services and funding applications; and be it further

RESOLVED, that the Director of the Office for the Aging is hereby authorized and directed to submit such funding applications and enter into agreements and contracts as described in said plan.

New Business

Executive Session:

Mr. Earle moved that the Board of Supervisors convene in executive session under Sections 105(1)(d) and 108(3) of the New York State Public Officers Law to discuss pending / proposed litigation related to a complaint before the Human Rights Commission and to consult with and obtain legal advice from counsel in regard to such litigation and that the Board invite into executive session the County Manager, the County Attorney, the Personnel Officer, and the County's counsel from Roemer, Wallens, Mineaux law firm, Earl Redding and his associate.

Under discussion on the motion to enter executive session, Mr. Shipley asked whether newly elected supervisor, Greg Lazzaro be admitted to executive session.

Mr. Earl made a motion, second by Mr. Davidson, to invite into executive session County Supervisor-elect (Seneca Falls) Greg Lazzaro. The motion carried by 536 ayes (Earle, Davidson, Reynolds, Serven, Prouty, Kaiser, Lafler, McGreevy, Hayssen, Westfall, Shipley) and 214 nays (Garlick, Lorenzetti, Churchill, Kubasik).

The Board of Supervisors met in executive session from 7:05 - 7:30 p.m. No action was taken in open session.

Special Order of the Day

The meeting adjourned at 7:31 p.m.