

***RESOLUTION URGING THE GOVERNOR AND THE STATE
LEGISLATURE TO REDIRECT THE 911 SURCHARGE FUNDS
BACK TO THE 911 PSAPS AND THE 911 CENTERS***

The following resolution was offered by Supervisor Morrow, 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.

WHEREAS, In 2008, approximately \$230 million was collected in 911 surcharges and of those funds only \$10 million was disbursed among the counties with the remainder of these monies being disbursed to the New York State General Fund, Statewide Wireless Radio System, State Revolving Loan Fund and others; and

WHEREAS, the 911 Coordinator's Association, the Sheriff's Association and the Directors of various county 911 centers view this rerouting of monies to the General Fund, Statewide Wireless Radio System and Revolving Loan Fund as an inappropriate use of the 911 fees which should go to the counties and are urging the Federal Communications Commission, the Governor of the State of New York and the State Legislature to redirect all or most of the 911 Surcharge Funds back to the fifty-nine 911 PSAPS and 911 Call Centers in the counties where these funds belong.

BE IT RESOLVED that the Essex County Board of Supervisors hereby joins with the 911 Coordinators Association, the Sheriffs Association and other parties and strongly urges Governor Paterson and the New York State Legislature to redirect the tens of millions of dollars of 911 surcharge funds back to the 911 PSAPS and 911 call centers in counties where these monies belong; and

BE IT FURTHER RESOLVED, that a copy of this resolution be sent to Arlene H. Dortch, Secretary of the Federal Communications Commission; Governor David Paterson, New York Senate Majority Leader Malcolm A. Smith, Assembly Speaker Sheldon Silver, Assembly Minority Leader Brian Kolb, Senator Elizabeth O'C. Little, Assemblywoman Teresa R. Sayward and Assemblywoman Janet Duprey.

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

**RESOLUTION AUTHORIZING AMENDMENTS TO THE 2009
ESSEX COUNTY BUDGET FOR VARIOUS DEPARTMENTS**

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

Upon the recommendation of the various Committees, 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 2009 Essex County Budget as follows:

1. From the Human Services Committee

- (a) For the Public Health Department, increase revenues and appropriations by \$1,000.00, diabetes network grant as follows:

REVENUES

<u>Account Number</u>	<u>Account Name</u>	<u>Amount</u>
4190.4160169	Diabetes Network Grant	\$1,000.00

APPROPRIATIONS

<u>Account Number</u>	<u>Account Name</u>	<u>Amount</u>
4190 5486	Educational Materials	\$1,000.00

2. From the DPW Committee

- (a) For the Department of Public Works, increase revenues and appropriations by \$140.85, reimbursement of overpayment to Peckham Materials follows:

REVENUES

<u>Account Number</u>	<u>Account Name</u>	<u>Amount</u>
5110 4265570	Sale of Materials	\$140.85

APPROPRIATIONS

<u>Account Number</u>	<u>Account Name</u>	<u>Amount</u>
51104 5461	Bituminous Materials	\$140.85

3. From the Personnel Committee

- (a) For the Public Health Department - WIC, increase revenues and appropriations by \$14,486.00, from WIC grant as follows:

REVENUES

<u>Account Number</u>	<u>Account Name</u>	<u>Amount</u>
4448286	WIC Grant	\$14,486.00

APPROPRIATIONS

<u>Account Number</u>	<u>Account Name</u>	<u>Amount</u>
40821 - 5110	Regular Wages	\$ 6,673.00
40821 - 5190	Health Insurance Buy-Out	5,000.00
40828 - 5810	Retirement	625.00
40828 - 5820	Social Security	431.00
40828 - 5830	Workers Comp	162.00
40828 - 5850	Health Insurance	1,173.00
40828 - 5851	Pharmacy Expense	422.00
		<u>\$14,486.00</u>

4. From the Ways and Means Committee

- (a) For the Records Management Department, increase revenues and appropriations by \$7,407.00, from VESID grant as follows:

REVENUES

<u>Account Number</u>	<u>Account Name</u>	<u>Amount</u>
43089025	State Grant VESID	\$7,407.00

APPROPRIATIONS

<u>Account Number</u>	<u>Account Name</u>	<u>Amount</u>
14601 5130	Part-time Wages	\$7,407.00

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

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

**RESOLUTION ADOPTING AND APPROVING QUALITY
IMPROVEMENTS REVIEW AND POLICIES AND PROCEDURES
FOR BOTH THE CERTIFIED HOME HEALTH AGENCY AND
PREVENTIVE SERVICES**

The following resolution was offered by Supervisor Canon, 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.

WHEREAS, listed below are the policies and procedures which were submitted and approved by the Professional Advisory/Public Health Advisory Committee on September 1, 2009.

CHHA and Agencywide

- [New] Administration of Intramuscular Injections to Infants and Children Procedure
- [New] Administration of Subcutaneous Injections to Infants and Children Procedure
- [New] Administration of Medications Guidelines Procedure
- [New] Aerosol Therapy Procedure
- [New] Bi-positive airway pressure (BiPAP) Management Procedure
- [New] Bladder Instillation and Irrigation Procedure
- [New] Breathing Exercises Procedure
- [New] Chest Physiotherapy Procedure
- [New] Closed Urinary Drainage Management Procedure
- [New] Colostomy Irrigation Procedure
- [New] Condon Catheter Care Procedure
- [New] Coumadin Administration; Bleeding Precautions Procedure
- [New] Culture Collection Procedure
- [New] Edema Procedure
- [New] Enema Administration Procedure
- [New] Fecal Impaction: Manual Removal Procedure
- [New] Making Solutions for Irrigation Procedure
- [New] Fecal Occult Blood Procedure
- [Revised] Tuberculosis Control Policy and Procedure for Employees Policy and Procedure
- Medicare Provider Notice of Non-Coverage Policy and Procedure
- Home Health Advance Beneficiary Notice (HHABN) Policy and Procedure
- Notice of Medicare Non-Coverage for Managed Medicare Policy and Procedure
- Billing and Collection Policy and Procedure
- Central Venous Catheter (CVC)/Peripherally Inserted Central Catheter (PICC) Site Dressing Change Procedure

- Access of Port-a-Catheter Policy and Procedure
- Central Venous Catheter Blood Withdrawal Procedure (No Valve Hickman)
- Central Venous Catheter Cap Change Procedure (No Valve Hickman)
- Central Venous Catheter Irrigation Policy and Procedure (No Valve Hickman)
- Central Venous Catheter Blood Withdrawal Procedure (Valved Groshong)
- Central Venous Catheter Cap Change Procedure (Valved Groshong)
- Central Venous Catheter Irrigation Procedure (Valved Groshong)
- QA/OBQI Program Policy and Procedure
- Access to Health Care Records Policy and Procedure
- Accidents Involving Staff Members Policy and Procedure
- Case Management Procedure
- Departure from Employment with Agency Procedure
- Delegation of Authority Policy
- Employee Application Policy and Procedure
- Employee Picture Identification Policy and Procedure
- Hours of Work Policy
- N95 Respiratory Mask Fit Testing Policy and Procedure
- On Call Coverage Policy and Procedure
- Outside Employment Policy and Procedure
- Probationary Period/Permanent Employees Policy
- Transitional Duty Program Policy
- Disposal of Needles and Other Sharps Policy and Procedure
- Flu and Pneumonia Immunizations Policy and Procedure

Preventive Services

- [R] Article 28 Diagnostic and Treatment Center Incident Reporting Policy
- [R] CLIA (Limited Service Laboratory) Policy
- [R] Annual Policy Review Policy and Procedure
- [R] Maternal Obstetric Medical Services (MOMS) Program Procedure
- [R] MOMS Medical Providers NYSDOH Memorandum of Understanding Procedure
- [R] MOMS Medicaid Billing Policy and Procedure
Medicaid Application for the MOMS Program Procedure
- [R] Referral Procedure for Registered Dietician's Services for MOS and Post Partum Patients
- [R] Antepartum Services Policy and Procedure
- [R] Postpartum and Newborn Assessment Procedure
- [R] Well Child Clinic Policy
- [R] Well Child Clinic Procedure
Administering Tetanus-Diphtheria Toxoids & Pertussis Vaccine (Td/Tdap) to Adults Procedure
- [R] HIV Outreach and Education Policy

N=new; R=revised; no designation=no changes

BE IT RESOLVED, that the Essex County Board of Supervisors hereby approves, accepts, adopts and places on file, the Quality Improvement Review and Policies and

Procedures for both the Certified Home Health Agency and Preventive Services.

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

Resolution No. 329

October 5, 2009
Regular Board Meeting

**RESOLUTION AUTHORIZING A CONTINUING AGREEMENT
WITH THE NEW YORK STATE DEPARTMENT OF
TRANSPORTATION FOR SECTION 5311 OPERATING
ASSISTANCE FUNDS IN THE SUBMISSION OF THE ANNUAL
GRANT APPLICATION FOR THOSE FUNDS TO PROGRESS AND
COMPLETE THE PROJECT**

The following resolution was offered by Supervisor Blades, 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.

WHEREAS, Essex County has submitted a request for a grant of funds to the New York State Department of Transportation, pursuant to Section 5311, Title 49 United States Code, for a project to provide public mass transportation service for Essex County residents and visitors, with an expansion of services and coordination for the 2008-2009 fiscal years; and

WHEREAS, Essex County and the State of New York have entered into a continuing agreement which authorizes the undertaking of the Project and payment of the Federal Share.

BE IT RESOLVED, that the Chairwoman of the Board of Supervisors and/or its County Manager is hereby authorized to act on behalf of Essex County to sign the application and progress and complete the above project.

BE IT FURTHER RESOLVED, that the Chairwoman of the Essex County Board of Supervisors and/or its County Manager are hereby authorized to act on behalf of Essex County to sign any contracts or agreements between Essex County and any Third Party Sub-Contractor necessary to complete the public transportation project.

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

**RESOLUTION OF CONGRATULATIONS TO THE LANDSCAPE
ARCHITECTURE AND ENGINEERING GROUP FOR RECEIVING
THE UPSTATE CHAPTER OF THE AMERICAN PLANNING
ASSOCIATION 2009 PROFESSIONAL AWARD FOR “PLANNING
EXCELLENCE FOR BEST PRACTICE”**

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

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

WHEREAS, The Landscape Architecture and Engineering Group has prepared and compiled the Adirondack Regional Assessment Report which analyzed the population, resident age, infrastructure, land use, community life, employment, public education and enrollment and other demographic information in the Adirondack Region and paints a powerful picture and will be an invaluable tool for the towns, villages and counties located in the Adirondack Region; and

WHEREAS, the Upstate Chapter of the American Planning Association has awarded The Landscape Architecture and Engineering Group the prestigious Planning Excellence Professional Award for Best Practice for their preparation of this thorough and far reaching report.

BE IT RESOLVED, that the Essex County Board of Supervisors extends its heartiest congratulations to The Landscape Architecture and Engineering Group for receiving the Upstate Chapter of the American Planning Association 2009 Professional Award for “Planning Excellence for Best Practice” and wishes them continued success in their future endeavors.

This resolution was unanimously seconded and adopted.

**RESOLUTION OF APPRECIATION TO
JUNE CURTIS
FOR THE ENTHUSIASTIC SUPPORT PROVIDED TO THE
COMMUNITIES OF ESSEX COUNTY REGARDING THE QUADRI-
CENTENNIAL CELEBRATION**

The following resolution was offered by Supervisors Spooner and Dedrick, who moved its adoption.

Upon the recommendation of the Economic Development/Planning 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 extends its appreciation to June Curtis of the Quadri-Centennial Commission for her enthusiastic support of our Essex County communities and for her tireless and competent work in promoting our towns and villages.

This resolution was unanimously seconded and adopted.

Resolution No. 332

October 5, 2009
Regular Board Meeting

**RESOLUTION AUTHORIZING THE APPOINTMENT OF
DEB ENDSLEY AS INTERIM PUBLIC HEALTH DIRECTOR,
EFFECTIVE OCTOBER 5, 2009, AT A SALARY OF \$75,000.00**

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

Upon the recommendation of the Personnel 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 the following, all to be performed in compliance with, as and if applicable, the Essex County Civil Service Rules and Regulations, and/or the current CSEA Contract and/or the Essex County Personnel Policy Manual:

1. Appoint Deb Endsley as interim Public Health Director effective October 5, 2009 at an annual salary of \$75,000.00.

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. 333

October 5, 2009
Regular Board Meeting

**RESOLUTION RECLASSIFYING A WIC COORDINATOR, A WIC
RN AND A WIC CLERK FROM PART-TIME POSITIONS TO
FULL-TIME POSITIONS USING FUNDS FROM NEW YORK
STATE DEPARTMENT OF HEALTH DIVISION OF NUTRITION
WIC GRANT UNDER THE CONDITIONS THAT IF THE GRANT IS
REDUCED OR ENDS, THE POSITIONS WILL BE RECLASSIFIED
AND RETURNED TO PART-TIME**

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

Upon the recommendation of the Personnel 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 the reclassification of a WIC Coordinator, WIC RN and WIC Clerk from part-time positions to full-time positions, at a cost not to exceed \$14,486.00 using funds from the WIC Grant, provided and on condition that if the grant is reduced or ends or terminates these positions will be reclassified and returned to part-time; and

BE IT FURTHER RESOLVED, the Essex County Board of Supervisors hereby authorizes the execution by its Chairperson and/or County Manager of the grant contract with the New York State Department of Health Division of Nutrition bearing Comptroller Contract No. C-025747 in the amount of \$347,908.00 for the period of October 1, 2009 through September 30, 2014.

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. 334

October 5, 2009
Regular Board Meeting

**RESOLUTION AUTHORIZING THE COUNTY CHAIR AND/OR
COUNTY MANAGER TO ENTER INTO A SUBORDINATION
AGREEMENT SUBORDINATING A \$49,000 MORTGAGE HELD
BY ESSEX COUNTY ON PROPERTY OWNED BY CARL AND
URSULA THOMPSON LOCATED IN THE TOWN OF
TICONDEROGA**

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

Upon the recommendation of the Personnel 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 its County Chairwoman and/or County Manager to execute a subordination agreement subordinating the mortgage held by Essex County, in the principal amount of \$49,000.00 with respect to the property owned by Carl and Ursula Thompson located in the Town of Ticonderoga.

This resolution was duly seconded by Supervisor Scozzafava, and adopted upon a

roll-call vote as follows:

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

Resolution No. 335

October 5, 2009
Regular Board Meeting

**RESOLUTION AUTHORIZING THE COUNTY CHAIR AND/OR
COUNTY MANAGER TO SIGN A MEMORANDUM OF
UNDERSTANDING BETWEEN CSEA AND ESSEX COUNTY
ALLOWING THE HORACE NYE HOME TO ENTER IN A NURSING
PROGRAM WITH THE COLLEGE NETWORK**

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

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

WHEREAS, Essex County has agreed to participate in a program with The College Network to provide online based educational training and instruction for an LPN to RN degree; and

WHEREAS, the program involves the payment by Essex County of all educational training and instruction for Essex County Horace Nye employees who wish to obtain an RN degree in exchange for the employee remaining in the employ of the Horace Nye Home for a period of thirty-six (36) months or, in the alternative, for the forgiveness of the loan which will occur at the rate of \$2.00 for every hour worked whichever comes first commencing on the date that the employee completes the program; and

WHEREAS, Essex County and the Civil Service Employees Association, Inc., Local #100 (CSEA) are desirous of entering into a Memorandum of Understanding (MOU) wherein each party agrees to allow the participation of the employees voluntarily in this program.

BE IT RESOLVED, that the Essex County Board of Supervisors hereby authorizes its County Chairwoman and/or County Manager to sign a Memorandum of Understanding with CSEA allowing the Horace Nye Home to enter into a nursing program with The College Network and allowing Horace Nye Home employees to voluntarily participate in this program upon approval of the terms and conditions by the County Attorney.

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

AYES: 2843 votes
NOES: 0 votes

ABSENT: 0 votes

Resolution No. 336

*October 5, 2009
Regular Board Meeting*

**RESOLUTION AUTHORIZING THE COUNTY CHAIR AND/OR
COUNTY MANAGER TO SIGN A MEMORANDUM
OF UNDERSTANDING WITH CSEA TO ALLOW
ESSEX COUNTY TO SUBCONTRACT WITH
ELIZABETHTOWN COMMUNITY HOSPITAL
FOR NURSING SERVICES AT THE ESSEX COUNTY JAIL**

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

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

WHEREAS, there is currently one full-time registered nurse working at the Essex County jail; and

WHEREAS, because of the increase in the prisoner population, it has become apparent and necessary that Essex County obtain the services of an additional part-time registered professional nurse to work Saturdays and Sundays from 7:00 a.m. to 3:00 p.m. each week in order to cover the 7:00 a.m. to 3:00 p.m. shift not worked by the existing registered nurse and additional licensed practical nurses to cover the 7:00 p.m. through 9:00 p.m. Saturday and Sunday shift and 1:00 p.m. through 9:00 p.m. shift Monday through Friday shift which cannot be covered by the current registered nurse; and

WHEREAS, the County of Essex is desirous of subcontracting with the Elizabethtown Community Hospital for the provision of registered nurses to fill in for the present registered nurse during these times; and

WHEREAS, Essex County and the Civil Service Employees Association, Inc., Local #100 (CSEA) have deemed it prudent to enter into a Memorandum of Understanding (MOU) wherein CSEA agrees to allow the County to subcontract with the Elizabethtown Community Hospital for these services.

BE IT RESOLVED, that the Essex County Board of Supervisors hereby authorizes its County Chairwoman and/or County Manager to enter into and sign a Memorandum of Understanding with CSEA to allow Essex County to subcontract with Elizabethtown Community Hospital for nursing services at the Essex County jail upon approval of the terms and conditions by the County Attorney.

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

AYES: 2737 votes
NOES: 0 votes
ABSENT: 0 votes

ABSTAIN: 106 votes (Merrihew)

Resolution No. 337

October 5, 2009
Regular Board Meeting

**RESOLUTION OF APPRECIATION TO BARBARA BRASSARD
FOR THE MANY YEARS OF DEDICATED SERVICE AS THE
ESSEX COUNTY EMPIRE ZONE COORDINATOR**

The following resolution was offered by Supervisors Scozzafava and Dedrick, who moved its adoption.

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

WHEREAS, since 2003, Barbara Brassard has been the Essex County Empire Zone Coordinator during which time she has conscientiously, tirelessly and with the highest degree of professionalism helped to establish, expand, monitor and coordinate the Essex County Empire Zone for the County of Essex; and

WHEREAS, this Board wishes to extend its appreciation to Barbara Brassard for all of her service to Essex County.

BE IT RESOLVED, that the Essex County Board of Supervisors, its Clerk of the Board, County Manager and County Attorney hereby extend their deep appreciation and thanks to Barbara Brassard for her outstanding, dedicated, exemplary, conscientious and diligent public service to the people of Essex County as the Essex County Empire Zone Coordinator; and

BE IT FURTHER RESOLVED, that the Essex County Board of Supervisors extends its congratulations and best wishes to Barbara Brassard upon her new position as Director of the Chamber of Commerce in Ticonderoga, New York and wishes her continued best wishes and success in her future endeavors.

This resolution was unanimously seconded and adopted.

Resolution No. 338

October 5, 2009
Regular Board Meeting

**RESOLUTION AUTHORIZING THE PAYMENT OF \$4,500 TO
FISCAL ADVISORS FOR RENEWAL OF A BOND ANTICIPATION
NOTE TO COME FROM BUDGETED FUNDS**

The following resolution was offered by Supervisor McSweeney, 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 the Essex County Board of Supervisors hereby authorizes the payment of \$4,500.00 to Fiscal Advisors for the renewal of a Bond Anticipation Note which monies are to come from budgeted funds.

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

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

Resolution No. 339

October 5, 2009
Regular Board Meeting

**RESOLUTION OF APPRECIATION TO
MARGARET GIBBS
FOR ALL OF HER SUPPORT AND ASSISTANCE TO THE
COMMUNITIES OF ESSEX COUNTY REGARDING THE
QUADRI-CENTENNIAL CELEBRATION**

The following resolution was offered by Supervisors Spooner, Dedrick and Connell, who moved its adoption.

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

BE IT RESOLVED, that the Essex County Board of Supervisors hereby wishes to extend its appreciation to Margaret Gibbs for all of her support and assistance to the communities of Essex County regarding the Quadri-Centennial celebration and for all of her hard work in helping to make this celebration the special event that it is.

This resolution was unanimously seconded and adopted.

Resolution No. 340

October 5, 2009
Regular Board Meeting

**RESOLUTION REQUESTING THAT COMMISSIONER GRANNIS
AND THE NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION RECONSIDER THEIR
OPPOSITION TO CONTROLLED BURNING SITES IN ESSEX
COUNTY TOWNSHIPS**

The following resolution was offered unanimously.

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

WHEREAS, it has come to the attention of this Board that the New York State Department of Environmental Conservation as of October 1, 2009, will no longer permit towns and villages to openly burn brush and wood products in their town burning pits and that licenses and renewals will not longer be honored; and

WHEREAS, although towns and villages will not longer be able to openly burn in their town or village burning pits, residents of the state will still be able to burn brush upon obtaining a permit from the New York State Department of Environmental Conservation; and

WHEREAS, this Board strongly feels that the open burning in town, village and County burning pits used by residents of these towns and villages is much safer and more efficient than the open burning of brush by individuals under an individual permit and that to discontinue allowing the towns and villages to use their open burning pits is a safety and health hazard and will cause economic hardship of the residents of these towns and villages.

BE IT RESOLVED that the Essex County Board of Supervisors hereby vehemently and with strong conviction opposes any ban on the open burning of brush or other wood materials in town, village and County burning pits and supports the past practice allowed through the permit process; and

BE IT FURTHER RESOLVED, that this resolution supplements Resolution No. 63 dated March 3, 2008, a copy of which is attached; 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 the New York State Department of Environmental Conservation, Governor David Paterson, New York Senate Majority Leader Malcolm A. Smith, Assembly Speaker Sheldon Silver, Assembly Minority Leader Brian Kolb, Senator Elizabeth O’C. Little, Assemblywoman Teresa R. Sayward and Assemblywoman Janet Duprey.

This resolution was unanimously seconded and adopted.

Resolution No. 341

October 5, 2009
Regular Board Meeting

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

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

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

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

County, P.I.N. 1754.96 (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 ration 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 Preliminary Engineering and Right of Way Incidentals and Acquisition.

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

RESOLVE, that the Board hereby approved the above-subject project ;and it is hereby further

RESOLVED, that the Essex County Board of Supervisors 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 and Acquisition work for the Project or portions thereof; and it is further

RESOLVED that the sum of \$975,295.00 (Nine Hundred Seventy-Five Thousand Two Hundred Ninety-five Dollars and No Cents) (\$793,025.00 for Preliminary Engineering and \$182,270.00 for Right of Way Incidentals) has already been appropriated from the County Road Fund and made available to cover the cost of participation in the Preliminary Engineering and Right of Way Incidentals phases of the Project; and it is further

RESOLVED, that the additional sum of \$344,599.60 (Three Hundred Forty-Four Thousand Five Hundred Ninety Nine Dollars and sixty cents) is hereby appropriated from H52154 5445OMR and made available to cover the cost of participation in the Right of Way Acquisition phase 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 Essex County Board of Supervisors 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 Chairwoman 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 therefore 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, that this Resolution take effect immediately.

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

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

Resolution No. 342

October 5, 2009
Regular Board Meeting

**RESOLUTION AUTHORIZING THE COUNTY CHAIRPERSON
AND/OR COUNTY MANAGER TO EXECUTE A RELEASE AND
INDEMNITY AGREEMENT WITH CHAMPLAIN NATIONAL
BANK AND TO PAY OVER TO CHAMPLAIN NATIONAL BANK
THE SUM OF \$29,783.85 UPON THE EXECUTE OF THE
RELEASE AND INDEMNITY AGREEMENT AND THE
DELIVERY OF AN ATTORNEY'S OPINION**

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

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

WHEREAS, Essex County and Pyramids Child Development Center and/or Dorsett-Felicelli, Inc. (collectively referred to as "Pyramids") have entered into a contract for services to be rendered to the Essex County Public Health Department for the year 2008; and

WHEREAS, the rates charged by Pyramids and paid by Essex County under the terms and conditions of that contract were readjusted downward by the New York State Department of Health which resulted in an overpayment by Essex County of \$30,008.27 to Pyramids; and

WHEREAS, Essex County was attempting to recoup this overpayment, however Pyramids filed for Chapter 11 Bankruptcy protection resulting in an automatic stay preventing the County from recouping its overpayment; and

WHEREAS, pursuant to the Bankruptcy Order of the United States Bankruptcy Court for the Northern District of New York dated February 11, 2009, Essex County was authorized to set off \$16,000.00 of money owed the debtor for Essex County's benefit and the additional \$14,082.70 owed Essex County was to be paid in equal monthly installments over a five year period at interest at 6.5%; and

WHEREAS, pursuant to the Bankruptcy Order of the United States Bankruptcy Court for the Northern District of New York dated July 2, 2009, Clinton County and Essex County and other various counties and school districts conducting business with Pyramids Child Development Center were ordered to forward all monies due Pyramids to Champlain

National Bank; and

WHEREAS, Essex County and Champlain National Bank have agreed that from the \$43,866.55 which Essex County owes Pyramids, Essex County may deduct and setoff the \$14,082.70 owed it as overpayment and remit the balance of \$29,783.85 directly to Champlain National Bank.

BE IT RESOLVED, that the Essex County Board of Supervisors hereby authorizes the payment of \$29,783.85 to Champlain National Bank pursuant to the Order of the United States Bankruptcy Court for the Northern District of New York dated July 2, 2009 and pursuant to the chattel mortgage and UCC filing and perfected security interest held by Champlain National Bank from all accounts receivable due Pyramids Child Development Center upon the execution of the Release Indemnity Agreement and the delivery of the attorney's opinions agreement to the Essex County Attorney; and

BE IT FURTHER RESOLVED that the Essex County Board of Supervisors further authorizes its County Chairperson and/or County Manager to execute the release and indemnity agreement on behalf of Essex County.

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

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

Resolution No. 343
Amended

October 5, 2009
Regular Board Meeting

**RESOLUTION AUTHORIZING THE COUNTY CHAIR AND/OR
COUNTY MANAGER TO EXECUTE A MEMORANDUM
OF UNDERSTANDING WITH CIVIL SERVICE EMPLOYEES
ASSOCIATION (CSEA) TO MODIFY, AMEND AND SUPPLEMENT
ARTICLE 7 - SICK LEAVE, ARTICLE 10 - PERSONAL LEAVE,
ARTICLE 11 - VACATION AND ARTICLE 34 - PREMIUM
ENHANCEMENT PROGRAMS AS CONTAINED IN THE CURRENT
COLLECTIVE BARGAINING AGREEMENT ENTERED INTO
BETWEEN ESSEX COUNTY AND CSEA FOR THE PERIOD
JANUARY 1, 2009 THROUGH DECEMBER 31, 2012 AND
MODIFYING THE CORRESPONDING PROVISIONS CONTAINED
IN THE ESSEX COUNTY POLICY MANUAL AS THEY RELATE TO
ALL EMPLOYEES OF ESSEX COUNTY TO PROVIDE FOR
EMERGENCY CONTINGENCIES RESULTING FROM THE H1N1
INFLUENZA VIRUS**

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

adoption.

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

WHEREAS, the United States Department of Health and Human Services (HHS) Center for Disease Control and Prevention (CDC) has declared a worldwide pandemic involving the H1N1 influenza virus and has further determined that to protect the health, safety and welfare of all County employees and the public, and to prevent the spread of the H1N1 influenza throughout the County workforce, it will be necessary to amend and supplement Articles 7, 10, 11 and 34 of the current Collective Bargaining Agreement and supplement the corresponding provisions of the Essex County Policy Manual and to enter into a Memorandum of Understanding with CSEA relative to these amendments; and

WHEREAS, a draft MOU dated October 5th, 2009 has been presented to this Board.

BE IT RESOLVED, that the Essex County Board of Supervisors authorizes the County Chair and/or County Manager to execute a Memorandum of Understanding with Civil Services Employees Association (CSEA) to modify, amend and supplement Article 7 - Sick Leave, Article 10 - Personal Leave, Article 11 - Vacation and Article 34 - Premium Enhancement Programs as contained in the current Collective Bargaining Agreement entered into between Essex County and CSEA for the period January 1, 2009, through December 31, 2012 and authorizes the modification of the corresponding provisions contained in the Essex County Policy Manual as they relate to all employees of Essex County; and

BE IT FURTHER RESOLVED, that the terms and conditions of the temporary changes to the Essex County Policy Manual and the CSEA/Essex County MOU shall remain in full force and effect until such time as the Center for Disease Control decides the H1N1 pandemic declaration and the New York State Department of Health Commissioner have determined that the danger to the health and welfare of the citizens of New York State from the H1N1 virus has subsided or in the event that Essex County unilaterally desires to terminate the MOU and remove the amendments and modifications to the Policy Manual.

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

AYES: **2395 votes**
NOES: **448 votes (Blades, Scozzafava)**
ABSENT: **0 votes**

Resolution No. 344

October 5, 2009
Regular Board Meeting

**RESOLUTION URGING THE STATE LEGISLATURE TO AMEND
THE VEHICLE AND TRAFFIC LAW AS IT PERTAINS TO TEXT
MESSAGING**

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

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

WHEREAS, the proliferation of communication devices that service phones, cameras, MP3's, internet access and text messengers combined into one have proven to be a significant distraction and danger on the road and their use while driving have resulted in numerous accidents, many of them fatal nationwide; and

WHEREAS, text messaging while driving decreases the driver's awareness and safety on the road, effecting reaction time; and

WHEREAS, studies have shown that drivers that use these devices behind the wheel dramatically increase their chances of being in or causing a traffic accident and the use of these devices while driving have created a nationwide epidemic in the increase in traffic fatalities; and

WHEREAS, NYS has recently passed Section 1225-d of the Vehicle and Traffic Law entitled "Use of Portable Electronic Devices" prohibiting the use of such portable electronic devices while such vehicle is in motion; and

WHEREAS, while the passage of this important and badly needed law is laudable, the law is severely deficient in that it requires that a Summons for operating a motor vehicle in violation of the law only be issued when there is reasonable cause to believe that the person operating the motor vehicle has committed an additional violation of the laws of the State of New York over and above violating Section 1225-d; and

WHEREAS, this Board is disappointed that the State Legislature chose to condition the offense of operating a portable electronic device while driving upon additional reasonable cause to believe that a person operating a motor vehicle has committed a separate violation of the laws of the State of New York as this provision inhibits the prosecution under this law unless the component of an additional violation is found.

BE IT RESOLVED, that the Essex County Board of Supervisors hereby strongly requests that the New York State Legislature amend Section 1225-d(6) to remove the language which states: "Provided, however, that a Summons for the operation of a motor vehicle in violation of this Section shall only be issued when there is reasonable cause to believe that the person operating such motor vehicle has committed a violation of the laws of this State other than a violation of this Section" as this qualifying language severely inhibits and prevents the proper enforcement of Section 1225-D of the Vehicle and Traffic Law.

BE IT FURTHER RESOLVED that a copy of this Resolution shall be forwarded to Governor David Paterson, New York Senate Majority Leader Malcolm A. Smith, Assembly Speaker Sheldon Silver, Assembly Minority Leader Brian Kolb, Senator Elizabeth O'C. Little, Assemblywoman Teresa R. Sayward and Assemblywoman Janet Duprey.

This resolution was duly seconded by Supervisor Politi and adopted.

**RESOLUTION OF SUPPORT FOR NYS ASSEMBLY BILL S.6146
AND ASSEMBLY BILL A.9139 - PHARMACY REIMBURSEMENT
OF BRAND NAME DRUGS**

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

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

WHEREAS, as the result of a United States District Court Ruling effective September 26, 2009, one of the formulas used to calculate pharmacy reimbursement for eight thousand brand name medications has been adjusted downward resulting in a four percent (4%) decrease in reimbursement to pharmacies for all public health program brand name drugs provided for by NYS Medicaid, Epic, Family/Child Health Plus and the Aids Drug Assistance Program; and

WHEREAS, local pharmacies will pay more for these medications than they receive from the State in reimbursement which will eliminate their operating margin to pay their staff, equipment and facility overhead and will cause most NYS retail pharmacies to consider not filling for the NYS Prescription Plans; and

WHEREAS, our local pharmacies can not afford to give up this portion of their patient base and are acutely aware that most patients can not afford to lose access to their local pharmacies; and

WHEREAS, the NYS Senate has already passed Senate Bill S.6146 to amend the Social Services Law and the Elder Law to change the benchmark used to determine pharmacy reimbursement for brand name drugs under Public Health Care Programs from Average Wholesale Price or its equivalent using Wholesale Acquisition Costs and Assembly Bill A.9139 has been introduced in the NYS Assembly and co-sponsored by Assemblywoman Teresa Sayward.

BE IT RESOLVED, that the Essex County Board of Supervisors hereby adamantly and forcefully supports the intent of Senate Bill S.6146 and Assembly Bill A.9139 and respectfully request that the Senate and Assembly pass the same and that the Governor sign them into law immediately as to wait may cause irreparable damage and loss to our local retail pharmacies.

BE IT FURTHER RESOLVED that a copy of this Resolution shall be forwarded to Governor David Paterson, New York Senate Majority Leader Malcolm A. Smith, Assembly Speaker Sheldon Silver, Assembly Minority Leader Brian Kolb, Senator Elizabeth O'C. Little, Assemblywoman Teresa R. Sayward and Assemblywoman Janet Duprey.

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

Regular Board Meeting

**RESOLUTION ADOPTING LOCAL LAW NO. 4 OF 2009 ENTITLED
“LOCAL LAW NO. 4 OF THE YEAR 2009 - A LOCAL LAW
CONTINUING THE IMPOSITION OF AN ADDITIONAL MORTGAGE
TAX IN ESSEX COUNTY**

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

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

WHEREAS, by Resolution No. 319 duly adopted at a Regular Board Meeting held on the 8th day of September, 2009, this Board of Supervisors introduced Local Law No. 4 of 2009 entitled “Local Law No. 4 of the year 2009 - a Local Law continuing the imposition of an additional mortgage tax in Essex County”, and scheduled a public hearing thereon on the 28th day of September, 2009, at 9:15 o’clock in the forenoon of that day, to hear any and all persons concerning the same; and

WHEREAS, such Local Law, in its final form, has been placed on the desks or tables of all members of the Board of Supervisors for a period of seven (7) or more days, exclusive of Sunday, before any action was taken thereon, and

WHEREAS, the aforesaid public hearing has been held by this Board, and due deliberation having been had regarding said proposed Local Law and the comments made with respect thereto at said public hearing.

BE IT RESOLVED that the Essex County Board of Supervisors hereby adopts Local Law No. 4 of 2009 entitled “Local Law No. 4 of the year 2009 - a Local Law continuing the imposition of an additional mortgage tax in Essex County”, such Local Law reading and providing as follows:

ESSEX COUNTY LOCAL LAW NO. 4 of 2009

A local law continuing the imposition of an additional mortgage tax in Essex County.

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

SECTION 1.

Upon the expiration of Local Law No. 4 of 2006, and pursuant to the provisions of Section 253-j of the Tax Law, for the period commencing December 1, 2009, and ending December 1, 2012, unless further extended by local law of the Board of Supervisors, there is hereby imposed in Essex County a tax of twenty-five cents (\$0.25) for each one hundred dollars (\$100.00) and each remaining major fraction thereof of principal debt or obligation which is or under any contingency may be secured at the date of execution thereof, or at any time thereafter, by a mortgage on real property situated within such County and recorded on or after the date upon which such tax takes effect and a tax of twenty-five cents (\$0.25) on such mortgage if the principal debt or obligation which is or by any contingency may be secured by such mortgage is less than one hundred dollars (\$100.00).

SECTION 2.

The taxes imposed under the authority of Section 253-j and this Local Law shall be administered and collected in the same manner as the taxes imposed under subdivision one of section two hundred fifty-three and paragraph (b) of subdivision one of section two hundred fifty-five of the Tax Law. Except as otherwise provided in Section 253-j of the Tax Law, all the provisions of the Tax Law relating to or applicable to the administration and collection of the taxes imposed by such subdivisions shall apply to the taxes imposed under the authority of Section 253-j of the Tax Law with such modifications as may be necessary to adapt such language to the tax so authorized. Such provisions shall apply with the same force and effect as if those provisions had been set forth in full in Section 253-j of the Tax Law except to the extent that any provision is either inconsistent with a provision of Section 253-j of the Tax Law or not relevant to the tax authorized by Section 253-j of the Tax Law. For purposes of Section 253-j of the Tax Law, any reference in the Tax Law to the tax or taxes imposed by the Tax Law shall be deemed to refer to a tax imposed pursuant to Section 253-j of the Tax Law, and any reference to the phrase "within this state" shall be read as "within Essex County", unless a different meaning is clearly required.

SECTION 3.

Where the real property covered by the mortgage subject to the tax imposed pursuant to the authority of *Section 253-j of the Tax Law* is situated in this state but within and without Essex County, the amount of such tax due and payable to Essex County shall be determined in a manner similar to that prescribed in the first undesignated paragraph of section two hundred sixty of the Tax Law which concerns real property situated in two or more counties. Where such property is situated both within Essex County and without the state, the amount due and payable to Essex County shall be determined in the manner prescribed in the second undesignated paragraph of such section two hundred sixty which concerns property situated within and without the state. Where real property is situated within and without Essex County, the recording officer of the jurisdiction in which the mortgage is first recorded shall be required to collect the taxes imposed pursuant to this section.

SECTION 4.

The tax imposed pursuant to the authority of *Section 253-j of the Tax Law* and this Local Law shall be in addition to the taxes imposed by section two hundred fifty-three of the Tax Law.

SECTION 5.

Notwithstanding any provision of the Tax Law to the contrary, the balance of all moneys paid to the recording officer of the County of Essex during each month upon account of the tax imposed pursuant to the authority of *Section 253-j of the Tax Law*, after deducting the necessary expenses of his or her office as provided in section two hundred sixty-two of the Tax Law, except taxes paid upon mortgages which under the provisions of this section or section two hundred sixty of the Tax Law are first to be apportioned by the Commissioner, shall be paid over by such officer on or before the tenth day of each succeeding month to the Treasurer of Essex County and, after the deduction by such Treasurer of the necessary expenses of his or her office provided in section two hundred sixty-two of the Tax Law shall be deposited in the general fund of the County of Essex for expenditure on all expenses incurred by such County for County correctional and public safety facility projects. Notwithstanding the provisions of the preceding sentence, the tax so imposed and paid upon mortgages covering real property situated in two or more counties, which under the provisions of *Section 253-j of the Tax Law* or section two hundred sixty of the Tax Law are first to be apportioned by the Commissioner of Taxation and Finance, shall be paid over by the recording officer receiving the same as provided by the determination of the

Commissioner of Taxation and Finance.

SECTION 6.

The tax imposed pursuant to this Local Law shall be payable on the recording of each mortgage of real property subject to taxes thereunder. Such tax shall be paid to the recording officer of the County in which the real property or any part thereof is situated, except where real property is situated within and without the County, the recording officer of the County in which the mortgage is first recorded shall collect the tax imposed by this local law, as required by the Tax Law. It shall be the duty of such recording officer to endorse upon each mortgage a receipt for the amount of the tax so paid. Any mortgage so endorsed may thereupon or thereafter be recorded by any recording officer and the receipt for such tax endorsed upon each mortgage shall be recorded therewith. The record of such receipt shall be conclusive proof that the amount of tax stated therein has been paid upon such mortgage.

SECTION 7.

This Local Law shall take effect only on the first day of a calendar month, provided a certified copy thereof is mailed by registered or certified mail to the New York State Commissioner of Taxation and Finance at the Commissioner's Office in Albany at least thirty days prior to the date the local law shall take effect. Certified copies of this local law shall also be filed with the County Clerk of the County of Essex, the Secretary of State and the State Comptroller within five (5) days after the local law is duly enacted.

SECTION 8.

This Local Law shall take effect on December 1, 2009, and shall expire and be deemed repealed on December 1, 2012.

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

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

Resolution No. 347

October 5, 2009
Regular Board Meeting

**RESOLUTION ADOPTING LOCAL LAW NO. 5 OF 2009 ESSEX
COUNTY ADDITIONAL REAL ESTATE TRANSFER TAX**

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

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

WHEREAS, by Resolution No. 322 duly adopted at the Regular Board Meeting held on September 8, 2009, this Board of Supervisors introduced Local Law No. 5 of 2009, "Additional Real Estate Transfer Tax", and scheduled a public hearing thereon on September 28, 2009 at 9:30 o'clock in the forenoon of that day, to hear any and all persons concerning the same; and

WHEREAS, the aforesaid public hearing has been held by this Board, and due deliberation having been had regarding said proposed local law and the comments made with respect thereto at said public hearing.

BE IT RESOLVED that the Essex County Board of Supervisors hereby adopts proposed Local Law No. 5 of 2009 entitled “Local Law No. 5 of the year 2009 - Essex County Additional Real Estate Transfer Tax” reading and providing as follows:

ESSEX COUNTY LOCAL LAW NO. 5 of 2009

A local law imposing additional real estate transfer tax in Essex County.

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

ESSEX COUNTY ADDITIONAL REAL ESTATE TRANSFER TAX

Section

1. Title & Statement of Intent
2. Definitions
3. Imposition of Tax
4. Payment of Tax
5. Liability for Tax
6. Exemptions
7. Credit
8. Cooperative Housing Corporation Transfers
9. Designations of Agents
10. Liability of Recording Officer
11. Refunds
12. Deposit and Disposition of Revenue
13. Judicial Review
14. Apportionment
15. Determination of Tax
16. Returns to be Secret
17. Effective Date

Section 1. Title & Statement of Intent.

This local law shall be known as the “Essex County Additional Real Estate Transfer Tax”. The intent of this local law is to provide for the imposition and collection of a tax on each conveyance of real property or interest therein when the consideration exceeds \$500.00, at the rate of \$1.00 for each \$500.00 or fractional part thereof. The purpose of this local law is to help alleviate the fiscal challenges the County of Essex is currently facing by providing an alternative source of revenue to fund the new Essex County Public Safety Radio Communication System. Essex County has been authorized by the NYS Legislature, pursuant to McKinneys Article 31-B-1 of the Tax Law to enact this local law to impose an additional transfer tax on the conveyance of real property within

the County.

Section 2. Definitions.

When used in this article, unless otherwise expressly states:

1. "Person" means an individual, partnership, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, any combination of individuals, and any other form of unincorporated enterprise owned or conducted by two or more persons.
2. "Controlling interest" means (a) in the case of a corporation, either fifty percent or more of the total combined voting power of all classes of stock of such corporation, or fifty percent or more of the capital, profits or beneficial interest in such voting stock of such corporation, and (b) in the case of a partnership, association, trust or other entity, fifty percent or more of the capital, profits or beneficial interest in such partnership, association, trust or other entity.
3. "Real property" means every estate or right, legal or equitable, present or future, vested or contingent, in lands, tenements or hereditaments, including buildings, structures and other improvements thereon, which are located in whole or in part within the County of Essex. It shall not include rights to sepulture.
4. "Consideration" means the price actually paid or required to be paid for the real property or interest therein, including payment for an option or contract to purchase real property, whether or not expressed in the deed and whether paid or required to be paid by money, property, or any other thing of value. It shall include the cancellation or discharge of an indebtedness or obligation. It shall also include the amount of any mortgage, purchase money mortgage, lien or other encumbrance, whether or not the underlying indebtedness is assumed or taken subject to.
 - (a) In the case of a creation of a leasehold interest or the granting or an option with use and occupancy of real property, consideration shall include, but not be limited to, the value of the rental and other payments attributable to the use and occupancy of the real property or interest therein, the value of any amount paid for an option to purchase or renew and the value of rental or other payments attributable to the exercise of any option to renew.
 - (b) In the case of a creation of a subleasehold interest, consideration shall include, but not be limited to, the value of the sublease rental payments attributable to the use and occupancy of the real property, the value of any amount paid for an option to renew and the value of rental or other payments attributable to the exercise of any option to renew less the value of the remaining prime lease rental payments required to be made.
 - (c) In the case of a controlling interest in any entity that owns real property, consideration shall mean the fair market value of the real property or interest therein, apportioned based on the percentage of the ownership interest transferred or acquired in the entity.
 - (d) In the case of an assignment or surrender of a leasehold interest or the assignment or surrender of an option or contract to purchase real property,

consideration shall not include the value of the remaining rental payments required to be made pursuant to the terms of such lease or the amount to be paid for the real property pursuant to the terms of the option or contract being assigned or surrendered.

- (e) In the case of (1) the original conveyance of shares of stock in a cooperative housing corporation in connection with the grant or transfer of a proprietary leasehold by the cooperative corporation or cooperative plan sponsor and (2) the subsequent conveyance by the owner thereof of such stock in a cooperative housing corporation in connection with the grant or transfer of a proprietary leasehold for a cooperative unit other than an individual residential unit, consideration shall include a proportionate share of the unpaid principal of any mortgage on the real property of the cooperative housing corporation comprising the cooperative dwelling or dwellings. Such share shall be determined by multiplying the total unpaid principal of the mortgage by a fraction, the numerator of which shall be the number of shares of stock being conveyed in the cooperative housing corporation in connection with the grant or transfer of a proprietary leasehold and the denominator of which shall be the total number of shares of stock in the cooperative housing corporation.
5. “Conveyance” means the transfer or transfers of any interest in real property by any method, including but not limited to, sale, exchange, assignment, surrender, mortgage foreclosure, transfer in lieu of foreclosure, option, trust indenture, taking by eminent domain, conveyance upon liquidation or by a receiver, or transfer or acquisition of a controlling interest in any entity with an interest in real property. Transfer of an interest in real property shall include the creation of a leasehold or sublease only where (a) the sum of the term of the lease or sublease and any options for renewal exceeds forty-nine years, (b) substantial capital improvements are or may be made by or for the benefit of the lessee or sublessee, and (c) the lease or sublease is for substantially all of the premises constituting the real property. Notwithstanding the foregoing, conveyance of real property shall not include the creation, modification, extension, spreading, severance, consolidation, assignment, transfer, release or satisfaction of a mortgage; a mortgage subordination agreement, a mortgage severance agreement, an instrument given to perfect or correct a recorded mortgage; or a release of lien of tax pursuant to this chapter or the internal revenue code.
 6. “Interest in the real property” includes title in fee, a leasehold interest, a beneficial interest, an encumbrance, development rights, air space and air rights, or any other interest with the right to use or occupancy of real property or the right to receive rents, profits or other income derived from real property. It shall also include an option or contract to purchase real property. It shall not include a right of first refusal to purchase real property.
 7. “Grantor” means the person making the conveyance of real property or interest therein. Where the conveyance consists of a transfer or an acquisition of a controlling interest in an entity with an interest in real property, “grantor” means the entity with an interest in real property or a shareholder or partner transferring stock

- or partnership interest.
8. "Grantee" means the person who obtain real property or interest therein as a result of a conveyance.
 9. "Recording officer" means the County Clerk of the County of Essex.
 10. "Treasurer" means the treasurer of the County of Essex.

Section 3. Imposition of Tax.

Pursuant to Article 31-A-2 of the Tax Law, the County of Essex, acting through its local legislative body, hereby imposes a tax on each conveyance of real property or interest therein when the consideration exceeds five hundred dollars, at the rate of one dollar for each five hundred dollars or fractional part thereof. This local law shall apply to any conveyance occurring on or after January 1, 2010, but shall not apply to conveyances made on or after January 1, 2010 pursuant to binding written contracts entered into prior to such date, provided that the date of execution of such contract is confirmed by independent evidence such as the recording of the contract, payment of a deposit or other facts and circumstances as determined by the treasurer.

Section 4. Payment of Tax.

1. The real estate transfer tax imposed pursuant to this article shall be paid to the recording officer acting as the agent of the treasurer upon designation as such agent by the treasurer. Such tax shall be paid at the same time as the real estate transfer tax imposed by Article Thirty-One of the Tax Law is required to be paid. Such treasurer or recording officer shall endorse upon each deed or instrument effecting a conveyance a receipt for the amount of the tax so paid.
2. A return shall be filed with such recording officer for purposes of the real estate transfer tax imposed pursuant to this local law at the same time as a return is required to be filed for purposes of the real estate transfer tax imposed by Article Thirty-One of the tax law. The return, for purposes of the real estate transfer tax imposed pursuant to the local law, shall be a photocopy or carbon copy of the real estate transfer tax return required to be filed pursuant to Section Fourteen Hundred nine of Article Thirty One of the Tax Law. However, when an apportionment is required to be made pursuant to Section Fourteen of this local law, a supplemental form shall be filed. The real estate transfer tax return and supplemental form required to be filed pursuant to this local law shall be preserved for three years and thereafter until such treasurer or recording officer orders them to be destroyed.
3. The recording officer shall not record an instrument effecting a conveyance unless the return required by this local law has been filed and the tax imposed pursuant to this local law shall have been paid as provided in this local law.

Section 5. Liability for Tax.

1. The real estate transfer tax shall be paid by the grantor. If the grantor has failed to pay the tax imposed pursuant to this local law or if the grantor is exempt from such tax, the grantee shall have the duty to pay the tax. Where the grantee has the duty

to pay the tax because the grantor has failed to pay, such tax shall be the joint and several liability of the grantor and the grantee.

2. For the purpose of the proper administration of this local law and to prevent evasion of the tax hereby authorized, it shall be presumed that all conveyances are taxable. Where the consideration includes property other than money, it shall be presumed that the consideration is the fair market value of the real property or interest therein. These presumptions shall prevail until the contrary is proven, and the burden of proving the contrary shall be on the person liable for payment of the tax.

Section 6. Exemptions.

1. The following shall be exempt from payment of the real estate transfer tax:
 - (a) The State of New York, or any of its agencies, instrumentalities, political subdivisions, or public corporations (including a public corporation created pursuant to agreement or compact with another state or the Dominion of Canada).
 - (b) The United Nations, the United States of America and any of its agencies and instrumentalities. The exemption of such governmental bodies or persons shall not, however, relieve a grantee from them of liability for the tax.
2. The tax shall not apply to any of the following conveyances:
 - (a) Conveyances to the United Nations, the United States of America, the State of New York, or any of their instrumentalities, agencies or political subdivisions (or any public corporation, including a public corporation created pursuant to agreement or compact with another state or the Dominion of Canada);
 - (b) Conveyances which are or were used to secure a debt or other obligation;
 - (c) Conveyance which, without additional consideration, confirm, correct, modify or supplement a prior conveyance;
 - (d) Conveyances of real property without consideration and otherwise than in connection with a sale, including conveyances conveying realty as bona fide gifts;
 - (e) Conveyances given in connection with a tax sale;
 - (f) Conveyances to effectuate a mere change of identity or form of ownership or organization where there is no change in beneficial ownership, other than conveyances to a cooperative housing corporation of the real property comprising the cooperative dwelling or dwellings;
 - (g) Conveyances which consist of a deed of partition;
 - (h) Conveyances given pursuant to the federal bankruptcy act;
 - (i) Conveyances of real property which consist of the execution of a contract to sell real property without the use or occupancy of such property or the granting of an option to purchase real property without the use of occupancy of such property; and
 - (j) Conveyances of an option or contract to purchase real property with the use or occupancy of such property where the consideration is less than two hundred thousand dollars and such property was used solely by the grantor

as his personal residence and consists of a one, two or three family house, an individual residential condominium unit or the sale of stock in a cooperative housing corporation in connection with the grant or transfer of a proprietary leasehold covering an individual residential cooperative unit.

Section 7. Credit.

A grantor shall be allowed a credit against the tax due on a conveyance of real property to the extent tax was paid by such grantor on a prior creation of a leasehold of all or a portion of the same real property or on the granting of an option or contract to purchase all or a portion of the same real property, by such grantor. Such credit shall be computed by multiplying the tax paid on the creation of the leasehold or on the granting of the option or contract by a fraction, the numerator of which is the value of the consideration used to compute such tax paid which is not yet due to such grantor on the of the subsequent conveyance (and which such grantor will not be entitled to receive after such date), and the denominator of which is the total value of the consideration used to compute such tax paid.

Section 8. Cooperative Housing Corporation Transfers.

1. Notwithstanding the definition of “controlling interest” contained in Section 2(2) of this local law or anything the contrary contained in Section 2(5) of this local law, the tax imposed pursuant to this local law shall apply to (a) the original conveyance of shares of stock in a cooperative housing corporation in connection with the grant or transfer of a proprietary leasehold by the cooperative corporation or cooperative plan sponsor, and (b) the subsequent conveyance of such stock in a cooperative housing corporation in connection with the grant or transfer of a proprietary leasehold by the owner thereof. With respect to any such subsequent conveyance where the property is an individual residential unit, the consideration for the interest conveyed shall exclude the value of any liens on certificates of stock or other evidences of an ownership interest in a proprietary lease from a corporation or partnership formed for the purpose of cooperative ownership of residential interest in real estate remaining thereon at the time of conveyance. In determining the tax on a conveyance described in paragraph (a) of this subdivision, a credit shall be allowed for a proportionate part of the amount of any tax paid upon the conveyance to the cooperative housing corporation of the real property comprising the cooperative dwelling or dwellings to the extent that such conveyance effectuated a mere change of identity or forms of ownership of such property and not a change in the beneficial ownership of such property. The amount of the credit shall be determined by multiplying the amount of tax paid upon the conveyance to the cooperative housing corporation by a percentage representing the extent to which such conveyance effectuated a mere change of identity or form of ownership and not a change in the beneficial ownership of such property, and then multiplying the resulting product by a fraction, the numerator of which shall be the number of shares of stock conveyed in a transaction described in paragraph (a) of this subdivision and the denominator of which shall be the total number of shares of stock of the cooperative housing

corporation (including any stock held by the corporation). In no event, however, shall such credit reduce the tax, on a conveyance described in paragraph (a) of this subdivision, below zero, nor shall any such credit be allowed for a tax paid more than twenty-four months prior to the date on which occurs the first in a series of conveyances of shares of stock in an offering of cooperative housing corporation shares described in paragraph (a) of this subdivision.

2. Every cooperative housing corporation shall be required to file an information return with the treasurer by July 15th of each year covering the preceding period of January 1st through June 30th and by January 15th of each year covering the preceding period of July 1st through December 31st. The return shall contain such information regarding the conveyance of shares of stock in the cooperative housing corporation as the treasurer may deem necessary but not limited to, the names, addresses and employee identification numbers or social security numbers of the grantor and the grantee, the number of shares conveyed, the date of the conveyance and the consideration paid for such conveyances.

Section 9. Designation of Agents.

The treasurer designates the recording officer to act as its agent for purposes of collecting the tax authorized by the local law. The treasurer shall provide for the manner in which such person may be designated as its agent subject to such terms and conditions as it shall prescribe. The real estate transfer tax shall be paid to such agent as provided in section four of this local law.

Section 10. Liability of Recording Officer.

A recording officer shall not be liable for any inaccuracy in the amount of tax imposed pursuant to this local law that he or she shall collect so long as he or she shall compute and collect such tax on the amount of consideration or the value of the interest conveyed as such amounts are provided to him or her by the person paying the tax.

Section 11. Refunds.

Whenever the treasurer shall determine that any monies received under the provision of this local law were paid in error, it may cause such monies to be refunded pursuant to such rules and regulations it may prescribe, provided any application for such refund is filed with the treasurer within two years from the date the erroneous payment was made.

Section 12. Deposit and Disposition of Revenue.

All taxes collected or received by the recording officer or his duly authorized agent under the provisions of this local law shall be deposited into an account designated by the recording officer and the monies therein shall be distributed exclusively for any and all costs, expenses and debt incurred by such County for the establishment of the Essex County Public Safety Radio Communication System; and upon payment of all such costs, expenses and

debt, shall be deposited into the general fund account of the County of Essex.

Such recording officer shall maintain a system of accounts and the revenue collected or received from the tax imposed pursuant to this local law.

Section 13. Judicial Review.

1. Any determination of the amount of any tax payable under section 4 of this local law shall be reviewable for error, illegality or unconstitutionality or any other reason whatsoever by a proceeding under article 78 of the civil practice law and rules if application therefor is made to the supreme court within four months 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 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 the 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, interest 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 the application.
2. Where any tax imposed hereunder shall have been erroneously, illegally or unconstitutionally assessed or collected an application for the refund or revision thereof duly made to the proper fiscal officer or officers, and such officer or officers shall have made a determination denying such refund or revision, such determination shall be reviewable by a proceeding under article seventy-eight of the civil practice law and rules; provided, however, that (a) such proceeding is instituted within four months after the giving of the notice of such denial, (b) a final determination of tax due was not previously made, and (c) 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 14. Apportionment.

Where real property is situate partly within and partly without the boundaries of the County of Essex, the amount of tax imposed by this local law shall be determined on a pro rata basis, based upon the assessed value of that portion of real property situate within the boundaries of the County of Essex.

Section 15. Determination of Tax.

1. If a return required by this article is not filed or if a return when filed is incorrect or insufficient, the amount of tax due shall be determined by the recording officer from such records or information as may be obtainable, including the assessed valuation of the real property or interest therein and other appropriate factors. Notice of such determination shall be given to the person liable for the payment of the tax. Such determination shall finally and irrevocably fix the tax unless the person against whom it is assessed, within 90 days after the giving of notice of such determination, shall petition the County Treasurer for a hearing or unless the recording officer, on the recording officer's own motion, shall redetermine the same. The County Treasurer may designate, in writing, a hearing officer to hear the appeal and file a written report and recommendation to the County Treasurer. In any case before the County Treasurer under this local law, the burden of proof shall be on the petitioner. After such hearing, the County Treasurer shall give notice of the determination to the person against whom the tax is assessed and the recording officer. Such determination may be reviewed in accordance with the provisions of Section 14 of this local law. A proceeding for judicial review shall not be instituted unless:
 - (a) The amount of any tax sought to be reviewed, with penalties and interest thereon, if any, shall be first deposited with the recording officer and there shall be filed with the recording officer 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 and with such sureties as a Justice of the Supreme Court shall approve, to the effect that if such proceeding shall be dismissed or the tax confirmed, the petitioner will pay all costs and charges which may accrue in the prosecution of the proceeding; or
 - (b) At the option of the petitioner, such undertaking filed with the recording officer may be in a sum sufficient to cover the taxes, penalties and interest thereon stated in such decision, plus the costs and charges which may accrue against him in the prosecution of the proceeding; in which event, the petitioner shall not be required to deposit such taxes, penalties and interest as a condition precedent to the commencement of the proceeding.
2. A person liable for the tax imposed by this local law (whether or not a determination assessing a tax pursuant to Subsection 1 of this section has been issued) shall be entitled to have a tax due finally and irrevocably fixed prior to the ninety-day period referred to in subsection 1 of this section by filing with the recording officer a signed statement in writing in such form as the recording officer shall prescribe, consenting thereto.
3. Interest and civil penalties.
 1. Any grantor or grantee failing to file a return or to pay any tax within the time required by this local law shall be subject to a penalty of 10% of the amount of tax due plus an interest penalty of 2% of such amount for each month of delay or fraction thereof after the expiration of the first month after such return was required to be filed or such tax became due; such interest penalty shall not exceed 25% in the

aggregate. If the recording officer determines that such failure or delay was due to reasonable cause and not due to willful neglect, the recording officer, subject to approval of the Essex County Board of Supervisors shall remit, abate or waive all of such penalty and such interest penalty.

2. If any amount of tax is not paid on or before the last date prescribed in Section 4 for payment, interest on such amount at the rate of 10% shall be paid for the period from such last date to the date paid.

3. The penalties and interest provided for in this section shall be paid to the recording officer and shall be determined, assessed, collected and distributed in the same manner as the tax imposed by this local law and any reference to tax in this local law shall be deemed to refer to the penalties and interest imposed in this section.

Section 16. Returns to be Secret.

1. Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for the treasurer or any officer or employee of the County of Essex or any person engaged or retained by such County on an independent contract basis to divulge or make known in any manner the particulars set forth or disclosed in any return required under this local law. However, that nothing in this section shall prohibit the recording officer from making a notation on an instrument effecting a conveyance indicating the amount of tax paid. No recorded instrument effecting a conveyance shall be considered a return for purposes of this section.
2. The officers charged with the custody of such returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the County in any action or proceeding involving the collection of a tax due under this local law to which such County or an officer or employee of such County is a party or a claimant, or on behalf of any party to any action or proceeding under the provisions of this local law enacted when the returns or facts shown thereby are directly involved in such action or proceeding, in any 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.
3. Nothing herein shall be construed to prohibit the delivery to a grantor or grantee of an instrument effecting a conveyance or the duly authorized representative of a grantor or a certified copy of any return filed in connection with such instrument or to prohibit the publication of statistics so classified as to prevent the identification of particular returns and the items thereof, or the inspection by the legal representatives of such county of the return of any taxpayer who shall bring action to set aside or review the tax based thereon.
4. Any officer or employer of Essex County who willfully violates the provisions of this section shall be dismissed from office and be incapable of holding any public office in this state for a period of five years thereafter.

Section 17. Effective Date.

This local law shall take effective immediately in accordance with the requirements of the Municipal Home Rule Law.

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

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

Resolution No. 348

October 5, 2009
Regular Board Meeting

**RESOLUTION AUTHORIZING AN AGREEMENT WITH THE NEW
YORK STATE DEPARTMENT OF TRANSPORTATION FOR
SECTION 5311 FUNDS**

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

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

WHEREAS, Essex County has been approved for a grant of funds by the New York State Department of Transportation, pursuant to Section 5311, Title 49, United States Code and the American Recovery and Reinvestment Act of 2009 (ARRA) and, for the purchase of two buses from ARRA funds in the amount of \$152,000.00; and

WHEREAS, Essex County and the State of New York are entering into an Agreement which authorizes the undertaking of the Project and reimbursement to the municipality of 100% of the project cost through ARRA up to \$152,000.00.

BE IT RESOLVED, that the Essex County Chairperson and/or the County Manager is authorized to sign the following:

1. Any and all Agreements between Essex County and the State of New York for the above named Project;
2. Any and all Agreements between Essex County and any third party subcontractors necessary to complete the Project;
3. Any and all Municipality/Vendor Contracts for the purchase and/or installation of vehicles and/or equipment.
4. ARRA Transit Capital Assistance Agreement and Contract No. C003845.

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

AYES: 2843 votes

NOES: 0 votes
ABSENT: 0 votes

Resolution No. 349

October 5, 2009
Regular Board Meeting

**RESOLUTION AMENDING THE REGULATIONS TO THE VESSEL
REGULATION ZONE ON LAKE PLACID**

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

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

WHEREAS, the Essex County Board of Supervisors did establish a Vessel Regulation Zone on Lake Placid by Resolution #61 passed at a Regular meeting held on October 10, 1942, as authorized by Section 46 of the Navigation Law and did adopt certain regulations applying to said zone; and

WHEREAS, this Board did amend the Regulations heretofore passed by adoption of an additional regulation by Resolution #78 of the Board at a Regular meeting held on November 10, 1947 as authorized by Section 46 of the Navigation Law; and

WHEREAS, this Board is desirous of amending regulations heretofore passed governing said zone by amending paragraph 1(a) of Resolution #61 of August 10, 1942 to include the word vessel in the regulations and to provide that no motor boat or vessel shall navigate at a speed exceeding 5 miles per hour within 1500 feet from the shoreline at the low water mark while within the confines of Paradox Bay; and

WHEREAS, it is provided by Section 46 of the law that a Public Hearing shall be held before the members of the Board of Supervisors, or a committee designated for that purpose, upon due notice of such hearing or force any regulation shall be adopted effecting said zone; and

WHEREAS, a committee was duly appointed for the purpose of holding said Public Hearing which committee consisted of Monsieurs Politi, French, Jackson, Dedrick and Ms. Spooner; and

WHEREAS, said committee has held the Public Hearing on October 5, 2009 duly notice as required by law and has made its report to this Board recommending the adoption of an amendment to Paragraph 1(a) of Resolution #61 of 1942 to the Vessel Regulation Zone Regulations on Lake Placid.

BE IT RESOLVED, that this Board does hereby amend Paragraph 1(a) of the existing Vessel Regulation Zone regulations as set forth at Resolution #61 of October 10, 1942 and all amendments thereto to read as follows:

1.

(a) No motor boat or vessel shall navigate at a speed exceeding twenty (20) miles per hour when more than 100 feet but less than 300 feet from any shoreline on Lake Placid not within the area of Paradox Bay and no motor boat or vessel shall navigate at speed exceeding five (5) miles per hour within 1500 feet from the shoreline at low water mark while within the area or confines of Paradox Bay.

This resolution was seconded by Supervisors Jackson, Preston and Ferebee, and duly adopted upon a **three-quarters** roll-call vote as follows:

AYES: 2146 votes
NOES: 0 votes
ABSENT: 0 votes

**RESOLUTION OF CONDOLENCE TO THE FAMILY OF
LORRAINE R. EASTER**

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, Lorraine R. Easter of Port Henry, New York, passed away on Friday, September 18, 2009; and

WHEREAS, Lorraine R. Easter was born in Witherbee, New York, the daughter of Thomas and Mary Hazel Hughes Ryan; and

WHEREAS, Lorraine R. Easter was President of the Mineville Witherbee Home Bureau, President of the Mineville Parent Teacher Association, President of the Mineville High Alumni Association, a member of the Court Patricia Catholic Daughters of the Americas, Court St. Michael Archangel Daughters, St. Peter and Paul Altar and Rosary Society and was an Ursline Associate; and

WHEREAS, Lorraine R. Easter married John W. Easter and had three children; John S. , Thomas and Yvonne; and

WHEREAS, Lorraine R. Easter also delivered Meals on Wheels for the ACAP Nutrition Program, became a nutrition site manager for the Town of Moriah Senior Citizens and was also very involved in the RSVP Program; and

WHEREAS, Lorraine R. Easter was a loving wife, mother, grandmother, sister, aunt, and friend and will be sorely missed.

BE IT RESOLVED that the Essex County Board of Supervisors, its Clerk of the Board, County Manager and the County Attorney hereby express and extend their deepest sympathy and condolences to the family of Lorraine R. Easter; and

BE IT FURTHER RESOLVED, that this Resolution be spread upon the minutes of this Board of Supervisors, with a suitably embossed copy thereof to be forwarded to the Easter family.

This resolution was unanimously seconded and adopted.

RESOLUTION TO ACCEPT A GRANT IN THE AMOUNT OF \$152,000 THROUGH THE AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA), AUTHORIZING THE EXECUTION OF AN ARRA TRANSIT CAPITAL ASSISTANCE AGREEMENT BEARING COMPTROLLER CONTRACT NO. C-003845, AMENDING THE 2009 BUDGET IN THE TRANSPORTATION DEPARTMENT BY INCREASING REVENUES AND APPROPRIATIONS BY \$152,000 AND AUTHORIZING THE PURCHASE OF TWO BUSES FOR THE TRANSPORTATION DEPARTMENT IN AN AMOUNT NOT TO EXCEED \$152,000

The following resolution was offered by Supervisor Spooner, 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 accepts a grant in the amount of \$152,000 from the American Recovery and Reinvestment Act of 2009, and authorizes an amendment to the 2009 Budget in the Transportation Department by increasing revenues and appropriations by \$152,000 as follows:

<u>REVENUES</u>	<u>ACCOUNT NAME</u>	<u>AMOUNT</u>
Account #5630 440892	Federal Aid Stimulus ARRA	\$152,000.00
<u>APPROPRIATIONS</u>	<u>ACCOUNT NAME</u>	<u>AMOUNT</u>
Account #56302 5230	Auto Equipment	\$152,000.00

BE IT FURTHER RESOLVED, that the Essex County Board of Supervisors hereby authorizes its County Chairperson and/or County Manager to execute the ARRA Transfer Capital Assistance Agreement bearing Comptroller Contract No. C-003845; and

BE IT FURTHER RESOLVED that the Essex County Board of Supervisors hereby authorizes and directs the Essex County Purchasing Agent to purchase from state contract two buses at a cost not to exceed \$152,000.00 to be paid from these grant funds.

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 AUTHORIZING THE COUNTY MANAGER TO
PROVIDE ADDITIONAL FUNDING NEEDED IN THE BOARD OF
ELECTIONS AS IT PERTAINS TO ADDITIONAL HELP UNTIL THE
GENERAL ELECTION ON 11/309, AS WELL AS ANY
NECESSARY TRANSFERS**

The following resolution was offered by Supervisor Merrihew, 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 its County Manager to provide additional funds needed in the Board of Elections as it pertains to additional help until the General Election on 11/3/09 and to make any necessary budgetary transfers.

This resolution was seconded by Supervisors French and Canon, and adopted upon a roll-call vote as follows:

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