

**SENECA COUNTY
BOARD OF SUPERVISORS**

Regular Board Meeting
October 8, 2019
Ovid, New York

Call to Order

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

Roll Call of Members by the Deputy Clerk

Eleven members of the Board of Supervisors answered roll call. Sprvrs. Davidson, Lazzaro, and Prouty were not present. Roll call was by Deputy Clerk of the Board Amanda Porter as the Clerk of the Board was absent.

Pledge of Allegiance and Moment of Silence

During the moment of silence Sprvrs. Kaiser asked for everyone to keep Sprvrs. Lee Davidson and his wife Mary in their prayers, and wish them a speedy recovery from their recent motor vehicle accident.

Public Hearing

To receive comments on proposed Local Law B of 2019, "The Seneca County Hotel or Motel Occupancy Tax". Sprvr. Reynolds moved the floor open for the public hearing to receive comments regarding the proposed local law. No public or written comments were heard or received. Sprvr. Brownell moved the public hearing closed.

Presentations

Welcome and Update on Three Bears Renovations - Phyllis Motill, President, Friends of the Three Bears. Through grant funding and donations there has been over one million dollars' worth of work put into the Three Bears. The Mama Bear (middle) will become the future South County Tourism Office. Hopefully, in the near future the Three Bears would be offered as a venue for local programs and events. Mrs. Motill also thanked Mayor of Ovid Leon Kelly, recognizing the successful implementation of the Finger Lakes Community Health Center has been a great addition to the south end. It has allowed people to receive medical care that they might not have received previously.

Independent Auditor's Report (2018 audit) and Financial Statements as of December 31, 2018 – Randy Shepard, CPA, The Bonadio Group. Sprvrs. Kaiser and Garlick-Lorenzetti had questions about sewer and water expenses. They wanted to know the breakdown of each district. Randy Shepard said that on page eighteen (18) of the audit booklet it has a balance and breakdown sheet. The Sewer Districts are consolidated and need to be separated out, but the Water Districts are separated. Sprvr. Hayssen wanted to know how much money Bonadio charged Seneca County for their auditing services to accurately reflect the true financial condition of the county. Randy Shepard estimated the cost to be over \$100,000.

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Sprvr. Kaiser said now that have the updated audit numbers, the Finance Department should be able to respond to FOIL requests, which Finance Director Stevens agreed.

Seneca County Libraries – Marty Toombs, Board Trustee. Thanked the Board of Supervisors for the ongoing county funding. The libraries are requesting \$110,000 for 2020 county funding to support the five libraries (\$20,000 each), and \$10,00 for the Finger Lakes Library System.

Petitioners

None.

Open Privilege of the Floor

Caroline Peterson and Teresa Lahr spoke about the STEPS Program, It is community members working together to improve community health to achieve a higher level of Social, Educational, Physical and Economic health. The projects offered are resident-driven and include the Ovid Community Garden, Cooking Classes for healthier living, Community Book Boxes, programs for the youth in our area as well as Community Collectives which connect volunteers to community organizations that need help.

Carol and Ed Giles – Wince Country Dog Show. This event is annual includes contracting with local vendors (Brewer’s dumpsters, Jeff’s Portajohns, etc.), participants spend money on restaurants, tourist attractions, lodging, etc. Information was distributed regarding efforts by the group AKC Reunite, whose mission is to assist communities across the nation to prepare for natural disasters by raising funds to help supply stocked mobile AKC Pet Disaster Relief Trailers that deliver essential, nonperishable necessities for sheltering pets Disaster Relief Trailers.

Approval of Meeting Minutes

Minutes for the September 10, 2019 board meeting were approved.

Reports of Standing Committees

Ways & Means Committee – Sprvr. Reynolds, Chairman. At their meeting, the Ways and Means committee approved a contract with Maximus Consulting Services, Inc. to develop the Seneca County indirect cost allocation plan for the fiscal years 2018, 2019, 2020, 2021 and 2022 at an annual cost of \$7,200; There is a resolution on tonight’s agenda authorizing the contract and authorizing the county manager to execute the contract on behalf of the county. We also met with the local magistrates who are asking for \$50,000 for a court clerk for arraignment court.

Public Works Committee – Sprvr. Trout, Chairman. Authorize Roof Replacement of Health and Senior Services Building was approved; Garland/D.B.S., Inc to fix HHS bldg. roof. Cost is \$821,174 transferred from CIN Reserve account \$620,000; and from the Contingency account in the amount of

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\$201,174. Resolution regarding Seneca County as lead agency in the sewer improvement consolidate plan and the resolution to install a master meter remained on the table. We had a special meeting dedicated to the proposed sewer use local law for Seneca County. We expect to introduce the local law, have the public hearing and adopt it by the end of November.

Agriculture & Environmental Affairs Committee – Sprvr. Kronenwetter, Chairman. Follow up discussion with Vickie Swinehart, Director of SC Public Health, updated committee on response from DEC regarding odor from landfill. DEC said there is no viable complaint from SMI – they are in compliance. Ontario County landfill had issues and were not compliant. Vickie will send out contact information for DEC. Algal blooms awareness meeting Sept 28 South Seneca High School; Hiring an engineer for Environmental Health so now have someone who can inspect sewers. Scoles the primary sanitarian is retiring

Indian Affairs Committee – Sprvr. Hayssen, Chairman. Resolution urging Cuomo to close the casino operations owned by Seneca Nation due to breach of contract. AND to make all Seneca County whole and not just Niagara Falls. When the resolution is moved to the floor, Sprvr. Hayssen will ask for amendments to the resolution/.

Public Safety & Criminal Justice Committee – Sprvr. Brownell. The Public Works Committee approved two grants through Homeland Security. One is for \$44,987 for Emergency Management and Sheriff Office to support terrorism prevention activities. The other is for to support counties to facility Public Safety Answering Points Operations.

Human Resources & Government Operations Committee – Sprvr. Garlic Lorenzetti, Vice-Chair. At the committee meeting, County Manager Rowe gave an overview on the Shared Services Program. He is working on the program for 2020. Currently we are sharing the County Finance Dept with Covert for the town's accounting. We continue to do plowing. We no longer do mowing for Lodi. Fayette we do. Not aware of a savings.

Ideas for 2020: seaweed harvesting in Cayuga Lake by Cayuga County for Seneca County? And the Public Defender / Conflict mediation shared with Cayuga County?

(Do you want to give an update on Lee? I received a note from Mary yesterday. She is in Lansing in rehab (no details) . He is in Rochester. She can't visit him).

Health & Human Services Committee – Sprvr. McGreevy, Chairman. Two resolutions approved for tonight: Approved the 2019 Resource Allocation Plan for State Aid Funding for Youth Programs amount \$51,809; and Endorse appoints for Finger Lakes Workforce Investment Board.

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Economic Development & Tourism Committee – Sprvr. Kaiser, Chairman. Authorize Construction Change Order No. 9 for Route 318 Sanitary Sewer Project which provides for a net increase of \$51,000.00 to Blue Heron Construction’s general construction contract; Appoint Members to the Finger Lakes Regional Airport Advisory Committee: David Haimes, Earl Martin, Robert Pfeiff and Dr. Hunter Mollin for term November 1, 2019 to October 31, 2022; and Nelson Ronsvalle effective October 9, 2019 to October 31, 2021; Resolution appointing Jim Vedora, V.P. & Commercial Team Leader at Community Bank to Seneca County Revolving Loan Fund Committee effective October 9, 2019; Authorize Snowmobile Trail Grant applications and signing agreements with Twin Lakes Snowmobile Association and Seneca Sledders Snowmobile Association for trail maintenance; Approve Seneca County Chamber of Commerce as County Tourism Promotion Agency (TPA) and authorizes application for Matching Funds Program in 2020. TPA Designation done annually.

Report of Special Committees

Solid Waste Plan – Sprvr. Kraut continues to research. SWP Committee still needs to be created.

Chairman’s Remarks

Fellow Supervisors, County Manager Rowe, County Employees and welcomed guests:

Tonight we welcome everyone to the Three Bears complex, Town of Ovid for our yearly Southern Board Meeting.

Folks, it was just a year ago at this very meeting in Ovid, that the Board passed a resolution directing Sheriff Luce and District Attorney Porsch to perform an investigation of the actions of two former employees after their resignations. We expect the investigation conclusions will become public, thru District Attorney Sinkiewicz in the near future.

Also tonight, I want to thank Randy Sheppard from the Bonadio Group for coming to Ovid to give this Board a “positive” update of their team’s review findings of our 2018 Seneca County Financial Reports - which all were filled on time to NYS - Albany.

But most of all, on behalf of the entire Seneca County Board of Supervisors, we as a collective group say “job well done” to our Seneca County Finance Director Halle Stevens and her entire staff... Truly her first year has been a “Baptism by fire” to sort out and correct previous inaccurate Finance Report fillings to New York State.

Lastly tonight I am pleased to report - Former NYS Senator Mike Nozzolio has agreed to become the Chairman of the Sampson Veterans Cemetery Citizens Advisory Committee, recently authorized by this Board. We are working together to confirm the

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committee make-up and expect to announce the full list of committee members at the November 12, 2019 BOS Meeting. This committee will assist the Board of Supervisors efforts to Petition New York State to designate Sampson Veteran's Memorial Cemetery as a state veteran's cemetery – making it the first one in New York State.

Thank you for your attention and interest in making Seneca County a better place for future generations.

Communications

134. From Honorable Conrad A. Struzik, President, Seneca County Magistrates Court Clerks Association, letter dated September 17, 2019 to County Manager Rowe requesting 2020 county funding in the amount of \$50,000 for a new position for Court Clerk for CAP court.

135. From Honorable Pamela Helming, a letter dated September 6, 2019 to David Smith, Regional Director, NYS DOT, urging him to re-evaluate the town of Fayette's request to reduce the maximum speed limit for County Road 125 / East Lake Road to 45 MPH.

136. From NYS Agriculture & Markets, Notice of Award to Seneca County dated September 9, 2019 of \$50,000 to develop a County Agriculture & Farmland Protection Plan. Before funds can be provided, a contract with NYS Ag & Markets and Seneca County must be approved.

137. From NYS Homeland Security & Emergency Services, Notification of Grant Award in the amount of \$110,000 in federal funding under the FY 2018 Hazardous Materials (HAZMAT) Grant Program for the performance period October 1, 2019 through April 31, 2021.

138. From NYS Homeland Security & Emergency Management Services, Notification of Grant Award in the amount of \$143,537 under the NYS 2019-20 Public Safety Answering Points Operations Grant Program for the performance period of January 1, 2020 through December 31, 2020

139. A copy of the NYS Office for the Aging Annual Evaluation and Progress Report of Seneca County Office for the Aging conducted on August 22-23, 2019.

140. A copy of Cattaraugus County Act No. 388-2019, "Supporting Adoption of Senate Bill S428-A and Assembly Bill A.47-A by NYS Legislature Regarding the Prohibition of the Sale & Distribution of Flavored E-Liquid for Use in E-Cigarettes".

141. A copy of Essex County Resolution No. 250, "Opposing State Legislation including, but not limited to Assembly Bill 8201 / Senate Bill 6511 which Seeks to Exempt Telecommunications Equipment and Fiber Optic Cables from Taxation as Real Property Under RPTL 102(12)(i)".

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142. A copy of Fulton County Resolution No. 342, “Opposing Governor Cuomo’s Proposed Regulations Requiring New License Plates & Fees”.
143. A copy of Madison County Resolution No. 19-514, “In Support of Federal Legislation to Repeal the Health Insurance Tax (HIT)”.
144. A copy of the Finger Lakes Regional Airport September 11, 2019 meeting minutes.
145. A copy of the Seneca County Planning Board minutes for August 8, 2019 meeting and September 12, 2019 meeting.
146. A copy of the Seneca County Sheriff’s Office Monthly Snapshot for August 2019 and September 2019.
147. A copy of Ontario County Resolution No. 562-2019, Endorsing the Re-Appointment of Robert Nye and Maria Fisher to the FL Workforce Investment Board; and Resolution No. 561-2019, Endorsing the Appointment of Vicky Ramos to the FL Workforce Investment Board.
148. From Carol and Ed Giles, a copy of a letter from Sandra D’Andrea, AKC / Executive Field Representative, Wine Country Circuit Dog Show highlighting the annual event held at Sampson State Park in Romulus; A summary of details required in planning for the event including contracting with local vendors (Brewer’s dumpsters, Jeff’s Portajohns, etc.), and other expenses funded in part by \$5,000 from County funds; And information regarding efforts by the group AKC Reunite whose mission is to assist communities across the nation to prepare for natural disasters by raising funds to help supply stocked mobile AKC Pet Disaster Relief Trailers that deliver essential, nonperishable necessities for sheltering pets Disaster Relief Trailers.
149. From Bonadio & Co., LLP, Certified Public Accountants, a copy of the Financial Statements as of December 31, 2018 together with the Independent Auditor’s Report (2018 Audit).
150. A copy of the STEPS Newsletter Early Fall 2019 (Seneca Towns Engaging People for Solutions), highlighting past and upcoming events offered for local residents.
151. A copy of Cayuga Lake Watershed Network Newsletter 2019 i3.

RESOLUTIONS & MOTIONS

**CONTRACT WITH MAXIMUS CONSULTING INC. FOR
COUNTY INDIRECT COST ALLOCATION PLAN**

RESOLUTION NO. 192-19, moved by Sprvr. Reynolds, second by Sprvr. Trout and adopted.

WHEREAS, Seneca County must annually contract to have a Cost Allocation Plan completed to allocate indirect expenses to maximize state and federal aid reimbursement; and

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WHEREAS, Maximus Consulting Services, Inc. having an office at 6385 Flank Dr., Suite 400 Harrisburg, PA 17112 has proposed a five-year agreement to prepare Seneca County's indirect cost allocation plan for the calendar years ending 2018, 2019, 2020, 2021 and 2022; and

WHEREAS, the contract period of this agreement is April 1, 2019 through March 31, 2024 with the option to extend this agreement for two additional one year periods at a fee of \$7,200 per contract year; and

WHEREAS, the Ways and Means Standing Committee approved this resolution at its meeting on September 24, 2019; now, therefore be it

RESOLVED, that the Seneca County Board of Supervisors does hereby authorize and direct the County Manager to sign the agreement with Maximus Consulting Services, Inc. to develop the Seneca County indirect cost allocation plan for the fiscal years 2018, 2019, 2020, 2021 and 2022 at an annual cost of \$7,200; and be it further

RESOLVED, that the Department of Finance is authorized to make the necessary budgetary and accounting entries to effect the intent of this resolution.

AUTHORIZE ROOF REPLACEMENT OF HEALTH & HUMAN SERVICES BUILDING

RESOLUTION NO. 193-19, moved by Sprvr. Trout, second by Sprvr. Garlick Lorenzetti and adopted.

WHEREAS, the Public Works Department has received bids from Garland/D.B.S., Inc. for the replacement of the roof at the Health & Human Services Building; and

WHEREAS, the low bid for the roof replacement is \$821,174; and

WHEREAS, the funding for the roof replacement will be transferred from CIN Reserve account 10-3885 in the amount of \$620,000 and from the Contingency account 101990-54700 in the amount of \$201,174 to 10-1620-52000-HEALT Roof Repair Budget Line; and

WHEREAS, the Public Works Standing Committee met and approved this Resolution at their September 24th meeting; now therefore be it

RESOLVED, that the Seneca County Board of Supervisors authorizes Garland / D.B.S., Inc., 3800 East 91 Street, Cleveland, OH, 44105 to replace the roof at the Health & Human Services Building; and be it further

RESOLVED, that the Department of Finance is authorized to make the necessary budgetary and accounting entries to effect the intent of this resolution.

ACCEPT FY 2019 STATE HOMELAND SECURITY GRANT

RESOLUTION NO. 194-19, moved by Sprvr. Brownell, second by Sprvr. Kronenwetter and adopted.

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WHEREAS, the New York State Division of Homeland Security and Emergency Services awarded the Seneca County Office of Emergency Management and the Seneca County Sheriff's Office a NYS Division of Homeland Security and Emergency Services Grant for 2019; and

WHEREAS, the grant provides \$44,987.00 to the Office of Emergency Management and \$14,996.00 to the Sheriff's Office with no local match; and

WHEREAS, activities implemented under the State Homeland Security Program (SHSP) and State Law Enforcement Terrorism Prevention Program (SLETPP) grant must support terrorism preparedness by building or sustaining capabilities that relate to terrorism prevention, protection, and/or response activities; and

WHEREAS, the Public Safety and Criminal Justice Standing Committee approved this resolution at their committee meeting on September 24th 2019; now therefore be it

RESOLVED, that the Seneca County Board of Supervisors does hereby accept the grant and authorizes the Seneca County Manager to sign any and all documents related to the acceptance and administration of these grants; and be it further

RESOLVED, that the Seneca County Board of Supervisors authorizes and directs the Finance Director to amend the 2019 Seneca County Budget as follows:

Emergency Management

Add budget account: 103642-44389-SH19 and increase revenue account: \$44,987.00

Add budget account: 103642-54703-SH19 and increase expense account: \$44,987.00

Sheriff's Office

Add budget account: 103113-44389-SH19 and increase revenue account: \$14,996.00

Add budget account: 103113-54700-SH19 and increase expense account: \$14,996.00

And be it further

RESOLVED, that the Department of Finance is authorized to make the necessary budgetary and accounting entries to effect the intent of this resolution.

ACCEPT 2019-20 PUBLIC SAFETY ANSWERING POINT OPERATIONS GRANT

RESOLUTION NO. 195-19, moved by Sprvr. Brownell, second by Sprvr. Trout and adopted.

WHEREAS, the New York State Division of Homeland Security & Emergency Services announced the 2019-20 Public Safety Answering Points (PSAP) Operations Grant on May 6, 2019; and

WHEREAS, the Grant allows for State support for counties to facilitate PSAP consolidation, regional initiatives related to 911 operations, implementation of NG911, and improvements in the operations of public safety communications; and to develop multijurisdictional PSAP compatibility throughout the state and

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support statewide interoperable communications for first responders, thereby improving public safety; and

WHEREAS, the State support is in the form of reimbursement for operating expenses to the PSAP, including personal services; and

WHEREAS, the enacted state budget for 2019 - 2020 appropriates \$10 million for all those eligible (62 counties); and

WHEREAS, the Public Safety Answering Points Operations Grant is non-competitive and will allocate money by a formula which equitably distributes funding among counties based on quantifiable elements and relevant metrics, with no local match; and

WHEREAS, Resolution No. 109-19, authorized the application by Seneca County for this PSAP Operations Grant and Seneca County was awarded \$143,537; and

WHEREAS, this award will be used towards the purchase of a maintenance and support contract for the Seneca County Radio System and NICE Recorder; and

WHEREAS, this grant award will be reflected in the 2020 Seneca County budget; and

WHEREAS, the Public Safety Committee approved this resolution on September 24, 2019; now, therefore be it

RESOLVED, the Board of Supervisors accepts this grant and authorizes and directs the County Manager to sign any and all paperwork related to the same; and be it further

RESOLVED, that the Board of Supervisors authorizes and directs the following budget amendment:

Increase Revenue	103020-43393 PSAP3 \$143,537
Increase Expense	103020- 54701 PSAP3 \$143,537

And be it further

RESOLVED, that the Department of Finance is authorized to make the necessary budgetary and accounting entries to effect the intent of this resolution.

**CASINO OPERATIONS AND MAKE ALL MUNICIPALITIES WHOLE THAT HAVE BEEN
IMPACTED BY THE STATE AND SENECA NATION DISPUTE**

RESOLUTION NO. 196-19, moved by Sprvr. Hayssen, second by Sprvr. Kaiser and adopted.

WHEREAS, in 2002, the State of New York and the Seneca Nation entered into a compact with a provision that Indian gaming revenue would be shared with the State in return for certain gaming exclusivity rights in Western New York; and

WHEREAS, the Upstate New York Gaming and Economic Development Act, (UNYGEDA) signed in to law by Governor Cuomo in 2013, provides additional revenue to local governments within an Indian exclusivity zone; and

WHEREAS, Seneca County is one of seven counties in the Eastern southern Tier Zone that

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on this revenue to maintain infrastructure and provide public safety for all residents as well as provide services needed to help support this growing gaming industry; and

WHEREAS, dispute between the Seneca Nation and the State arose over the language within the compact, leading the Nation to stop revenue sharing payments to the State; and

WHEREAS, despite a 2019 arbitration decision ruling against the Seneca nation, the Seneca Nation continues to refuse to make payments required under New York Law, now totaling over \$250,000,000.00. It is from this and other Indian Gaming payments under the compact that the State sends a portion to local governments to support local service costs; and

WHEREAS the Seneca Nation's refusal to make the required payments under New York law represents an unfair "subsidy" or profit to its gaming operations that places gaming operations at del Lago Resort and Casino and similar law abiding operations at a competitive disadvantage, thereby reducing the local economic and revenue support that the lawfully operating casinos provide to their host communities, including Seneca County; and

WHEREAS, this resolution was approved by the Indian Affairs Committee on September 22, 2019; now, therefore be it

RESOLVED, the Seneca County Board of Supervisors calls on Governor Cuomo to close the Seneca Nation casino operations by any and all lawful means, including the use of NY State Police and or National Guard if necessary, until such time as their gaming revenue payments are made to the state; and be it is further

RESOLVED that New York State make whole each county in the amount that would otherwise be due if the Seneca Nation had made the disputed payments; and be it further

RESOLVED, that copies of this resolution be sent to the counties of New York State encouraging member counties to enact similar resolutions; and be it further

RESOLVED, that a copy of this resolution be sent to Governor Andrew M. Cuomo, all members of the New York State Legislature, and all others deemed necessary and proper.

Amendment Resolution No. 196-19: Sprvr. Hayssen offered a motion, second by Sprvr. Kaiser and carried to amend the main motion by replacing the text in the Whereas Clause, beginning with the text, "this revenue loss amounts...", with the 6th Whereas Clause in the resolution and; adding the text, "all members of the New York State Legislature", to the last Resolved Clause.

**AUTHORIZE CONSTRUCTION CHANGE ORDER NO. 9 FOR
ROUTE 318 SANITARY SEWER PROJECT**

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RESOLUTION NO. 197-19, moved by Sprvr. Kaiser, second by Sprvr. Trout and adopted.

WHEREAS, Seneca County has entered into contracts for the construction for the Route 318 Sanitary Sewer Project (Project); and

WHEREAS, during the course of construction, changes to a contract may be recommended by Barton and Loguidice, D.P.C., the county's engineers on the Project, to address changes to the original contract; and

WHEREAS, a master flow meter has been recommended at the end of 414 gravity sewer line on the Seneca Falls town line; and

WHEREAS, Barton and Loguidice, D.P.C. has reviewed and approved Project Change Order No. 9 which provides for a net increase of \$51,000.00 to Blue Heron Construction's general construction contract; and

WHEREAS, by Resolution No. 203-17, any Project Change Order that exceeds \$20,000 must be approved by the Seneca County Board of Supervisors; and

WHEREAS, the funds for this Change Order are available in Route 318 Capital Project Code 80-808310-52000; and

WHEREAS, this Resolution has been reviewed and approved by the Economic Development and Tourism Standing Committee on September 24, 2019; now therefore be it

RESOLVED, that the Seneca County Board of Supervisors authorizes the Seneca County Manager to sign Route 318 Sanitary Sewer Project Change Order No. 9; and be it further

RESOLVED, that the Department of Finance is authorized to make the necessary budgetary and accounting entries to effect the intent of this resolution.

**APPOINT MEMBERS TO FINGER LAKES REGIONAL AIRPORT ADVISORY COMMITTEE
(HAIMES-MARTIN-PFEIFF-MOLLIN- RONSVALLE)**

RESOLUTION NO. 198-19, moved by Sprvr. Kaiser, second by Sprvr. Trout and adopted.

WHEREAS, the Finger Lakes Regional Airport (the Airport) is a Seneca County owned facility servicing the general aviation needs of business and recreational users in Seneca County and the region; and

WHEREAS, the Finger Lakes Regional Airport Advisory Committee was established by the Seneca County Board of Supervisors to advise and make recommendation in all matters relating to the operation of the Airport; and

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WHEREAS, the Finger Lakes Regional Airport Advisory Committee has recommended that David Haimes, Earl Martin, Robert Pfeiff and Dr. Hunter Mollin be reappointed to the Finger Lakes Regional Airport Advisory Committee as their terms will expire October 31, 2019; and

WHEREAS, the Committee further recommended that Nelson Ronsvalle, a retired school administrator and pilot, be appointed to the Finger Lakes Regional Airport Advisory Committee filling the vacancy left with the resignation of Milt vonHahmann; and

WHEREAS, this resolution has been reviewed and approved by the Economic Development and Tourism Standing Committee on September 24, 2019; now, therefore be it

RESOLVED, that the Seneca County Board of Supervisors does hereby appoint David Haimes, Earl Martin, Robert Pfeiff and Dr. Hunter Mollin to the Finger Lakes Regional Airport Advisory Committee effective November 1, 2019 to October 31, 2022; and be it further

RESOLVED, that the Seneca County Board of Supervisors does hereby appoint Nelson Ronsvalle effective October 9, 2019 to October 31, 2021.

**APPOINT MEMBER TO SENECA COUNTY REVOLVING LOAN FUND COMMITTEE
(VEDORA)**

RESOLUTION NO. 199-19, moved by Sprvr. Kaiser, second by Sprvr. Trout and adopted.

WHEREAS, Seneca County administers Revolving Loan Funds under the Federal Community Development Block Grant (CDBG) program and the Growing the Agriculture Industry Now (GAIN) program funded through Empire State Development; and

WHEREAS, the Seneca County Revolving Loan Fund Committee (the Committee) was established to review loan applications and make recommendations to the Board of Supervisors for their consideration; and

WHEREAS, there currently exists a vacancy on the Committee with the resignation of Larry Ledgerwood; and

WHEREAS, Jim Vedora, V.P. & Commercial Team Leader at Community Bank, has been recommended and is willing to fill this vacancy; and

WHEREAS, this resolution has been reviewed and approved by the Economic Development and Tourism Standing Committee on September 24, 2019; now, therefore be it

RESOLVED, that the Seneca County Board of Supervisors does hereby appoint Jim Vedora to the Seneca County Revolving Loan Fund Committee effective October 9, 2019.

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**AUTHORIZE SNOWMOBILE TRAIL GRANT APPLICATIONS AND SIGNING
AGREEMENTS WITH TWIN LAKES SNOWMOBILE ASSOCIATION AND SENECA
SLEDDERS SNOWMOBILE ASSOCIATION**

RESOLUTION NO. 200-19, moved by Sprvr. Kaiser, second by Sprvr. Reynolds and adopted.

WHEREAS, Seneca County has previously indicated that it would serve as Sponsor for the Twin Lakes Snowmobile Association and the Seneca Sledders Snowmobile Association for them to receive the pass-through funding for the Grant-in-Aid Program funding from the New York State Office of Parks, Recreation and Historic Preservation for sections of trail on the New York State Snowmobile System in Seneca County; and

WHEREAS, to distribute the funds for Snowmobile Trail maintenance received from the New York State Office of Parks, Recreation and Historic Preservation, agreements should be in place between the County of Seneca and Twin Lakes Snowmobile Association and the Seneca Sledders Snowmobile Association; and

WHEREAS, this resolution has been reviewed and approved by the Economic Development and Tourism Standing Committee on September 24, 2019; now, therefore be it

RESOLVED, that the Seneca County Board of Supervisors authorizes and directs the Department of Planning and Community Development to prepare Phase II and III Applications for the New York State Snowmobile Trails Grant-in-Aid Program; and be it further

RESOLVED, that the Seneca County Manager is authorized to sign the Snowmobile Grant Applications for the 2019-2020 season; and be it further

RESOLVED, that the Seneca County Manager or the County Treasurer are authorized and directed to sign necessary reports and vouchers to receive funding for the New York State Snowmobile Grant-in-Aid Program for the 2019-2020 season; and be it further

RESOLVED, upon receipt of funds from the New York State Snowmobile Grant-in-Aid Program, the County Director of Finance will confer with the Seneca County Department of Planning and Community Development as the appropriate division of the funds between the Twin Lakes Snowmobile Association and the Seneca Sledders Snowmobile Association based on the mileage and type of State approved trails and prepare and distribute checks to the Twin Lakes Snowmobile Association and the Seneca Sledders Snowmobile Association.

**DESIGNATE SENECA COUNTY CHAMBER OF COMMERCE AS
COUNTY TOURISM PROMOTION AGENCY (TPA) AND AUTHORIZE
APPLICATION FOR MATCHING FUNDS PROGRAM IN 2020**

RESOLUTION NO. 201-19, moved by Sprvr. Kaiser, second by Sprvr. McGreevy and adopted.

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WHEREAS, the Seneca County Board of Supervisors desires to enhance the general economy of Seneca County through the promotion and marketing of tourism attractions, conventions, trade shows, special events and other activities directly related to and in support of tourism assets; and

WHEREAS, the Seneca County Board of Supervisors supports the designation of the Seneca County Chamber of Commerce as the County's Tourism Promotion Agency (TPA); and

WHEREAS, Seneca County commits up to \$245,400.00 in support of the Matching Funds Program; and

WHEREAS, this resolution was approved by the Economic Development & Tourism Standing Committee on September 24, 2019; now, therefore be it

RESOLVED, that the New York State Department of Economic Development be requested to designate the Seneca County Chamber of Commerce as Seneca County's Tourism Promotion Agency for 2020; now, therefore be it

RESOLVED, that Seneca County will commit up to \$245,400.00 from the County's Room Tax in 2020 to provide the County's share of the 2020 Matching Fund Program.

Discussion Resolution NO. 201-19: the \$245,000 amount included in the text of the resolution is the maximum amount Seneca County is eligible to receive; but the actual amount received and to be matched by the county is approximately \$65K - \$67K.

A RESOLUTION TO ADOPT LOCAL LAW NUMBER 2 OF 2019

“SENECA COUNTY HOTEL OR MOTEL ROOM OCCUPANCY TAX”

RESOLUTION NO. 202-19, moved by Sprvr. Kaiser, second by Sprvr. Trout and adopted.

WHEREAS, a resolution was duly adopted by the Board of Supervisors of the County of Seneca directing a public hearing to be held by said County to hear all interested parties on a proposed Local Law entitled “Seneca County Hotel or Motel Room Occupancy Tax”; and

WHEREAS, said public hearing was duly held on October 8, 2019 at 6:00 p.m. at the former county courthouse, known as Papa Bear Building, Ovid, New York, 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

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RESOLVED, that Local Law 2 of 2019 entitled, "Seneca County Hotel or Motel Room Occupancy Tax" be and the same is hereby enacted by the Board of Supervisors of Seneca County, New York to read 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

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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, sub lessee, 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.

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(j) Treasurer. The Treasurer of Seneca County

2. IMPOSITION OF TAX

On and after December 8, 2019, 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, 2019, 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, 2019.

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.

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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

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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, 2019, 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, 2019. 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

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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, 2019. 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

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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

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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

- (a) 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.
- (b) Pursuant to New York State Tax Law §1202-o(9), the Board of Supervisors shall create a committee of at least seven and no more than 11 persons and the committee shall be empowered to advise, recommend and administer the activities funded by the revenues generated by this tax, in accordance with the Policy and Procedures as may from time to time be enacted by the Board of Supervisors. This committee shall include as a minimum cross-section of the community:
 - (1) Two (2) representatives of the Seneca county tourism industry, not serving as a board members of the Seneca County Chamber of Commerce or Seneca County Advisory Committee on Tourism

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- (2) A board member of the Seneca County Chamber of Commerce, as recommended by the Chairperson of the Chamber of Commerce Board of Directors;
 - (3) The county administrator or his or her designee
 - (4) A board member of the Seneca County Industrial Development Agency, as recommended by the Chairperson of the Seneca County IDA;
 - (5) A member of the Seneca County Board of Supervisors, appointed by the vote of the Board of Supervisors, but that no more than two members of the Board of Supervisors may serve on the committee at any time, regardless of their source of appointment
 - (6) A member of the Seneca County Advisory Committee on Tourism (SCACOT)
- (c) The recommendations of this committee shall be taken into consideration by the Board of Supervisors in any final decision to disburse funds from the tourism, promotion and development account.
- (d) Members to this committee shall be appointed by the Board of Supervisors under the criteria stated above. The terms of office shall initially be for two (2) years, concurrent with the two year cycle of the Board of Supervisors. However, the Board of Supervisors may direct the removal of a member of the committee in the sole discretion of the Board of Supervisors at any time during the term.

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.

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- (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 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 subsection 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

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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

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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

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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

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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

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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

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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 who 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

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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, 2019, upon filing in the office of the Secretary of State as provided by the Municipal Home Rule Law.

Discussion Resolution No. 202-19:

**APPROVE 2019 RESOURCE ALLOCATION PLAN FOR
STATE AID FUNDING FOR YOUTH PROGRAMS**

RESOLUTION NO. 203-19, moved by Sprvr. McGreevy, second by Sprvr. Trout and adopted.

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 Seneca County Youth Bureau received their 2019 allocation of \$51,809; and

WHEREAS, the Seneca County Youth Board approved the 2019 Resource Allocation Plan for State Aid at their September 23, 2019 board meeting; and

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WHEREAS, this resolution was approved by the Health & Human Services Standing Committee on September 24, 2019; now, therefore be it

RESOLVED, the Seneca County Board of Supervisors approves the 2019 Resource Allocation Plan for State Aid Funding for Youth Programs; and be it further

RESOLVED, that the Seneca County Manager is authorized and directed to sign the Resource Allocation Plan documents for 2019.

**APPOINTMENTS TO THE FINGER LAKES WORKFORCE INVESTMENT BOARD
(FISHER – NYE – RAMOS)**

RESOLUTION NO. 204-19, moved by Sprvr. McGreevy, second by Sprvr. Trout and adopted.

WHEREAS, the Seneca County Board of Supervisors authorized the creation of the Finger Lakes Workforce Investment Board for the counties of Ontario, Wayne, Seneca and Yates in compliance with the Workforce Innovation and Opportunity Act (WIOA) of 2014; and

WHEREAS, the appointment of members to the Workforce Investment Board must be endorsed by the four counties of Ontario, Wayne, Seneca and Yates; and

WHEREAS, per the NYS WIOA requirements, the Seneca County Board of Supervisors must endorse the following individuals for the terms indicated:

Partner/Public Sector representatives:

- Dr. Robert Nye, Finger Lakes Community College to be appointed by the Board of Supervisors to serve a three year term beginning July 1, 2019 – June 30, 2022
- Maria Fisher, Public Employees Federation to be appointed by the Board of Supervisors to serve a three year term beginning July 1, 2019 – June 30, 2022

Business/Private Sector representative:

- Vicky Ramos from Wayne Finger Lakes BOCES be appointed by the Board of Supervisors to fill the unexpired term of Scott Bischooping through June 30, 2021

WHEREAS, this resolution was approved by the Health and Human Services Standing Committee on September 24, 2019; now, therefore be it

RESOLVED, that the Seneca County Board of Supervisors does hereby approve the appointment of the above listed individuals to serve as members for the term indicated, on the Finger Lakes Workforce Investment Board; and be it further

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RESOLVED, that the Clerk to the Board of Supervisors send a certified copy of this resolution to the Finger Lakes Workforce Investment Board and to the Clerks of the Boards of Ontario, Wayne and Yates counties.

Unfinished Business

None

New Business

Executive Session: Sprv. Trout moved to convene under executive session for discussions regarding proposed, pending or current litigation; e. collective negotiations pursuant to article fourteen of the civil service law; f. the medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation (OML Section 105 (1)(d)).

Invited to attend: County Manager; County Attorney; and County Personnel Officer.

Time of executive session: 7:49 p.m. – 8:50 p.m.

No action was taken.

Special Order of the Day

The meeting adjourned at 8:50 p.m.