

Resolution No. 262

October 3, 2005
Regular Board Meeting

**RESOLUTION URGING THE STATE LEGISLATURE TO CONSIDER THE
DEGREE DAY FORMULA FOR HEAP ALLOTMENTS**

The following resolution was offered by Supervisor Ashworth, who moved its adoption.

Upon the recommendation of the Human Services Committee, with the approval of the Ways and Means Committee of this Body, and the same appearing proper and necessary.

BE IT RESOLVED that the Essex County Board of Supervisors hereby urges the State Legislature to consider the degree day formula for HEAP allotments; and

BE IT FURTHER RESOLVED that the Clerk of this Board is hereby authorized and directed to immediately send certified copies of this resolution to: Governor George E. Pataki; Senate Majority Leader Joseph L. Bruno; Senator Elizabeth O'C. Little; Senate Minority Leader David A. Paterson; Assembly Speaker Sheldon Silver; Assembly Minority Leader Charles H. Nesbitt; and Assembly Members Teresa R. Sayward and Chris Ortloff.

This resolution was duly seconded by Supervisor Seney, and adopted.

Resolution No. 263

October 3, 2005
Regular Board Meeting

**RESOLUTION SCHEDULING A PUBLIC HEARING ON A PROPOSED
INCREASE IN THE INCOME ELIGIBILITY CEILING FOR REAL
PROPERTY TAX EXEMPTION TO PERSONS 65 YEARS OF AGE OR
OVER PURSUANT TO REAL PROPERTY TAX LAW SECTION 467**

The following resolution was offered by Supervisor Scozzafava, who moved its adoption.

WHEREAS, pursuant to Resolution No. 47 adopted on March 1, 2004, this Board increased the maximum income eligibility level for persons 65 years of age or older to be entitled to a real property tax exemption pursuant to RPTL §467 from \$12,500 to \$16,500; and

WHEREAS, this Board desires to consider increasing the income eligibility ceiling

to \$22,000, pursuant to Real Property Tax Law §467, subdivision 3; and

WHEREAS, subdivision 1 of §467 requires that a public hearing be conducted prior to the adoption of any resolution amending an existing resolution providing such exemption.

BE IT RESOLVED that the Essex County Board of Supervisors hereby schedules a public hearing for October 17, 2005, at 10:30 a.m., on the proposed amendment to increase the maximum income eligibility level for persons 65 years of age or older to be entitled to a real property tax exemption pursuant to RPTL §467 from \$16,500 to \$22,000.

This resolution was duly seconded by Supervisor Moses, and adopted.

Resolution No. 264

October 3, 2005
Regular Board Meeting

RESOLUTION AMENDING THE 2005 ESSEX COUNTY BUDGET

The following resolution was offered by Supervisor Jackson, who moved its adoption.

Upon the recommendation of the various committees indicated below, with the approval of the Ways and Means Committee of this Body, and the same appearing proper and necessary.

BE IT RESOLVED, that the Essex County Board of Supervisors hereby amends the 2005 Essex County Budget as follows:

1. From the Human Services Committee:

(a) For the Department of Social Services, increase revenues (44609) and appropriations (6109487 5487) in the total amount of \$32,662.00 from Federal Funding for Family Services.

(b) For the Office of Weights and Measures, increase revenues (419622) and appropriations as follows in the total amount of \$1,000.00 from additional revenues:

Account Number	Account Name	Amount
66102 5250	Technical Equipment	\$ 200.00
66104 5420	Printing	125.00

66104 5427	Members & Dues	75.00
66104 5441	Auto Repair	400.00
66104 5442	Gasoline	200.00

2. From the Public Safety Committee:

(a) For the Sheriff’s Department, increase revenues (42680) and appropriations (31102 5230) in the amount of \$18,833.14 from a vehicle insurance recovery.

3. From the Ways and Means Committee:

(a) For the Public Transportation Department, increase revenues (42801 - Interfund Revenues) and appropriations (56302 5230 - Equipment) in the amount of \$28,041.25 from Community Solutions for Transportation funds received from DSS.

4. From the Regular Board Meeting:

(a) For the Public Transportation Department, increase revenues as follows and appropriations (56302 5230 - Equipment) in the amount of \$233,925.00 from NYSDOT funds for the purchase of buses for the Town of Keene and the Olympic Regional Development Authority with the 10% local match to be paid by the Town and ORDA:

<i>Account Number</i>	<i>Account Name</i>	<i>Amount</i>
417503	ORDA	\$ 19,574.00
4175031	Keene	3,819.00
43089123	SA - Bus Purchase	23,392.00
44089123	FA - Bus Purchase	187,140.00

This resolution was duly seconded by Supervisor Seney, and adopted upon a roll-call vote as follows:

AYES: 2843 votes
NOES: 0 votes
ABSENT: 0 votes

Resolution No. 265

October 3, 2005
Regular Board Meeting

**RESOLUTION AUTHORIZING APPLICATION FOR
AND ACCEPTANCE OF GRANT FUNDS**

The following resolution was offered by Supervisor Merrihew, who moved its adoption.

Upon the recommendation of the committees indicated, with the approval of the Ways and Means Committee of this Body, and the same appearing proper and necessary.

BE IT RESOLVED that the Essex County Board of Supervisors hereby authorizes the following:

1. From the Human Services Committee:

(a) For the Public Health Department, accept the \$800 mini-grant from the Greater Adirondack Perinatal Network.

2. From the Public Safety Committee:

(a) For the Emergency Services Department, apply for and accept a \$2,000.00 grant for the Local Emergency Planning Committee.

This resolution was duly seconded by Supervisor Morrow, and adopted upon a roll-call vote as follows:

AYES: 2843 votes
NOES: 0 votes
ABSENT: 0 votes

Resolution No. 266

October 3, 2005
Regular Board Meeting

RESOLUTION APPROPRIATING FUNDS FROM THE CONTINGENT ACCOUNT FOR TRANSFER TO THE 2005 ESSEX COUNTY BUDGET

The following resolution was offered by Supervisor Morency, who moved its adoption.

Upon the recommendation of the committees indicated below, with the approval of the Ways and Means Committee of this Body, and the same appearing proper and necessary.

BE IT RESOLVED, that the Essex County Board of Supervisors hereby appropriates the following sums from the contingent account (Account No. 19904-5487) for transfer to the 2005 Essex County Budget:

1. From the Public Safety Committee:

(a) The sum of \$5,000.00 to the Essex County Emergency Services Budget (36404 5422 - Equipment Repair), to rectify the problem with the Bloomingdale Fire Department Paging/Dispatching System.

(b) The sum of \$6,000.00 to the Essex County Sheriff's Department Budget (31104 5230 - Auto Equipment) to cover the cost of a new vehicle.

This resolution was duly seconded by Supervisor Glebus, and adopted upon a roll-call vote as follows:

AYES: 2843 votes
NOES: 0 votes
ABSENT: 0 votes

BUDGET IMPACT STATEMENT:	
Contingent Account Balance as of 9/06/05:	\$ 300,204.00
Reduction Impact of this resolution:	11,000.00
FY2005 Contingent Account Balance:	\$ 289,204.00

Resolution No. 267

October 3, 2005
Regular Board Meeting

**RESOLUTION AUTHORIZING MILEAGE REIMBURSEMENT TO EMPLOYEES
 OF ESSEX COUNTY**

The following resolution was offered by Supervisor French, who moved its adoption.

Upon the recommendation of the respective committees indicated below, with the approval of the Ways & Means Committee of this Body, and the same appearing proper and necessary.

BE IT RESOLVED that the Essex County Board of Supervisors hereby authorizes the payment of mileage reimbursement as follows:

1. From the Public Safety Committee:

(a) To Gregg Dickerson in the Probation Department for May and June, 2005 in the amount of \$294.03.

2. From the Finance/Administration Committee:

(a) To Robert McGolderick in the Mental Health Department for July, 2005 in the amount of \$77.76.

This resolution was duly seconded by Supervisor Connell, and adopted upon a roll-call vote as follows:

AYES: 2843 votes
NOES: 0 votes
ABSENT: 0 votes

Resolution No. 268

October 3, 2005
Regular Board Meeting

**RESOLUTION RESCINDING RESOLUTION NO. 199 OF 2004 AUTHORIZING
THE PROBATION DEPARTMENT TO ASSIST THE PUBLIC DEFENDER'S
OFFICE IN INVESTIGATING ELIGIBILITY OF PERSONS SEEKING
REPRESENTATION BY THAT OFFICE**

The following resolution was offered by Supervisor Morency, who moved its adoption.

Upon the recommendation of the Public Safety Committee, with the approval of the Ways and Means Committee of this Body, and the same appearing proper and necessary.

BE IT RESOLVED that the Essex County Board of Supervisors hereby rescinds Resolution No. 199 of 2004 authorizing the Probation Department to assist the Public Defender's Office in investigating eligibility of persons seeking representation by that office, the result of which will be to place such responsibility with the Public Defender's Office.

This resolution was duly seconded by Supervisor Scozzafava, and adopted.

Resolution No. 269

October 3, 2005
Regular Board Meeting

**RESOLUTION AUTHORIZING THE IMPLEMENTATION, AND FUNDING IN
THE FIRST INSTANCE 100% OF THE FEDERAL-AID AND STATE "MARCHISELLI"
PROGRAM-AID ELIGIBLE COSTS, OF A TRANSPORTATION FEDERAL-AID
PROJECT, AND APPROPRIATING FUNDS THEREFOR**

The following resolution was offered by Supervisor Dobie, who moved its adoption.

Upon the recommendation of the DPW Committee, with the approval of the Ways and Means Committee of this Body, and the same appearing proper and necessary.

WHEREAS, a Project for the Bridge Reconstruction of Old Military Road (CR35) Essex County (the

Project) is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs such program to be borne at the ratio of 80% Federal funds and 20% non-federal funds; and

WHEREAS, the County of Essex desires to advance the Project by making a commitment of 100% of the federal and non-federal share of the costs of Preliminary Engineering and Right of Way Incidentals.

NOW, THEREFORE, the Essex County Board of Supervisors, duly convened does hereby

RESOLVED, that the Board hereby approves the above-subject project; and it is hereby further

RESOLVED, that the Board hereby authorizes the County of Essex to pay in the first instance 100% of the federal and non-federal share of the cost of Preliminary Engineering and Right of Way Incidentals work for the Project or portions thereof; and it is further

RESOLVED, that the sum of \$940,000.00 (Nine hundred forty thousand dollars) (\$793,025.00 for Preliminary Engineering and \$146,975.00 for Right of Way Incidentals) is hereby appropriated from the County Road fund and made available to cover the cost of participation in the above phases of the Project; and it is further

RESOLVED, that in the event the full federal and non-federal share costs of the project exceeds the amount appropriated above, the County Board of Supervisors of Essex County shall convene as soon as possible to appropriate said excess amount immediately upon the notification by the New York State Department of Transportation thereof, and it is further

RESOLVED, that the Chairman of the Board of Supervisors or DPW Superintendent of the County of Essex be and is hereby authorized to execute all necessary Agreements, certifications or reimbursement requests for Federal Aid and/or Marchiselli Aid on behalf of the County of Essex with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing for the administration of the Project and the municipality's first instance funding of project costs and permanent funding of the local share of federal-aid and state-aid eligible Project costs and all Project costs within appropriations therefor that are not so eligible, and it is further

RESOLVED, that a certified copy of this resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the Project, and it is further

RESOLVED, this Resolution shall take effect immediately.

This resolution was duly seconded by Supervisor Dedrick, and adopted upon a roll-call vote as follows:

AYES: 2843 votes
NOES: 0 votes
ABSENT: 0 votes

Resolution No. 270

October 3, 2005
Regular Board Meeting

**RESOLUTION AUTHORIZING APPOINTMENTS AND CHANGES TO
POSITIONS IN COUNTY SERVICE**

The following resolution was offered by Supervisor Seney, who moved its adoption.

Upon the recommendation of the Economic Development/Planning/Publicity Committee, with the approval of the Ways and Means Committee of this Body, and the same appearing proper and necessary.

BE IT RESOLVED that the Essex County Board of Supervisors hereby authorizes and approves, subject to compliance with the applicable provisions of the Essex County Civil Service Rules and Regulations, the current CSEA contract and the Personnel Policy Manual, the regrading of the position of bus driver in the Planning Department from Grade 2 to Grade 5 (\$11.63/hour).

This resolution was duly seconded by Supervisor Both, and adopted upon a roll-call vote as follows:

AYES: 2737 votes
NOES: 106 votes (Morency)
ABSENT: 0 votes

Resolution No. 271

October 3, 2005
Regular Board Meeting

**RESOLUTION ACCEPTING, ADOPTING AND PLACING ON FILE POLICIES,
PLANS, PROCEDURES AND ANNUAL REPORTS**

The following resolution was offered by Supervisor Kelly, who moved its adoption.

Upon the recommendation of the respective committees indicated below, with the approval of the Ways and Means Committee of this Body, and the same appearing proper and necessary.

BE IT RESOLVED that the Essex County Board of Supervisors hereby accepts and places on file the following:

1. From the Economic Development/Planning/Publicity Committee:

(a) The 2006 Marketing Plan for the Essex County Visitors Bureau.

2. From the Finance/Tax Reduction/Mandate Relief Committee:

(a) The 2006 Stop DWI Plan.

This resolution was duly seconded by Supervisor Dedrick, and adopted.

Resolution No. 272

October 3, 2005
Regular Board Meeting

**RESOLUTION AUTHORIZING THE ESSEX COUNTY VISITORS BUREAU TO
USE \$26,945.00 OF UNANTICIPATED OCCUPANCY TAX FUNDS FOR
VARIOUS ITEMS AND PROGRAMS**

The following resolution was offered by Supervisor Moses, who moved its adoption.

Upon the recommendation of the Economic Development/Planning/Publicity Committee, with the approval of the Ways and Means Committee, and the same appearing proper and necessary.

BE IT RESOLVED that the Essex County Board of Supervisors hereby authorizes the Essex County Visitors Bureau to use \$26,945 of unanticipated occupancy tax funds for the following purposes in the amounts indicated:

Expand Pin Program	\$ 10,000.00
Whiteface Region Quality Assurance Program	\$ 7,000.00
Roof for Schroon Lake Regional Information Building	\$ 7,000.00
Paint for Crown Point Bridge Building	\$ 1,500.00
Ticonderoga Quality Destination Program	\$ 1,500.00

This resolution was duly seconded by Supervisor Dedrick, and adopted upon a roll-call vote as follows:

AYES: 2843 votes
NOES: 0 votes
ABSENT: 0 votes

Resolution No. 273

October 3, 2005
Regular Board Meeting

RESOLUTION OPPOSING ANY REQUIREMENTS FOR COUNTIES TO PROVIDE CABLE TV ACCESS TO INMATES

The following resolution was offered by Supervisor Douglas, who moved its adoption.

Upon the recommendation of the Personnel & Administration Committee, with the approval of the Ways and Means Committee of this Body, and the same appearing proper and necessary.

BE IT RESOLVED that the Essex County Board of Supervisors hereby expresses its opposition to any requirements for Counties to provide Cable TV access to inmates incarcerated in County Jail; and

BE IT FURTHER RESOLVED that the Clerk of this Board is hereby authorized and directed to immediately send certified copies of this resolution to: Governor George E. Pataki; Senate Majority Leader Joseph L. Bruno; Senator Elizabeth O'C. Little; Senate Minority Leader David A. Paterson; Assembly Speaker Sheldon Silver; Assembly Minority Leader Charles H. Nesbitt; and Assembly Members Teresa R.

Sayward and Chris Ortloff.

This resolution was duly seconded by Supervisor Scozzafava, and adopted with Supervisors Both and Seney being opposed.

Resolution No. 274

**October 3, 2005
Regular Board Meeting**

RESOLUTION APPROPRIATING THE SUM OF \$378,500.00 FROM THE 2005 UNAPPROPRIATED UNRESERVED FUND BALANCE FOR TRANSFER TO THE 2005 ESSEX COUNTY BUDGET TO COVER OVERDRAWN ACCOUNTS IN THE SHERIFF'S DEPARTMENT, AND AMENDING THE 2005 BUDGET ACCORDINGLY

The following resolution was offered by Supervisor Morency, who moved its adoption.

Upon the recommendation of the Finance Committee, with the approval of the Ways and Means Committee of this Body, and the same appearing proper and necessary.

BE IT RESOLVED that this Board hereby appropriates the sum of \$378,500.00 from the 2005 unappropriated unreserved fund balance (Account No. 3909) to cover overdrawn accounts in the Sheriff's Department and anticipated expenditures for the remainder of the year; and

BE IT FURTHER RESOLVED that the sum so appropriated be transferred to the 2005 Essex County Sheriff's Department Budget (Dept. 3110) as follows, with the 2005 Essex County Budget being amended accordingly:

<u>APPROPRIATIONS</u>		<u>New</u>	<u>Adopted</u>	<u>New Account</u>
<u>Account #</u>	<u>Account Name</u>	<u>Amount</u>	<u>Account</u>	<u>Balance</u>
			<u>Balance</u>	
31501 5120	Overtime Wages	\$ 85,000	\$150,000	\$235,000
31504 5438	Housing	260,000	450,000	710,000
31504 5473	Prescription Drugs	33,500	18,000	51,500

This resolution was duly seconded by Supervisor Morrow, and adopted upon a roll-call vote as follows:

AYES: 2843 votes
NOES: 0 votes
ABSENT: 0 votes

Resolution No. 275

**October 3, 2005
Regular Board Meeting**

RESOLUTION ESTABLISHING A PREVENTIVE SERVICES EMERGENCY FUND FOR THE DEPARTMENT OF SOCIAL SERVICES PURSUANT TO 18 NYCRR SECTIONS 423.2 AND 423.4

The following resolution was offered by Supervisor Jackson, who moved its adoption.

WHEREAS, Section 423.4 of Title 18 of the New York State regulations requires that local social services departments provide preventive services which include “twenty-four hour access to emergency services which means developing a plan for, arranging for or providing emergency services, including cash or the equivalent thereto, goods and shelter when a child is at risk of foster care and such services may prevent placement”; and

WHEREAS, Section 423.2 of Title 18 of the New York State regulations defines “emergency cash or goods” as “money or the equivalent thereto, food, clothing or other essential items that are provided to a child and his family in an emergency or acute problem situation in order to avert foster care placement”; and

WHEREAS, this Board desires to establish an emergency fund for the Department of Social Services so as to comply with said regulations.

BE IT RESOLVED that the Essex County Board of Supervisors hereby establishes a Preventive Services Emergency Fund for the Department of Social Services to be in the custody of the Treasurer and to be expended pursuant to 18 NYCRR §423.4, and particularly paragraph (k) thereof providing as follows:

(k) Emergency services.

(1) Emergency cash or the equivalent thereto, goods and shelter may be provided if and only if they are directly related to averting or abbreviating a foster care placement. When any such expenditures are included within the emergency assistance to needy families with children program as set forth in Part 372 of this Title, the social services district must make an application within 10 days of the provision of these services. Expenditures for these services may not exceed expenditures allowed under the emergency assistance to needy families with children program.

(2) Before emergency shelter is provided to avert the placement of a child into foster care, social services districts must comply with section 423.5(j) of this Part. Social services districts must first explore a family's eligibility for shelter services or shelter payments under the aid to families with dependent children, home relief, emergency assistance to needy families with children, emergency assistance to aged, blind and disabled persons, or supplemental security income programs as set forth in this Title and, where appropriate, determine eligibility for and provide emergency shelter under such programs. Placement in emergency shelter does not relieve a social services district from assisting the family to obtain permanent housing. This assistance may include, where applicable, providing preventive housing services to those families eligible for such services pursuant to section 409-a(5)(d) of the Social Services Law in accordance with the provisions of the preventive housing services demonstration program established pursuant to chapter 165 of the Laws of 1991.

AND BE IT FURTHER RESOLVED that the expenditure of monies in said emergency fund shall not be made or allowed for the following purposes until the State statute(s) or regulation(s) authorizing such expenditures are furnished to the Treasurer and Auditor: (1) emergency goods or services for adults who meet the criteria for Protective Services to Adults when there is no other funding source, (2) emergency payments in temporary assistance cases, or (3) to purchase holiday gifts for families receiving Foster

Care/Prevention Services; and

BE IT FURTHER RESOLVED that the procedure for expenditure of monies in said emergency fund pursuant to this resolution shall be as set forth in the procedure provided to the Finance Committee at its September 19, 2005 meeting and on file with the Clerk of the Board.

This resolution was duly seconded by Supervisor Ashworth, and adopted upon a roll-call vote as follows:

AYES: **2843 votes**
NOES: **0 votes**
ABSENT: **0 votes**

Resolution No. 276

October 3, 2005
Regular Board Meeting

RESOLUTION AMENDING RESOLUTION NO. 247 OF 2005 REQUESTING HOME RULE LEGISLATION AMENDING NEW YORK TAX LAW §261 SO AS TO AUTHORIZE ESSEX COUNTY TO USE ADDITIONAL MORTGAGE TAX REVENUE TO PAY THE COST OF THE NEW JAIL & PUBLIC SAFETY FACILITY SO AS TO INCLUDE A REQUEST TO INCREASE THE RATE OF TAX FROM 1% TO 1.25%

The following resolution was offered by Supervisor Moses, who moved its adoption.

Upon the recommendation of the Finance/Tax Reduction/Mandate Relief Committee, with the approval of the Ways & Means Committee of this Body, and the same appearing proper and necessary.

WHEREAS, by Resolution No. 247 adopted on September 6, 2005, this Board requested Home Rule legislation amending New York Tax Law §261 so as to authorize Essex County to use additional mortgage tax revenue to pay the cost of the New Jail & Public Safety Facility; and

WHEREAS, this Board desires to have the rate of such additional mortgage increased from the current rate of 1% to 1.25%.

BE IT RESOLVED that the Essex County board of Supervisors hereby amends Resolution No. 247 of 2005 so as to request Home Rule legislation which both (1) amends New York Tax Law §261 so as to authorize Essex County to use additional mortgage tax revenue to pay the cost of the New Jail & Public Safety Facility once the bonds for the Court House are

paid off, and (2) amends the rate of additional mortgage tax so as to immediately increase the same from 1% to 1.25%; and

BE IT FURTHER RESOLVED that the Clerk of this Board is hereby authorized and directed to immediately send certified copies of this resolution to: Governor George E. Pataki; Senate Majority Leader Joseph L. Bruno; Senator Elizabeth O’C. Little; Senate Minority Leader David A. Paterson; Assembly Speaker Sheldon Silver; Assembly Minority Leader Charles H. Nesbitt; and Assembly Members Teresa R. Sayward and Chris Ortloff.

This resolution was duly seconded by Supervisor Morency, and adopted upon a roll-call vote as follows:

AYES: 2843 votes
NOES: 0 votes
ABSENT: 0 votes

Resolution No. 277

October 3, 2005
Regular Board Meeting

RESOLUTION CANCELLING INTEREST, PENALTIES AND/OR OTHER CHARGES PURSUANT TO REAL PROPERTY TAX LAW SECTION 1182

The following resolution was offered by Supervisor Morrow, who moved it adoption.

Upon the recommendation of the Finance/Tax Reduction/Mandate Relief Committee, with the approval of the Ways and Means Committee of this Body, and the same appearing proper and necessary.

WHEREAS, the Essex County Treasurer has recommended that certain interest, penalties and other charges be cancelled pursuant to Real Property Tax Law §1182 relative to certain parcels of real property in Essex County, pending the amounts still due and owing are paid to the Essex County Treasurer by 10/31/05 as follows:

<u>Assessed Owner</u>	<u>Town</u>	<u>Tax Map Number</u>	<u>Account No.</u>	<u>Amt. Cnc</u>
Paul B. Stock	Chesterfield	9.2-1-3.000	575J108807	\$335.04
Green Mountain Lodging Inc.	Wilmington	16.3-1-53.200	745J199001	\$276.10

This resolution was duly seconded by Supervisor Ashworth, and adopted upon a roll-call vote as follows:

AYES: 2843 votes

NOES: 0 votes
ABSENT: 0 votes

WITHDRAWN
Resolution No. 278

October 3, 2005
Regular Board Meeting

**RESOLUTION SUPPORTING CONTINUATION OF STATE FUNDING
AND PAYMENT OF LOCAL GOVERNMENT AID TO COUNTIES AND
TOWNS FOR PRIVATE FOREST LANDS EXEMPT FROM TAXATION
PURSUANT TO REAL
PROPERTY TAX LAW SECTIONS 480 AND 480-a**

The following resolution was offered by Supervisor _____, who moved its adoption.

WHEREAS, the State of New York currently reimburses counties and towns for the loss of local real property taxes resulting from the exemption of private forest lands pursuant to Real Property Tax Law sections 490 and 480-a through the payment of Local Government Aid; and

WHEREAS, the payment of such aid to counties and towns is vital to the fiscal operations of local governments since without such funding the cost of these exemptions would be passed on to other non-exempt taxpayers having no ownership or other legal interest in said exempt forest lands.

BE IT RESOLVED that the Essex County Board of Supervisors hereby support the continued funding and payment by the State of New York of Local Government Aid to counties and towns for private forest lands exempt from taxation pursuant to Real Property Tax Law sections 480 and 480-a; and

BE IT FURTHER RESOLVED that the Clerk of this Board is hereby authorized and directed to immediately send certified copies of this resolution to: Governor George E. Pataki; Senate Majority Leader Joseph L. Bruno; Senator Elizabeth O'C. Little; Senate Minority Leader David A. Paterson; Assembly Speaker Sheldon Silver; Assembly Minority Leader Charles H. Nesbitt; and Assembly Members Teresa R. Sayward and Chris Ortloff.

This resolution was duly seconded by Supervisor _____, and adopted.

Resolution No. 279

October 3, 2005
Regular Board Meeting

**RESOLUTION IN SUPPORT OF THE SITING AND CONSTRUCTION
OF COMMUNICATIONS TOWERS IN THE ADIRONDACK PARK,
AND IN SUPPORT OF TELECOMMUNICATION SURCHARGES**

The following resolution was offered by Supervisor Moses, who moved its adoption.

Upon the recommendation of the Legislative Committee, with the approval of the Ways and Means

Committee of this Body, and the same appearing proper and necessary.

WHEREAS, law enforcement and emergency services personnel are hampered by the lack of wireless communications (radio and cell phone) coverage in Essex County, which thereby imperils public safety; and

WHEREAS, the various State agencies are considering issues relating to the siting, construction and operation of communications towers within the Adirondack Park, as well as the continued existence of fire towers; and

WHEREAS, technological advances have allowed communications towers and related equipment to be less visible and less intrusive, and the State should consider using fire towers as locations for such equipment along with other locations; and

WHEREAS, the protection and preservation of the public health, safety and welfare requires that there be total and uninterrupted radio and wireless cell phone communications throughout the Adirondack Park, and particularly Essex County; and

WHEREAS, telecommunications surcharges are an appropriate means of financing the construction and operation of communications towers and related equipment.

BE IT RESOLVED, that the Essex County Board of Supervisors hereby expresses its support for the siting and construction of communications towers in the Adirondack Park and particularly Essex County and for the use of telecommunications surcharges to finance the same; and

BE IT FURTHER RESOLVED that the Clerk of this Board is hereby authorized and directed to immediately send certified copies of this resolution to: Governor George E. Pataki; Senate Majority Leader Joseph L. Bruno; Senator Elizabeth O'C. Little; Senate Minority Leader David A. Paterson; Assembly Speaker Sheldon Silver; Assembly Minority Leader Charles H. Nesbitt; and Assembly Members Teresa R. Sayward and Chris Ortloff; the Adirondack Park Agency and the Environmental Conservation Department.

This resolution was unanimously seconded and adopted.

Resolution No. 280

October 3, 2005
Regular Board Meeting

**RESOLUTION REQUESTING THE STATE LEGISLATURE TO
ENACT LEGISLATION AUTHORIZING COUNTIES TO PURCHASE
VOLUNTEER FIREMEN'S BENEFIT LAW INSURANCE**

The following resolution was offered by Supervisor Jackson, who moved its adoption.

WHEREAS, Counties are not legally authorized to purchase Volunteer Firemen's Benefit Law insurance coverage for volunteer firemen who serve on County teams (HAZMAT/WMD, RACES), Deputy Fire Investigators and/or as Deputy Fire or EMS Coordinators.

BE IT RESOLVED that the Essex County Board of Supervisors hereby requests the State Legislature

to enact legislation authorizing counties to purchase Volunteer Firemen's Benefit Law insurance; and

BE IT FURTHER RESOLVED that the Clerk of this Board is hereby authorized and directed to immediately send certified copies of this resolution to: Governor George E. Pataki; Senate Majority Leader Joseph L. Bruno; Senator Elizabeth O'C. Little; Senate Minority Leader David A. Paterson; Assembly Speaker Sheldon Silver; Assembly Minority Leader Charles H. Nesbitt; and Assembly Members Teresa R. Sayward and Chris Ortloff.

This resolution was duly seconded by Supervisor Moses, and adopted.

Resolution No. 281

October 3, 2005
Regular Board Meeting

**RESOLUTION APPROVING THE ISSUANCE OF CERTAIN TAX-EXEMPT
SOLID WASTE DISPOSAL REVENUE REFUNDING BONDS BY THE ESSEX
COUNTY INDUSTRIAL DEVELOPMENT AGENCY TO REFINANCE A
PROJECT FOR INTERNATIONAL PAPER COMPANY**

The following resolution was offered by Supervisor Dedrick, who moved its adoption.

Upon the recommendation and approval of the Ways and Means Committee of this Body, and the same appearing proper and necessary.

WHEREAS, pursuant to Article 18-A, Title 1 and Section 914-a of the General Municipal Law of the State of New York (herein collectively called the Act), the Board of Supervisors of Essex County, New York (the Board of Supervisors) has heretofore appointed the Chairman and members of the Essex County Industrial Development Agency (the Agency) and has duly caused to be filed in the office of the Secretary of the State of New York the certificates required by Section 856 of the General Municipal Law of the State of New York; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to issue its revenue bonds (industrial pollution control facility revenue bonds) to finance the cost of acquisition, construction, installation and equipping of one or more projects (as defined in the Act), to issue revenue refunding bonds for the purpose of refunding its outstanding bonds, to acquire, construct, install and equip said projects or to cause said projects to be acquired, constructed, installed and equipped and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, International Paper Company, a New York corporation (the Company), has presented an application (the Application) to the Agency, a copy of which is on file at the office of the Agency, requesting that the Agency consider undertaking: (i) to issue its

tax-exempt solid waste disposal revenue refunding bonds in the principal amount not to exceed \$15,000,000 (the Bonds) in order to refinance all or a portion of the costs of acquisition, construction, installation and equipping of the Project (as described herein) and (ii) to lease (with an obligation to purchase) or sell the Project to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, the Agency proposes to provide the following financial assistance: (A) the issuance of the Bonds in the aggregate principal amount of \$15,000,000 for the purpose of refunding the Agency Solid Waste Disposal Revenue Bonds, 1995 Series A (International Paper Company Project) (the Refunded Bonds) which Refunded Bonds were issued to finance the acquisition, construction and equipping of certain industrial pollution control and solid waste disposal facilities (the Project) at the Company's Ticonderoga Mill and (B) the sale of the Project to the Company; and

WHEREAS, the Company has requested that the Bonds be issued as obligations the interest on which will be excluded from gross income for federal income tax purposes pursuant to Sections 103 and 142(a)(6) and other applicable provisions of the Internal Revenue Code of 1986, as amended (the Code); and

WHEREAS, pursuant to Section 147(f) of the Code, interest on the Bonds will not be excluded from gross income for federal income tax purposes unless the issuance of the Bonds shall be approved by the Board of Supervisors after the Agency has conducted a public hearing thereon following reasonable public notice; and

WHEREAS, the Agency conducted said public hearing on September 28, 2005 following reasonable public notice and adopted a bond resolution authorizing the Bonds at a meeting of the Agency held on September 26, 2005; and

WHEREAS, the Board of Supervisors has received notice from the Agency that it is the preliminary determination of the Agency that the Project will not have a significant effect on the environment within the meaning of Article 8 of the Environmental Conservation Law of the State of New York.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of Essex County, New York as follows:

Section 1. For the sole purpose of qualifying the interest payable on the Bonds for exclusion from gross income pursuant to the applicable provisions of the Code, the Board of Supervisors, as the elected legislative body of Essex County, New York, hereby approves the issuance by the Agency of the Bonds, provided that the Bonds, and the premium (if any) and interest thereon, shall be special obligations of the Agency and shall never be a debt of the State of New York, Essex County, New York or any political subdivisions thereof (other than the Agency, but only to the extent of certain payments made by the Company), and neither the State of New York, Essex County, New York nor any political subdivision thereof (other than the Agency, but only to the extent of certain payments made by the Company) shall be liable thereon.

Section 2. This resolution shall take effect immediately.

This resolution was duly seconded by Supervisor Glebus, and adopted upon a roll-call vote as follows:

AYES: **2843 votes**
NOES: **0 votes**
ABSENT: **0 votes**

Resolution No. 282

October 3, 2005
Regular Board Meeting

**RESOLUTION AUTHORIZING APPOINTMENTS TO
BOARDS, COMMITTEES AND/OR COUNCILS**

The following resolution was offered by Supervisor Ashworth, who moved its adoption.

Upon the recommendation and approval of the Ways and Means Committee of this Body, and the same appearing proper and necessary.

BE IT RESOLVED that the Essex County Board of Supervisors hereby appoints Jean Baker to the Moriah/Port Henry/Essex County Empire Zone Board to fill the vacancy created by the resignation of Harold Hance, to serve for the remainder of the term through June 30, 2008.

This resolution was duly seconded by Supervisor Seney, and adopted.

Resolution No. 283

October 3, 2005
Regular Board Meeting

**RESOLUTION AUTHORIZING THE IMPLEMENTATION AND FUNDING OF A STATE
"MARCHISELLI" PROGRAM AID ELIGIBLE TRANSPORTATION FEDERAL-AID PROJECT,
TO FULLY FUND THE LOCAL SHARE OF FEDERAL AND STATE-AID ELIGIBLE AND
INELIGIBLE PROJECT COSTS, AND APPROPRIATING FUNDS THEREFOR**

The following resolution was offered by Supervisor Douglas, who moved its adoption.

Upon the recommendation and approval of the Ways and Means Committee of this Body, and the

same appearing proper and necessary.

WHEREAS, a Project for the Bridge Replacement on CR22, Jay Trumbulls Corners Road over East Branch Ausable River, P.I.N. 1751.59 (the Project) is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs such program to be borne at the ratio of 80% Federal funds and 20% non-federal funds; and

WHEREAS, the County of Essex desires to advance the Project by making a commitment of 100% of the non-federal share of the costs of Right of Way Incidental/Acquisition and Construction work for the Project or portions thereof, with the federal share of such costs to be applied directly by the New York State Department of Transportation ("NYSDOT") pursuant to Agreement.

NOW, THEREFORE, the Essex County Board of Supervisors, duly convened does hereby

RESOLVED, that the Board hereby approves the Project; and it is hereby further

RESOLVED, that the Board hereby authorizes the County of Essex to pay in the first instance the full non-federal share of the cost of Right of Way Incidental, Right of Way Acquisition and Construction work for the Project or portions thereof; and it is further

RESOLVED, that the sum of \$1,184,000.00 (One Million One Hundred Eighty Four Dollars and no cents) has already been appropriated from the County Road fund and made available to cover the cost of participation in the above State Administered phases of the Project; and it is further

RESOLVED, that the additional sum of \$44,000.00 (Forty Four Thousand Dollars and no cents) is hereby appropriated from the County Road fund and made available to cover the cost of participation in the above State Administered Construction phase of the Project; and it is further

RESOLVED, that the sum of \$1,000,000.00 (One Million Dollars and no cents) has already been appropriated from the County Road fund and made available to cover the cost of participation in the Locally Administered Construction Inspection phases of the Project; and it is further

RESOLVED, that in the event the full federal and non-federal share costs of the project exceeds the amount appropriated above, the County Board of Supervisors of Essex County shall convene as soon as possible to appropriate said excess amount immediately upon the notification by the New York State Department of Transportation thereof, and it is further

RESOLVED, that the Chairman of the Board of Supervisors or DPW Superintendent of the County of Essex be and is hereby authorized to execute all necessary Agreements, certifications or reimbursement requests for Federal Aid and/or Marchiselli Aid on behalf of the County of Essex with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing for the administration of the Project and the municipality's first instance funding of project costs and permanent funding of the local share of federal-aid and state-aid eligible Project costs and all Project costs within appropriations therefor that are not so eligible, and it is further

RESOLVED, that a certified copy of this resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the Project, and it is further

RESOLVED, this Resolution shall take effect immediately.

This resolution was duly seconded by Supervisor Morency, and adopted upon a roll-call vote as follows:

AYES: 2843 votes
NOES: 0 votes
ABSENT: 0 votes

Resolution No. 284

October 3, 2005
Regular Board Meeting

RESOLUTION AUTHORIZING CONTRACTS

The following resolution was offered by Supervisor Seney, who moved its adoption.

Upon the recommendation and approval of the following committees, and the same appearing proper and necessary.

BE IT RESOLVED that the Essex County Board of Supervisors hereby authorizes and directs the Chairman of the Board to enter into and execute the following:

1. From the Ways and Means Committee:

- (a) A Shared Service Agreement with all contiguous Counties.
- (b) An Intergovernmental Agreement for local deployment for Mississippi, Louisiana, Alabama and Texas pursuant to the Emergency Management Assistance Compact.

This resolution was duly seconded by Supervisor Douglas, and adopted upon a roll-call vote as follows:

AYES: 2843 votes
NOES: 0 votes
ABSENT: 0 votes

Resolution No. 285

October 3, 2005
Regular Board Meeting

**RESOLUTION OPPOSING UNFUNDED FEDERAL AND STATE MANDATES,
AND REQUESTING LOCAL GOVERNMENT INVOLVEMENT IN THE
REGULATORY PROCESS TO INSURE THAT ADMINISTRATIVE
IMPLEMENTATION OF FEDERAL AND STATE PROGRAMS DOES NOT IMPOSE
UNFUNDED MANDATES**

The following resolution was offered by Supervisor Connell, who moved its adoption.

WHEREAS, in 1995 the Federal Government enacted the Unfunded Mandates Reform Act of 1995 (2 USCA Chapter 25) which was/is intended to curb the practice of imposing unfunded Federal mandates on States and local governments and insure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations; and

WHEREAS, despite good intentions this legislation has not prevented or remedied unfunded Federal mandates from being imposed upon State and local governments, a good example being the No Child Left Behind Act and the Help America Vote Act; and

WHEREAS, there is no similar law limiting or preventing New York State from imposing unfunded State mandates upon local governments, or from transferring all or portions of the costs of Federally mandated programs to local governments as has occurred with the No Child Left Behind Act and the Help America Vote Act; and

WHEREAS, the Federal government and New York State government routinely pass on the costs of mandated programs to local governments both directly by requiring local funding and indirectly by reducing State aid in other programs; and

WHEREAS, unfunded mandates are also caused by regulations promulgated and adopted by Federal and State agencies implementing statutory programs.

BE IT RESOLVED that the Essex County Board of Supervisors hereby strongly opposes unfunded Federal and State mandates upon local governments; and

BE IT FURTHER RESOLVED that this Board of Supervisors urges the Federal and State governments to (1) enact legislation which will truly prevent and remediate unfunded mandates, and (2) require Federal and State administrative agencies to include local governments in the regulation-making process so as to prevent and remediate unfunded mandates upon local governments via regulation; and

BE IT FURTHER RESOLVED that the Clerk of this Board is hereby authorized and directed to immediately send certified copies of this resolution to: President George W. Bush; United States Senators Charles E. Schumer and Hillary Rodham Clinton; United States Representatives John E. Sweeney and John M. McHugh; Senate Majority Leader Bill Frist, M.D.; Senate Minority Leader Harry Reid; Speaker of the House Dennis J. Hastert; and House Minority Leader Nancy Pelosi; and

BE IT FURTHER RESOLVED that the Clerk of this Board is hereby authorized and directed to immediately send certified copies of this resolution to: Governor George E. Pataki; Senate Majority Leader Joseph L. Bruno; Senator Elizabeth O'C. Little; Senate Minority Leader David A. Paterson; Assembly Speaker Sheldon Silver; Assembly Minority Leader Charles H. Nesbitt; and Assembly Members Teresa R. Sayward and Chris Ortloff.

This resolution was unanimously seconded and adopted.

Resolution No. 286

October 3, 2005
Regular Board Meeting

RESOLUTION COMMEMORATING THE ACCOMPLISHMENTS OF

JOHNNY PODRES

**AND THE 1955 BROOKLYN DODGERS ON THE 50TH
ANNIVERSARY OF WINNING THE 1955 WORLD SERIES**

The following resolution was offered by Supervisor Scozzafava, who moved its adoption.

Upon the passage of a motion to consider from the floor, and the same appearing proper and necessary.

WHEREAS, Johnny Podres, a native of Witherbee in the Town of Moriah, Essex County, New York, made it to the major leagues as a pitcher for the Brooklyn Dodgers in 1953 at the age of 21; and

WHEREAS, the Brooklyn Dodgers won the 1955 World Series, beating the New York Yankees in seven games, and in so doing earned their first World Championship; and

WHEREAS, Johnny Podres pitched in two games in the 1955 World Series, winning the third game on his 23^d birthday and carrying the Dodgers to a 2-0 victory in the seventh and deciding game at Yankee Stadium.

BE IT RESOLVED that the Essex County Board of Supervisors hereby commemorates the accomplishments of Johnny Podres and his Brooklyn Dodgers teammates on the 50th anniversary of their first World Championship in the 1955 World Series.

This resolution was unanimously seconded and adopted.

Resolution No. 287

October 3, 2005
Regular Board Meeting

**RESOLUTION SUPPORTING PASSAGE OF S.5980, LIMITING
THE AUTHORITY OF THE ADIRONDACK PARK AGENCY TO
ADOPT AND IMPLEMENT RULES, REGULATIONS AND LAND
USE & DEVELOPMENT PLANS AFFECTING CAMPGROUNDS,
AND REQUESTING THE NEW YORK STATE ASSEMBLY TO
INTRODUCE AND PASS COMPANION LEGISLATION**

The following resolution was offered by Supervisor French, who moved its adoption.

WHEREAS, Senator Little, and others, have introduced S.5980 which, if enacted, would prohibit the Adirondack Park Agency from adopting or implementing any rule, regulation or land use plan and development plan relating to campgrounds which is inconsistent with rules and regulations of the New York State Department of Health relating to campgrounds; and

WHEREAS, by Resolution No. 216 duly adopted on August 1, 2005, this Board expressed its strong opposition to new regulations proposed by the Adirondack Park Agency which would limit seasonal campsite occupancy in the Adirondack Park by

prohibiting occupancy of camp trailers and travel trailers for periods of more than 90 days per year; by prohibiting year round water supplies and sewage disposal systems for those trailers; and by prohibiting those trailers from remaining on a campsite for more than 120 days per year.

BE IT RESOLVED that the Essex County Board of Supervisors hereby supports passage of S.5980 so as to limit the authority of the Adirondack Park Agency to adopt and implement rules, regulations and land use and development plans affecting campgrounds in any manner other than as provided in rules and regulations of the New York State Department of Health; and

AND BE IT FURTHER RESOLVED that this Board hereby requests the New York State Assembly to introduce and pass companion legislation so that the Governor can sign such legislation into law; and

BE IT FURTHER RESOLVED that the Clerk of this Board is hereby authorized and directed to immediately send certified copies of this resolution to: Governor George E. Pataki; Senate Majority Leader Joseph L. Bruno; Senator Elizabeth O'C. Little; Senate Minority Leader David A. Paterson; Assembly Speaker Sheldon Silver; Assembly Minority Leader Charles H. Nesbitt; and Assembly Members Teresa R. Sayward and Chris Ortloff.

This resolution was unanimously seconded and adopted.

Resolution No. 288

October 3, 2005
Regular Board Meeting

**RESOLUTION AUTHORIZING THE COUNTY TREASURER
TO FILL THE VACANCY IN THE POSITION OF ACCOUNTANT**

The following resolution was offered by Supervisor Scozzafava, who moved its adoption.

Upon the passage of a motion to consider from the floor, and the same appearing proper and necessary.

BE IT RESOLVED that the Essex County Board of Supervisors hereby authorizes and approves the County Treasurer to fill the vacancy in the position of Accountant, subject to compliance with the applicable provisions of the Essex County Civil Service Rules and Regulations and the Personnel Policy Manual.

This resolution was duly seconded by Supervisor Moses, and adopted.

Resolution No. 289

October 3, 2005
Regular Board Meeting

**RESOLUTION AUTHORIZING THE FILLING OF TWO TEMPORARY
POSITIONS IN THE PUBLIC HEALTH DEPARTMENT**

The following resolution was offered by Supervisor Kelly, who moved its adoption.

Upon the passage of a motion to consider from the floor, and the same appearing proper and necessary.

BE IT RESOLVED that the Essex County Board of Supervisors hereby authorizes and approves the creation and filling of one temporary position of Clerk, at Grade 4 (\$10.96) and one temporary position of Account Clerk at Grade 6 (\$12.30) in the Public Health Department, to be paid from 2005 budgeted funds, subject to compliance with the applicable provisions of the Essex County Civil Service Rules and Regulations, the current CSEA contract and the Personnel Policy Manual.

This resolution was duly seconded by Supervisor Jackson, and adopted.

Resolution No. 289-Special

October 17, 2005
Special Board Meeting

**RESOLUTION AUTHORIZING A CONTRACT WITH SCHINDLER
ELEVATOR CORPORATION FOR EMERGENCY REPAIR OF THE
ELEVATOR AT THE HORACE NYE HOME**

The following resolution was offered by Supervisor Jackson, who moved its adoption.

BE IT RESOLVED that the Essex County Board of Supervisors hereby authorizes and directs the Chairman of the Board to enter into and execute a contract with Schindler Elevator Corporation for emergency repair of the elevator at the Horace Nye Home at a cost of \$35,750.00 from budgeted funds.

This resolution was duly seconded by Supervisor Scozzafava, and adopted upon a roll-call vote as follows:

AYES: 2079 votes
NOES: 0 votes

ABSENT: 764 votes (Both, Seney, Morency, Ashworth)

Resolution No. 290

**October 31, 2005
Special Board Meeting**

RESOLUTION AUTHORIZING A CONTRACT FOR LEGAL SERVICES WITH RICHARD B. MEYER PENDING APPOINTMENT OF A NEW COUNTY ATTORNEY

The following resolution was offered by Supervisor Moses, who moved its adoption.

BE IT RESOLVED that the Essex County Board of Supervisors hereby authorizes and directs the Chairman to enter in to a contract with Richard B. Meyer for legal services for the period of November 3, 2005 until the earlier of the appointment of a new county attorney or January 1, 2006, at the same financial cost to the County that would have been incurred had he remained in the office of Essex County Attorney for the remainder of 2005, the same to be paid from funds within the 2005 Essex County Attorney's budget.

This resolution was duly seconded by Supervisor Ashline, and adopted upon a roll-call vote as follows:

AYES: 1881 votes
NOES: 962 votes (Morrow, Both, Seney, Connell, Ashworth)
ABSENT: 0 votes

Resolution No. 291

**October 31, 2005
Special Board Meeting**

RESOLUTION APPROVING CHANGE ORDERS AND EXPENDITURES FOR THE NEW COUNTY JAIL & PUBLIC SAFETY FACILITY, AND AUTHORIZING THE PURCHASING AGENT TO GO TO BID AND AWARD A CONTRACT FOR THE PURCHASE AND INSTALLATION OF A LIQUID PROPANE GAS STORAGE AND SUPPLY SYSTEM

The following resolution was offered by Supervisor French, who moved its adoption.

BE IT RESOLVED that the Essex County Board of Supervisors hereby authorizes and approves the following change orders for the new County Jail & Public Safety Facility project, to be paid from project contingency funds:

<u>Contractor</u>	<u>Purpose Of Change Order</u>	<u>Amount</u>
A.P. Reale & Sons, Inc.	Credit for precast grease traps and septic tanks	\$ - 12,000.00
A.P. Reale & Sons, Inc.	Supply/install foundation underdrain system	\$ 52,000.00

J.V. Warren	Supply/install 2 trench drains & piping	\$ 7,573.00
J.V. Warren	Supply/install ADA shower complete with all accessories	\$ 1,925.00
J.V. Warren	Supply/install 3" drain piping for mop sinks	\$ 484.00
J.V. Warren	Drain precast cell mechanical items	\$ 3,569.00
Tindall Corporation	Credit for drainage of precast cell mechanical items	\$ - 3,569.00
Crandell Associates	Redesign dispatch area floor from 4" to 12" with automatic fire suppression and recess subfloor structural components	\$ 10,000.00
TwinState Voice-Data-Video	Design and turn-key installation/connection of wiring and cabling of phone, computer and data systems	\$ 350,000.00 [not to exceed]
Atlantic Testing Labs	Additional percolation testing and inspection of absorption beds	\$ 4,488.00
Total		\$ 414,470.00

BE IT FURTHER RESOLVED that the Purchasing Agent is hereby authorized and directed to go to bid for a contract for the purchase and installation of a liquid propane gas storage and supply system, consisting of a 30,000 gallon tank, concrete pad(s) and related piping and equipment which will connect to and supply fuel to the said Facility, and to also award such contract to the lowest responsible bidder meeting specifications provided that (a) the total cost therefor does not exceed \$200,000.00 to be paid from project contingency funds, (b) the design of said system is approved in writing by the project architect, and (c) the bid of the lowest responsible bidder meeting specifications is approved by the project construction manager as being in compliance/conformance with said design.

This resolution was duly seconded by Supervisor Both, and adopted upon a roll-call vote as follows:

AYES: 2843 votes
NOES: 0 votes
ABSENT: 0 votes

Resolution No. 292

October 31, 2005

Special Board Meeting

**RESOLUTION INTRODUCING PROPOSED LOCAL LAW NO. 4 OF 2005
CONTINUING THE IMPOSITION OF A HOTEL AND MOTEL OCCUPANCY TAX**

The following resolution was offered by Supervisor Douglas, who moved its adoption.

BE IT RESOLVED that the Essex County Board of Supervisors hereby introduces proposed Local Law No. 4 of 2005, continuing the imposition of a hotel/motel occupancy tax in Essex County as authorized by Part T of §1 of Chapter 406 of the Laws of 1999, and continued by Local Law No. 7 of 2002, the same to read and provide as follows:

"ESSEX COUNTY PROPOSED LOCAL LAW NO. 4 OF 2005

A local law continuing the imposition of a hotel/motel occupancy tax in Essex County as authorized by Part T of §1 of Chapter 406 of the Laws of 1999.

BE IT ENACTED by the Board of Supervisors of Essex County as follows:

ESSEX COUNTY ROOM OCCUPANCY TAX LAW

Section

1. Title & Statement of Intent
2. Definitions
3. Imposition of Tax
4. Transitional Provisions
5. Exempt Organizations
6. Territorial Limitations
7. Registration
8. Administration and Collection
9. Records to be kept
10. Returns
11. Payment of Tax
12. Bonds & Security for Payment of Tax
13. Determination of Tax
14. Refunds
15. Disposition of Revenues
16. Reserves
17. Remedies Exclusive
18. Proceedings to Recover Tax
19. General Powers of Treasurer
20. Administration of Oaths & Compelling
Testimony
21. Reference to Tax
22. Penalties, Interest & Violations

23. *Judicial Review*
24. *Returns to be Secret*
25. *Notices and Limitations of Time*
26. *Limitation of Effect of Local Law*
27. *Separability*
28. *Effective Date*

Section 1. Title & Statement of Intent.

This local law shall be known as the “Essex County Room Occupancy Tax Law”. The intent of this local law shall be to promote tourism and conventions in Essex County.

Section 2. Definitions.

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

- (a) *County - Essex County, New York.*
- (b) *Effective Date - the date set forth in Section 28 of this local law.*
- (c) *Hotel or Motel - Any facility providing lodging on an overnight basis and shall include those facilities designated and commonly known as “bed and breakfast” and “tourist” facilities.*
- (d) *Occupancy - The use of possession, or the right to the use or possession, of any room in a hotel or motel.*
- (e) *Occupant - A person who, for a charge or any consideration, uses, possesses, or has the right to use or possess, any room in a hotel or motel under any lease, concession, permit, right, license, agreement, or otherwise.*
- (f) *Operator - Any person operating a hotel or motel in Essex County including but not limited to the owner, proprietor, lessee, sub-lessee, mortgagee in possession, licensee, or any other person otherwise operating such hotel or motel.*
- (g) *Permanent Resident - Any person occupying any room or rooms in a hotel or motel for at least thirty (30) consecutive days.*
- (h) *Person - An individual, partnership, society, association, joint stock company, corporation, limited liability company, general or limited or limited liability partnership, estate, receiver, trustee, assignee, referee, and any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and/or any combination of the foregoing.*
- (i) *Rent - The charge and/or consideration received for occupancy valued in*

money, whether received in money or otherwise.

- (j) *Return - Any return filed or required to be filed as herein provided.*
- (k) *Room - Any room or rooms of any kind in any part or portion of a hotel or motel, which is available for, rented or otherwise let out for the lodging of guests.*
- (l) *Tax Imposition Date - the date set forth in Section 3 of this local law.*
- (m) *Treasurer - The Essex County Treasurer, or such other fiscal officer(s) as may be designated by the Board of Supervisors.*

Section 3. Imposition of Tax.

Upon expiration of Local Law No. 7 of 2002 there shall continue to be, and hereby is, imposed and there shall be paid a tax of three percent (3%) of the per diem rental rate for each room or rooms in a hotel or motel located within the County, except that such tax shall not be applicable to a permanent resident of a hotel or motel.

Section 4. Transitional Provisions.

The tax imposed by this local law shall be paid upon any occupancy on and after the date set forth in Section 3 hereof although such occupancy is pursuant to a prior contract, lease, or other arrangement. Where rent is paid on a weekly 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 the date set forth in Section 3 hereof.

Section 5. Exempt organizations.

Except as otherwise provided in this section, any use or occupancy by any of the following shall not be subject to the tax imposed by this local law:

(a) *The State of New York, or any public corporation (including a created pursuant to agreement or compact with another state or the Dominion of Canada) improvement district or other political subdivision of the state;*

(b) *The United States of America, insofar as it is immune from taxation; and*

(c) *Any corporation or association, or 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 paragraph 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 paragraph.

Section 6. Territorial limitations.

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

Section 7. Registration.

(a) Within twenty (20) days after the effective date of this local law, or in the case of an operator commencing business after such effective date within three (3) days after such commencement or opening, every operator shall file with the Treasurer a registration application in a form prescribed by the Treasurer.

(b) The Treasurer shall within five (5) days after receipt of a registration application issue without charge to the 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 operators.

(c) Each certificate shall state the hotel or motel to which it is applicable.

(d) Each certificate 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 person seeking occupancy.

(e) Certificates shall not be assignable or transferable, and shall be surrendered immediately to the Treasurer upon the cessation of business at, or upon the sale or conveyance of, the hotel or motel named in such certificate(s).

Section 8. Administration and collection.

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

(c) 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 part of the rent for the

occupancy payable at the time such tax shall become due and owing, including all rights of eviction, dispossession, repossession and enforcement of any innkeeper's lien that he may have in the event of non-payment of rent by the occupant; provided, however, that the Treasurer shall be joined as a party in any action or proceeding brought by the operator to collect or enforce collection of the tax.

(d) The Treasurer may, whenever he deems it necessary for the proper enforcement of this local law, provide by order 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 over made by the operator.

(e) The tax imposed by this local law shall be paid upon any occupancy on and after the tax imposition date, although such occupancy is had pursuant to a contract, lease or other arrangement made prior to such date; and where rent is paid, charged, 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 the tax imposition date.

(f) Where any tax has been paid hereunder upon any rent which has been ascertained to be worthless, the Treasurer may by order provide for credit and/or refund of the amount of such tax upon application therefor as provided in section fourteen of this local law.

(g) 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 proving that a rent for occupancy is not taxable hereunder shall be upon the operator or occupant.

(h) Where an occupant claims exemption(s) from the tax under the provisions of section five of this local law, the rent shall be deemed taxable hereunder unless the operator shall receive from the occupant claiming such exemption

(1) a copy of a certificate issued by the Treasurer certifying that the organization named therein is exempt from the tax pursuant to section five of this local law, together with a certificate duly executed by the exempt organization setting forth the occupant's name and certifying that

- (i) the occupant is a duly authorized agent, representative or employee of the exempt organization,*
- (ii) the occupant's occupancy is paid or to be paid by such exempt organization, and*
- (iii) the occupant's occupancy is necessary or required in the course and furtherance of, and/or in connection with, the affairs of said exempt organization; or*

(2) a properly completed, executed and certified Exemption Certificate from taxes imposed pursuant to Articles 28 and 29 of the New York Tax Law, such certificate to be in the form and to contain the content

approved and required by the New York State Department of Taxation.

Section 9. Records to be kept.

(a) *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 may by regulation or order require.*

(b) *All records shall be available for inspection and examination at any time upon demand by the Treasurer, or the Treasurer's duly authorized agent or employee, and shall be preserved for a period of not less than three (3) years, except that the Treasurer may consent in writing to their destruction within that period or may in writing require that such records be kept and maintained for a specified period in excess of three (3) years.*

Section 10. Returns.

(a) *After the date set forth in Section 3 of this local law, and except as provided in subdivision (b) of this section, every operator shall file with the Treasurer a return of occupancy and of rents, and of the taxes payable thereon, for the same quarterly periods and on the same dates as returns for New York State sales and use taxes are filed or to be filed.*

(b) *Notwithstanding the provisions of paragraph (a) of this section, the Treasurer may by order*

(1) *require returns to be made and filed for shorter periods than those prescribed pursuant to subdivision (a) of this section, on such dates as the Treasurer may specify in such rule or order, where the Treasurer deems it necessary in order to insure the payment of the tax imposed by this local law, or*

(2) *permit or require returns to be made by other periods and upon such other dates as the Treasurer may specify by rule or order so as to carry out the purposes of this local law.*

(c) *All returns shall be filed with the Treasurer within twenty (20) days from the expiration of the period covered thereby.*

(d) *The forms of returns shall be prescribed by the Treasurer and shall contain such information as the Treasurer may deem necessary for the proper administration of this local law.*

(e) *The Treasurer may require amended returns to be filed within twenty (20) days after notice and to contain the information specified in the notice.*

(f) *If a return required by this local law is not filed, or if a return when filed is incorrect or insufficient on its face or otherwise, the Treasurer shall take the necessary*

steps to enforce the filing of a properly completed and sufficient return or of a corrected return.

Section 11. Payment of Tax.

(a) Any tax imposed by this local law shall be paid by the occupant to the operator of the hotel or motel room occupied or to the person entitled to be paid the rent or charge for the hotel or motel room occupied for and on account of the County, and such operator or person entitled to be paid the rent or charge shall be liable for the collection and payment of tax to the County.

(b) The owner of the hotel or motel room or the person entitled to be paid the rent or charge for the hotel or motel room shall have the same right in respect to collecting the tax from the occupant, or in respect to non-payment of the tax by the occupant, as if the tax were a part of the rent or charge and payable at the same time as the rent or charge. In any action or proceeding brought by an owner or a person entitled to be paid the rent or charge for the purpose of collecting the rent or charge, or the tax imposed by this local law, the Treasurer shall be joined as a party.

(c) 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 moneys collected by the operator acting or purporting to act under the provisions of this local law.

(d) All taxes and other moneys required to be paid under and pursuant to this local law shall be due from the operator and paid to the Treasurer on the date limited for the filing of the return for such period, without regard to whether a return is filed or whether the return which is filed correctly shows the amount of rents and taxes due thereon.

Section 12. Bonds & Security For Payment of Tax.

(a) Where the Treasurer, in the exercise of the Treasurer's discretion, deems it necessary to protect revenues to be obtained under this local law, the Treasurer may by rule or order require any operator required to collect the tax imposed by this local law to file with the Treasurer a bond to secure the payment of any tax and/or penalties and interest due or which may become due from such operator.

(b) Any bond so required by the Treasurer shall be 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.

(c) In the event 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.

(d) The operator shall file such bond within five (5) days after the issuance of such notice, unless within such five (5) days the operator shall serve upon and deliver to

the Treasurer a written request for a hearing before the Treasurer at which the necessity, propriety and amount of the bond shall be determined by the Treasurer. Any determination by the Treasurer upon such hearing shall be final and shall be complied with by the operator within five (5) days after the giving of notices thereof.

(e) In lieu of a bond the Treasurer, in the Treasurer's sole discretion, may accept or require

(1) securities approved by the Treasurer in such amount as the Treasurer may prescribe, with such securities to be kept in the custody of the Treasurer, and/or

(2) cash in such amount as the Treasurer may prescribe, with such cash to be deposited and kept in the custody of the Treasurer.

(f) The Treasurer shall have the right at any time without notice of the operator apply all or any portion of the bond(s), securities and/or cash to the payment of any tax and/or interest or penalties due, and for such purpose the Treasurer may exercise all rights under the bond(s) and/or may sell the securities at public or private sale without notice to the depositors thereof.

Section 13. Determination of tax.

(a) Upon the filing of a return, the Treasurer shall determine the amount of tax due under and pursuant to this local law.

(b) If a return required by this local law is not filed, or if a return when filed is incorrect or insufficient as to the amount of tax due, the amount of tax due under and pursuant to this local law 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.

(c) Notice of a determination under subdivision (b) of this section shall be furnished in writing to the person liable for the collection and/or payment of the tax.

(d) Any determination by the Treasurer under subdivision (b) of this section shall finally and irrevocably fix the tax, unless

(1) within thirty (30) days after the issuance of the notice of such determination the person against whom it is assessed shall apply in writing to the Treasurer for a hearing, or

(2) the Treasurer shall, in the Treasurer's sole discretion, reconsider and re-determine the amount of tax due.

(e) Within fifteen (15) days after the conclusion of a hearing conducted pursuant to subdivision (d) (1) of this section, the Treasurer shall give written notice of the

Treasurer's determination to the person against whom the tax is assessed.

(f) *Except in the case of a wilfully 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 years from the date of the filing of a return; provided, however, that*

- (1) *where no return has been filed as provided by this local law the tax may be assessed at any time; and/or*
- (2) *where, before 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 or any extension(s) thereof.*

Section 14. Refunds.

(a) *In the manner provided in this section the Treasurer shall refund or credit, without interest, any tax, penalty or interest erroneously, illegally or unconstitutionally collected or paid provided that written application for such refund shall be made to the Treasurer within one year from the payment thereof.*

(b) *An application for refund or credit may be made only by the occupant, operator, or other person who has actually paid the tax.*

(c) *An application for a refund or credit made as herein provided shall not be complete unless the same includes copies of all documentation and evidence upon which the applicant relies in support thereof, but nothing shall prohibit or prevent the Treasurer from receiving any other evidence with respect thereto.*

(d) *No application for a refund or credit shall be accepted or considered unless such application has been actually received by the Treasurer within one year of the payment by the tax.*

(e) *The determination to deny or allow a refund or credit shall be made by the Treasurer in writing, stating the reason(s) therefor, and the Treasurer shall give notice of such determination to the applicant.*

(f) *No refund shall be made to an operator who has collected and paid over such tax to the Treasurer unless and until such operator shall first establish, to the satisfaction of the Treasurer under such regulations as the Treasurer may prescribe, that such operator has repaid to the occupant(s) the amount of tax for which refund is sought.*

(g) *The Treasurer may, in the Treasurer's discretion and in lieu of the payment of any refund determined to be due, allow credit therefor on and against payments due from the applicant.*

Section 15. Disposition of Revenues.

(a) *All revenues resulting from the imposition of the tax under this local law shall be paid into the treasury of the County and shall be credited and deposited into a special tourism development and promotion fund, thereafter to be allocated for publicizing the advantages of the County pursuant to subdivision fourteen of section two hundred twenty-four of the County Law; provided, however, that the County*

- (1) *shall retain five per cent (5%) of the gross revenues to cover the County's costs for administration and collection; and*
- (2) *endeavor to expend the revenues in such fund in a manner reasonably intended to publicize the areas within the County commensurate with the amount of revenues generated from such areas.*

(b) *The County shall contract with the Lake Placid-Essex County Visitors Bureau for the expenditure of the net revenues in such fund pursuant to subdivision fourteen of section two hundred twenty-four of the County Law; provided, however, that the County may terminate such contract and/or enter into other contracts in the event that the Lake Placid-Essex County Visitors Bureau*

- (1) *dissolves, or*
- (2) *in the determination of the Board of Supervisors, after public hearing, ceases to adequately perform such contract.*

(c) *The Board of Supervisors shall by resolution appoint an advisory committee, some of the members of which shall be operators of facilities paying such tax. The advisory committee shall provide advice and recommendations as to the County's strategic tourism marketing plan(s) for publicizing the advantages of the County pursuant to subdivision fourteen of section two hundred twenty-four of the County Law and this local law.*

Section 16. Reserves.

Whenever 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 such occupant or operator on such application for refund, the Treasurer shall set up appropriate reserves to meet any decision adverse to the County.

Section 17. Remedies exclusive.

The remedies provided by sections thirteen and fourteen 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 or credit shall be enjoined, contested or reviewed by any action or proceeding, except by a proceeding under article seventy-eight of the civil practice law and rules pursuant to section twenty-three of this local law.

Section 18. Proceedings to recover tax.

(a) *Whenever any operator 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 herein provided, or whenever any occupant shall fail to pay any such tax, penalty or interest, the county attorney shall, upon the request of the County Treasurer bring or cause to be brought an action to enforce the payment of the same on behalf of Essex County in any court of the state of New York or of any other state or of the United States.*

(b) *Notwithstanding any other provision of this section, if the Treasurer in his discretion believes that any such operator, 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, the Treasurer may declare such tax or penalty to be immediately due and payable and may issue a warrant, as provided in this section, immediately.*

(c) *As an additional or alternate remedy, the Treasurer may issue a warrant, directed to the Essex County Sheriff or to the sheriff of any other county commanding him/her to levy upon and sell the real and personal property of the operator, occupant, or other person, including but not limited to any partner, corporate officer/director/shareholder, or member, liable for the tax, which may be found within his/her 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 the Treasurer the money collected by virtue thereof within sixty days after the receipt of such warrant.*

(d) *The sheriff receiving a warrant issued under this section shall, within five (5) days after 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.*

(e) *Upon filing a copy of the warrant as provided in paragraph (d) of this section,*

(1) *the amount of such warrant so docketed shall become a lien upon the title to and interest in real and personal property of the person against whom the warrant is issued, provided that such lien shall not apply to personal property unless another copy of such warrant is filed in the New York Department of State.*

(2) *the sheriff shall then proceed upon the warrant, in the same manner, and with like effect, as that provided by law in respect to executions issued against property upon 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; and*

(3) *the Treasurer shall have the same remedies to enforce the amount due thereunder as if the County had recovered judgment therefor.*

(f) *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 provided in this section.*

(g) *Whenever an operator or other person shall make a sale, transfer, or assignment in bulk of any part or the whole of his hotel or motel or of such operator's business assets, otherwise than in the ordinary course of business, the following provisions shall apply:*

- (1) *the purchaser, transferee or assignee shall at least twenty (20) days before taking possession of the subject of said 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 and whether or not the operator 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;*
- (2) *for failure to comply with the provisions of this paragraph, including but not limited to subdivision (1) above, the purchaser, transferee or assignee 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 operator, 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;*
- (3) *whenever the purchaser, transferee or assignee shall fail to give notice to the Treasurer as required by subdivision (1) of this 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 choses in action, or other consideration, which the purchaser, transferee or assignee is required to transfer over to the seller, transferrer 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 operator, seller, transferor or assignor to the County, and the purchaser, transferee or assignee is forbidden to transfer to the operator, seller, transferor or assignor, and shall withhold any such sums of money, property or choses in action, or other consideration, to the extent of the amount of the County's claim;*
- (4) *within fifteen (15) days of receipt of the notice of the sale, transfer or assignment from the purchaser, transferee or assignee, the Treasurer shall give notice to the purchaser, transferee or assignee and to the operator, seller, transferor or assignor, of the total amount of any tax or taxes, as well as of any penalties or interest due thereon, which the Treasurer claims to be due from the operator, seller, transferor or*

assignor, to the County;

- (5) *whenever the Treasurer shall fail to give the notice required by subdivision (4) of this paragraph, within fifteen (15) days from receipt of notice of the sale, transfer and assignment required by subdivision (1) of this paragraph, such failure shall release the purchaser, transferee or assignee from any further obligation to withhold any sums of money, property or choses in action, or other consideration, which the purchaser, transferee or assignee is required to transfer over to the operator, seller, transferor or assignor;*

- (6) *upon receipt of the Treasurer's notice issued pursuant to subdivision (4) above stating the total amount of the County's claim, the purchaser, transferee or assignee may make payment of such claim to the Treasurer from any sums of money, property, or choses in action withheld in accord with the provisions of subdivision (3) of this paragraph, and upon making such payment the purchaser, transferee or assignee shall be relieved of all liability for such amounts to the operator, seller, transferor or assignor, and such amounts paid to the Treasurer shall be deemed satisfaction of the tax liability of the operator, seller, transferor or assignee to the extent of the amount of such payment.*

(h) Whenever the liability of any operator or other person, including that of any purchaser, transferee or assignee, covered by this section has been wholly paid or satisfied or no longer exists, except where the liability is discharged by an order or decree in bankruptcy, the Treasurer shall

- (1) *mail to such operator or other person a notice, addressed to the last known address of such operator or other person, setting forth*
 - (i) the amount of the tax liability paid or satisfied,*
 - (ii) that such liability has been wholly paid or satisfied or no longer exists, and*
 - (iii) a statement to the effect that consumer reporting agencies must delete from a credit file any reference to the particular tax lien or claim within thirty (30) days of receipt from such operator or other person of a copy of such notice.*

Section 19. General powers of the Treasurer.

In addition to the powers granted to the Treasurer by County Law and this local law, the Treasurer is hereby authorized and empowered:

- (a) To make, adopt and amend rules and regulations, and to issue orders, appropriate to the carrying out of this local law and the purposes thereof;*

(b) *To extend for cause shown the time of filing any return for a period not exceeding thirty days; and for cause shown, to remit or waive penalties but not interest; and to compromise disputed claims in connection with the taxes hereby imposed;*

(c) *To request information from the tax commission 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;*

(d) *To delegate his functions hereunder to any employee or employees of the County Treasurer;*

(e) *To prescribe methods for determining the rents for occupancy and to determine the taxable and non-taxable rents;*

(f) *To require any operator within the county to keep detailed records of the nature and type of hotel or motel maintained. nature and type of service rendered, the rooms available and rooms occupied daily, lease's 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 County Treasurer;*

(g) *To assess, determine, revise and readjust the taxes imposed under this local law.*

Section 20. Administration of Oaths and Compelling Testimony.

(a) *The Treasurer, or the Treasurer's duly designated and authorized employee(s) or agent(s), shall have power to administer oaths and take affidavits in relation to any matter or proceeding in the exercise of the Treasurer's powers and duties under this local law.*

(b) *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 the Treasurer or excused from attendance.*

(c) *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.*

(d) *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 or imprisonment for not more than one year, or both such fine and*

imprisonment.

(e) *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.*

(f) *The County Sheriff, the Sheriff's duly appointed deputies, and any officer or employee of the Treasurer designated to serve process under this local law, are hereby authorized and empowered to serve any summons, subpoena, order, notice, document, instrument, or other process to enforce or carry out this local law.*

Section 21. 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 work "tax" will suffice.

Section 22. Penalties, Interest & Violations.

(a) *Any person failing to file a return or to pay or pay over any tax to the Treasurer within the time required by this local law shall be subject to*

- (1) *a penalty of five per centum (5%) of the amount of tax due; plus*
- (2) *interest at the rate of one per centum (1%) of the amount of tax due for each month of delay, except that no interest shall be charged for the first thirty (30) days immediately after the date such return was required to be filed or such tax became due.*

(b) *Notwithstanding the provisions of paragraph (a) of this section, the Treasurer may, if satisfied that the delay was excusable, cancel and remit all or part of such penalty, but may not cancel or remit any portion of the interest.*

(c) *All penalties and interest shall be paid and disposed of in the same manner as other revenues from this local law.*

(d) *Unpaid penalties and interest may be enforced in the same manner as the tax imposed by this local law.*

(e) *Officers and/or members of an owner or operator which is a corporation, limited liability company, limited liability partnership, or partnership shall be personally liable for the tax collected or required to be collected and paid by such corporation under this local law, and shall also be personally liable for the penalties and interest herein imposed.*

(f) *In addition to the penalties herein or elsewhere prescribed, any person found*

to have committed any of the following acts shall be guilty of a misdemeanor, punishment for which shall be a fine of not more than one thousand dollars or imprisonment for not more than one year, or both such fine and imprisonment:

- (1) failing to file a return required by this local law,*
- (2) 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 wilfully false,*
- (3) wilfully failing to file a bond required to be filed pursuant to this local law,*
- (4) failing to file a registration certificate and such data in connection therewith as the Treasurer may by order, regulation or otherwise require,*
- (5) failing to display, or to surrender upon demand of the Treasurer, the certificate of authority as required by this local law,*
- (6) assigning or transferring such a certificate of authority,*
- (7) wilfully failing to charge separately from the rent the tax herein imposed, or wilfully failing to state such tax separately on any evidence of occupancy and on any bill or statement or receipt of rent issue or employed by the operator,*
- (8) wilfully failing or refusing to collect any tax imposed by this local law from the occupant,*
- (9) referring or causing reference to be made to this tax in a form or manner other than that required by this local law, or*
- (10) failing to keep or maintain the records required by this local law.*

(g) The certificate of the County 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.

Section 23. Judicial Review.

Any final determination of the amount of any tax payable pursuant to this local law, as well as any final determination on an application for refund or credit under section 14 of this local law, shall be reviewable for error, illegality or unconstitutionality or any other reason whatsoever by a proceeding under article seventy-eight of the civil practice law and rules if application therefor is made to the supreme court within thirty days after the giving

of the notice of such final determination, provided, however, that any such 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 such interest and penalties thereon as may be provided for by local law or regulation shall be first deposited and there is filed 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 such proceeding; or

(b) At the option of the petitioner such undertaking may be in a sum sufficient to cover the taxes, interests and penalties stated in such determination plus the costs and charges which may accrue against it in the prosecution of the proceeding, in which event the petitioner shall not be required to pay such taxes, interest or penalties as a condition precedent to any tax imposed pursuant to this section shall have been erroneously, illegally or unconstitutionally collected and application for the refund thereof duly made to the proper fiscal officer or officers, and such officer or officers shall have made a determination denying such refund, such determination shall be reviewable by a proceeding under article seventy-eight of the civil practice law and rules, provided, however, that such proceeding is instituted within thirty days after the giving of the notice of such denial, that a final determination of tax due was not previously made, and that an undertaking is filed with the proper fiscal officer or officers in such amount and with such sureties 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 such proceeding.

Section 24. Returns to be secret.

(a) Except in accordance with proper judicial order, or as otherwise provided by law,

(1) it shall be unlawful for the Treasurer or any agent, employee or designee of the Treasurer to divulge or make known in any manner the rents or other information relating to the business of an operator contained in any return required under this local law; and

(2) the officers charged with the custody of such returns shall not be required to produce any of such returns or evidence of anything contained therein 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, provided that 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.

(b) *Notwithstanding the provisions of paragraph (a) of this section, nothing herein shall be construed to prohibit*

- (1) *the delivery to a taxpayer or such taxpayer's duly authorized representative of a copy of any return filed in connection with this local law, or*
- (2) *the publication of statistics so classified as to prevent the identification of particular returns and items thereof, or*
- (3) *the inspection by the county attorney or other legal representatives of the county, or by the district attorney of any county, of the return(s) 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.*

(c) *Returns shall be preserved by the Treasurer for not less than three (3) years or for such longer period of time as the Treasurer determines.*

(d) *Any violation of paragraph (a) of this section shall be punishable by a fine not exceeding one thousand dollars, or by imprisonment not exceeding one year, or both, in the discretion of the court, and if the offender be an officer or employee of the county such officer or employee shall be dismissed from office or service with the county.*

Section 25. 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 postpaid envelope addressed to such person at the address given in the last return filed pursuant to the provisions of this local law, or in any application made by such person, or if no return has been filed or application made then to such address as may be obtainable.*

(b) *The mailing of such notice shall be presumptive evidence of the receipt of the same by the person to whom addressed.*

(c) *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.*

(d) *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.*

Section 26. Limitation of Effect of Local Law.

This local law shall remain in full force and effect for a period of three (3) years from the date of enactment by the Board of Supervisors; except that nothing shall prohibit or

prevent the adoption and enactment of subsequent local laws continuing or imposing the tax authorized hereby after the expiration of this or any other local law adopted and enacted pursuant to the provisions of Part T of §1 of Chapter 406 of the Laws of 1999.

Section 27. Separability.

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

Section 28. Effective Date.

This local law shall take effect upon filing in the office of the Secretary of State of New York State.”

AND BE IT FURTHER RESOLVED *that the Essex County Board of Supervisors shall hold and conduct a public hearing on the foregoing proposed local law on November 14, 2005, at 9:30 o'clock in the forenoon of that day, to hear any and all persons concerning the same.*

This resolution was duly seconded by Supervisor Douglas, and adopted.

**RESOLUTION INTRODUCING PROPOSED LOCAL LAW NO. 5 OF 2005
AUTHORIZING THE ESSEX COUNTY EMPIRE ZONE TO MAKE APPLICATION FOR
REDESIGNATION OF CERTAIN AREAS WITHIN ESSEX COUNTY AS AN EMPIRE
ZONE**

The following resolution was offered by Supervisor Moses, who moved its adoption.

WHEREAS, Essex County authorized the Empire Zone to prepare and submit the Essex County application for designation of the Empire Zone, pursuant to Section 961 of the General Municipal Law, and the creation of such Zone was approved by the New York State Commissioner of Economic Development and such Zone was formally designated by the Empire Zones Designation Board on June 22, 1988; and

WHEREAS, the New York State Legislature and the Governor have enacted into law changes to the Empire Zones program, whereby each existing Empire Zone must configure its existing zone acreage into six "distinct and contiguous" areas, with a seventh based on need; and

WHEREAS, pursuant to Sections 961 and 957(d) of the General Municipal Law, as amended, the County of Essex hereby authorizes the Empire Zone to prepare and submit Essex County's application for re-designation of the existing Empire Zone into six "distinct and contiguous areas", with a seventh area based on need, including a description of the areas identified for such re-designation, to the New York State Commissioner of Economic Development for ultimate approval by the Empire Zones Designation Board; and

WHEREAS, such designation could greatly benefit Essex County in that new businesses would be encouraged to locate in the zone area, existing businesses would be encouraged to expand in the zone area, and new and expanded businesses would generate new jobs for Essex County residents; and

WHEREAS, a draft of the amended Zone Development Plan is hereby authorized to be submitted along with the re-designation application to the New York State Commissioner of Economic Development;

BE IT RESOLVED that the Essex County Board of Supervisors hereby introduces proposed Local Law No. 5 of 2005, authorizing the Essex County Empire Zone to make application for redesignation of certain areas within Essex County as an Empire Zone, the same to read and provide as follows:

"ESSEX COUNTY PROPOSED LOCAL LAW NO. 5 OF 2005

A local law authorizing the Empire Zone to make application for redesignation of certain areas within Essex County as an Empire Zone.

BE IT ENACTED by the Board of Supervisors of Essex County as follows:

Section 1. Essex County is hereby authorized and empowered to submit an application for redesignation of certain areas within the Towns of Chesterfield, Moriah, Jay, Schroom, Ticonderoga, Wilmington and North Hudson and the Village of Port Henry as an Empire Zone; provided, however, that such authorization and empowerment shall be conditioned upon the concurrence, through property adopted resolution(s) with respect to such application of the governing bodies of any and all cities, towns and villages in which such zone is located.

Section 2. The boundaries of said areas to be included in said Empire Zone shall be as set forth

in Schedule A, which is attached hereto and made a part hereof.

Section 3. Pursuant to requirements of Section 963(a) of the General Municipal Law, the Essex County Treasurer shall continue to serve as the Local Empire Zone Certification Officer of the Essex County Empire Zone, and shall, pursuant to the regulations promulgated pursuant to Article 18-B of the General Municipal Law, perform the following duty, to wit: certify, jointly with the New York State Commissioner of Economic Development and the New York State Commissioner of Labor, those businesses enterprises that are eligible to receive those benefits referred to in Section 966 of the General Municipal Law, and any other applicable statutes.

Section 4. Pursuant to Article 18-B of the General Municipal Law, the Local Empire Zone Administrative Board as presently constituted is hereby continued . The Local Empire Zone Administrative Board, pursuant to Section 963(a) of the General Municipal Law, as amended, shall approve for certification by the Zone Certification Officer, the New York State Commissioner of Economic Development, and the New York State Commissioner of Labor, the applications of those businesses eligible for certification to receive the benefits referred to in Section 966 of the General Municipal Law, and shall perform all other duties required of it pursuant to Section 963(b) of the General Municipal Law.

Section 5. This local law shall take effect upon filing in the Office of the Secretary of State as provided by Section 27 of the Municipal Home Rule Law.

AND BE IT FURTHER RESOLVED *that the Essex County Board of Supervisors shall hold and conduct a public hearing on the foregoing proposed local law on November 14, 2005, at 9:45 o'clock in the forenoon of that day, to hear any and all persons concerning the same.*

This resolution was duly seconded by Supervisors Kelly and Morrow, and adopted.

