

**RESOLUTION AUTHORIZING THE OFFICE FOR THE AGING TO
PURCHASE DONUTS FOR THE NEWCOMB SENIOR PICNIC
THROUGH THE MOUNT SEVERANCE STORE IN AN AMOUNT NOT
TO EXCEED \$300.00**

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

Upon the approval and 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 authorizes the Office for the Aging to pay for, from budgeted funds, donuts for the annual Newcomb Senior Picnic in an amount not to exceed \$300.00 to Mount Severance Store.

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

AYES: 2673 votes
NOES: 0 votes
ABSENT: 170 votes (Kosmider)

**RESOLUTION ADOPTING AND APPROVING QUALITY
IMPROVEMENT REVIEWS AND POLICIES/PROCEDURES FOR THE
CERTIFIED HOME HEALTH AGENCY AND PREVENTIVE SERVICES
WHICH WERE SUBMITTED AND APPROVED BY THE
PROFESSIONAL ADVISORY COMMITTEE**

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

Upon the approval and 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 June 7, 2011 for:

CERTIFIED HOME HEALTH AGENCY

Policies and Procedures:

- ◆ [New] Pediatric Central Venous Catheter Dressing Change Procedure
- ◆ [New] Face-to-Face encounter Policy and Procedure
- ◆ [New] Electronic Signature Policy
- ◆ [New] Mobile Computer Use
- ◆ [Revised] Patient Services Policy and Procedure
- ◆ [Revised] Medication Reconciliation for Therapy Only Patients Policy and Procedure
- ◆ [Revised] Hydrocolloid Dressing Change Procedure
- ◆ [Revised] Adjusted Fee Scale Policy and Procedure
- ◆ [Revised] Vital Signs Policy
- ◆ [Revised] Telehealth Policy and Procedure
- ◆ Notice of Medicare Non-Coverage for Managed Medicare
- ◆ Medicare Provider Notice of Non-Coverage
- ◆ Colostomy Irrigation Procedure
- ◆ Condom Catheter Care Procedure
- ◆ Coumadin Administration: Bleeding Precautions Procedure
- ◆ Culture Collection Procedure
- ◆ Central Venous Catheter/PICC Site Dressing Change Procedure
- ◆ Dry Dressing Change Procedure
- ◆ Edema Procedure
- ◆ Edema Administration Procedure

- ◆ Fecal Impaction: Manual Removal Procedure
- ◆ Fecal Occult Blood Procedure
- ◆ First Time Injection Policy
- ◆ Flush of Port-a-Cath Policy and Procedure
- ◆ Heel Stick Blood Sample Policy and Procedure
- ◆ Hoyer Lift Transfer Procedure
- ◆ Infection Control of VRE, MRSA, C. Diff Policy and Procedure
- ◆ Making Solutions for Irrigation at Home
- ◆ Nasogastric Tube Feeding Procedure
- ◆ Pleurx Policy and Procedure
- ◆ Removal of Huber Needle Policy and Procedure
- ◆ Skin Suture and Staple Removal Procedure
- ◆ Standards of Wound Care Procedure
- ◆ Urinary Catheter Insertion Procedure
- ◆ Vacuum Assisted Closure Dressing Change Policy and Procedure
- ◆ Assess for Possible Hip Dysplasia for Infants and Children Procedure
- ◆ Circulation check for Infants and Children Procedure
- ◆ Nasogastric tube Care for Infants and Children Procedure
- ◆ Nebulizer Treatments for Infants and Children Procedure
- ◆ Ophthalmic Drops/Ointment for Infants and Children Procedure
- ◆ Ostomy Care for Infants and children Procedure
- ◆ Testing for the Babinski Reflex for Infants and children Procedure
- ◆ Testing for the Moro Reflex for Infants and Children Procedure
- ◆ Access to Health Care Records Policy and Procedure
- ◆ Immediate Action for Emergencies Policy and Procedure
- ◆ Mandated Reporting Policy and Procedure
- ◆ Violence in the Workplace Policy
- ◆ Venipuncture Blood Sample Policy and Procedure
- ◆ Time Records Procedure
- ◆ Personnel Record Procedure
- ◆ Infractions of Agency Policies and Procedures
- ◆ Provision of Services for Patient/Clients with a Communication Barrier Procedure
- ◆ Holiday and Staffing Procedures
- ◆ Hand Washing Procedure
- ◆ Patient/Client Staff Relationship Disclosure Policy
- ◆ Nasogastric Tube Insertion Policy and Procedure
- ◆ Wet-to-Dry Dressing Change Procedure
- ◆ Nutritional Counseling Services Policy and Procedure
- ◆ Orientation Policy
- ◆ Patient Care Policy
- ◆ Bag Technique Procedure
- ◆ Photo Documentation of Wounds and Skin Conditions Procedure

[No designation = No change]

PREVENTIVE SERVICES

- ◆ Preventive Services Quality Improvement Report for 2nd Quarter of 2011:

Policies and Procedures:

- ◆ [R] Policy on Inactive Charts
- ◆ [R] Annual Policy Review Policy
- ◆ [N] HIV Services Program Plan
- ◆ [N] Sexually Transmitted Disease Plan
- ◆ [N] Tuberculosis (TB) Management Plan
- ◆ [N] TB Therapeutic Management Plan
- ◆ [N] Communicable Disease Program Plan

[R = revised; N = new; no designation = no change]

BE IT RESOLVED that the Essex County Board of Supervisors hereby adopts and approves Quality Improvement Reviews and Policies/Procedures for the Certified Home Health Agency and Preventive Services which were submitted and approved by the Professional Advisory Committee.

This resolution was seconded by Supervisor Montgomery-Corey, and duly adopted.

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

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

Upon the approval and 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 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 one bus from ARRA funds in the amount of \$70,000.00; and

WHEREAS, this 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 costs through ARRA up to an additional amount of \$70,000.00.

BE IT RESOLVED, that the Essex County Board of Supervisors hereby authorizes the Chairperson and/or the County Manager to execute 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 Supplemental Grant Agreement No. 1- Comptroller's Contract No. C003845.

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

AYES: 2673 votes
NOES: 0 votes
ABSENT: 170 votes (Kosmider)

**RESOLUTION AUTHORIZING THE TRANSPORTATION
DEPARTMENT TO PROVIDE FREE SHUTTLE SERVICES FOR
THE BRIDGE RE-OPENING CELEBRATION**

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

Upon the approval and 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, a celebration is currently being planned for sometime in October for the re-opening and dedication of the newly replaced Crown Point Bridge; and

WHEREAS, parking will not be available near the bridge site; and

WHEREAS, Essex County Transportation Department has been requested to provide free shuttle services to/from the parking sites.

BE IT RESOLVED, that the Essex County Board of Supervisors, hereby authorizes the Essex County Transportation Department to provide free shuttle services to/from the Bridge Re-opening celebration.

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

AYES: 2673 votes
NOES: 0 votes
ABSENT: 170 votes (Kosmider)

**RESOLUTION AUTHORIZING THE APPOINTMENT OF CHRIS
CHARBONEAU OF THE TICONDEROGA FIRE DEPARTMENT AS
AN ESSEX COUNTY FIRE INVESTIGATOR/DEPUTY
COORDINATOR REPLACING JOSEPH NORTON**

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

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

WHEREAS, Essex County Emergency Services Director, Donald Jaquish, has recommended that Chris Charboneau of the Ticonderoga Fire Department be appointed as an Essex County Fire Investigator and Deputy Coordinator replacing Joseph Norton.

BE IT RESOLVED that the Essex County Board of Supervisors hereby authorizes the appointment of Chris Charboneau of the Ticonderoga Fire Department as an Essex County fire Investigator and Deputy Coordinator.

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

**RESOLUTION AUTHORIZING BUDGET AMENDMENTS FOR
VARIOUS DEPARTMENTS**

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

Upon the recommendation and approval 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 2011 Essex County Budget as follows:

From the Economic Development Committee:

1. For the Community Resources Department, to increase revenues and appropriations by \$250.00 for tennis grant funds, as follows:

REVENUES

<u>Account Number</u>	<u>Account Name</u>	<u>Amount</u>
7310.4382086	Tennis Grant	\$250.00

APPROPRIATIONS

<u>Account Number</u>	<u>Account Name</u>	<u>Amount</u>
73104 5440TEN	Tennis Instruction	\$250.00

From the Ways & Means Committee:

1. For the Emergency Services Department, to increase revenues and appropriations by \$110,016.00, for Hazmat grant as follows:

REVENUES

<u>Account Number</u>	<u>Account Name</u>	<u>Amount</u>
3645.44965	Hazmat Grant	\$110,016.00

APPROPRIATIONS

<u>Account Number</u>	<u>Account Name</u>	<u>Amount</u>
36452.5260HAZ	Hazmat Equipment	\$110,016.00

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

AYES: 2520 votes
NOES: 153 votes (Hatch)
ABSENT: 170 votes (Kosmider)

Resolution No. 192

July 5, 2011
Regular Board Meeting

**RESOLUTION OF APPRECIATION TO DEC COMMISSIONER
JOSEPH MARTENS FOR HIS ASSISTANCE IN ALLOWING
MUNICIPAL BRUSH BURNING UNTIL JUNE 30, 2012**

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

Upon the recommendation of the DPW Committee, and 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 sincere appreciation and thanks to DEC Commissioner Joseph Martens for his assistance in allowing municipal brush burning until June 30, 2012.

This resolution was unanimously seconded, and adopted.

**RESOLUTION ADOPTING THE PROPOSED ESSEX COUNTY
FAIRGROUNDS 2011 FEE SCHEDULE FOR FACILITY,
BUILDINGS, CAMPGROUND USE, AND ELECTRIC RATES**

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

Upon the recommendation of the Public Works Committee, and 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, adopts and places on file the proposed Essex County Fairgrounds 2011 Fee Schedule for facility, building, campground use, and electric rates, as submitted by the Fairgrounds Subcommittee.

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

AYES: 2673 votes
NOES: 0 votes
ABSENT: 170 votes (Kosmider)

**RESOLUTION AUTHORIZING PAYMENT OF TWO INVOICES OF
\$4,000.00 EACH FROM CVS CAREMARK FOR ACTUARIAL
SERVICES IN THE TOTAL AMOUNT OF \$8,000.00**

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

Upon the recommendation of the Personnel Committee, and 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 payment of two invoices of \$4,000.00 each from CVS Caremark for actuarial services; one invoice for 2010 RDS Attestation services during September and October 2009; one invoice for 2011 RDS Attestation services during October 2010, in the total amount of \$8,000.00, from budgeted funds.

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

AYES: 2673 votes
NOES: 0 votes
ABSENT: 170 votes (Kosmider)

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

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

Upon the recommendation and approval 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 accepts, adopts and/or places on file the following:

From the Personnel Committee:

Essex County Sex Discrimination and Sexual Harassment Policy

From the Ways and Means Committee:

2012 Workforce Investment Board Proposed Budget

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

**RESOLUTION AMENDING RESOLUTION NO. 160 OF JUNE 7, 2011 TO AMEND
THE PURCHASE AND INSTALLATION PRICE OF CARPET FOR SOCIAL
SERVICES FROM \$8,000.00 TO \$8,160.00, WITH SUCH FUNDS TO COME FROM
THE RESERVE FUND**

The following resolution was offered by Supervisor Canon, 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 passed Resolution No. 160 authorizing the purchase and installation of carpet for Social Services in the amount of \$8,000.00, with such funds to come from the reserve fund; and

WHEREAS, this Board is desirous of amending Resolution No. 160 to increase the purchase and installation price of carpet for Social Services from \$8,000.00 to \$8,160.00, with such funds to come from the reserve fund.

BE IT RESOLVED, that the Essex County Board of Supervisors hereby amends Resolution No. 160 of June 7, 2011, to increase the purchase and installation of carpet for Social Services in the amount of \$8,160.00, with such funds to come from the reserve fund.

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

AYES: 2322 votes
NOES: 351 votes (Scozzafava)
ABSENT: 170 votes (Kosmider)

**RESOLUTION OF CONGRATULATIONS AND APPRECIATION
TO LUANNE DICKINSON FOR 35 YEARS OF DEDICATED
SERVICE TO ESSEX COUNTY**

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

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

WHEREAS, Luanne Dickinson has dedicated 35 years of service to Essex County;
and

WHEREAS, Luanne Dickinson continues to work at the Essex County Real Property Tax Office; and

WHEREAS, the Essex County Board of Supervisors wishes to congratulate Luanne Dickinson on her accomplishments and continued service to Essex County.

BE IT RESOLVED that the Essex County Board of Supervisors hereby congratulates and commends Luanne Dickinson for her 35 years of service to Essex County; 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 Luanne Dickinson.

This resolution was unanimously seconded and adopted.

**RESOLUTION TO INVESTIGATE THE POSSIBILITY OF
INCLUDING, BY LOCAL LAW OR RESOLUTION, INFORMATION
ON THE COUNTY TAX BILL REGARDING STATE MANDATED
COSTS TO THE COUNTY**

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

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

WHEREAS, other Counties are in the process of either passing a local law or resolution to have Real Property provide information to taxpayers with a breakdown on the tax bill of what percentage of tax being charged is going toward state mandated Medicaid costs.

BE IT RESOLVED that the Essex County Board of Supervisors hereby authorizes Real Property Tax Services to investigate the possibility of including by Local Law or Resolution, information on the County Tax Bill regarding state mandated costs to the County.

This resolution was unanimously seconded, and adopted.

**RESOLUTION TO CANCEL PENALTIES, INTEREST AND OTHER
CHARGES IN THE AMOUNT OF \$476.70 ON A PARCEL OF
PROPERTY IN THE TOWN OF NORTH ELBA**

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

Upon the recommendation of the Finance Committee, and 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 cancellation of penalties, interest and other charges in the amount of \$476.70 on a parcel of property in the Town of North Elba, Tax Map #32.0KC-1-7.100.

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

AYES: 2673 votes
NOES: 0 votes
ABSENT: 170 votes (Kosmider)

**RESOLUTION OF APPRECIATION TO FIRE CHIEF PAUL
TROMBLEE ON HIS YEARS OF SERVICE AND DEDICATION TO
THE MINEVILLE/WITHERBEE FIRE DEPARTMENT**

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

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

WHEREAS, Paul Tromblee has been a volunteer fireman with the Mineville/Witherbee Volunteer Fire Department; and

WHEREAS, Paul Tromblee has tirelessly, selflessly, conscientiously and with all degree of professionalism performed his duties as a volunteer fireman for Mineville/Witherbee Volunteer Fire Department, during which time he covered numerous fire calls; and

WHEREAS, Paul Tromblee has set an example for all by his selfless, professional, civil and community dedication performing his duties for the good of the residents of Mineville/Witherbee and Essex County;

BE IT RESOLVED, that the Essex County Board of Supervisors wishes to extend its sincere gratitude and appreciation to Paul Tromblee for his years of dedicated service to the Mineville/Witherbee Volunteer Fire Department and the residents of Essex County; 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 Paul Tromblee.

This resolution was unanimously seconded and adopted.

**RESOLUTION TO RENEW THE ESSEX COUNTY SNOW AND ICE AGREEMENT
WITH NEW YORK STATE DEPARTMENT OF TRANSPORTATION FOR
THE TERM 2012-2013 THROUGH 2016-2017**

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

Upon the recommendation 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 a renewal of the Essex County Snow and Ice Agreement with New York State Department of Transportation for the term 2012-2013 through 2016-2017.

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

AYES: **2673** *votes*
NOES: **0** *votes*
ABSENT: **170** *votes (Kosmider)*

**RESOLUTION OF CONGRATULATIONS AND APPRECIATION
TO RICH REDMOND UPON HIS RETIREMENT FROM THE
NATIONAL RESOURCE CONSERVATION SERVICE WITH OVER
27 YEARS OF SERVICE TO ESSEX COUNTY TOWNS**

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

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

WHEREAS, Rich Redmond is retiring from the National Resource Conservation Service; and

WHEREAS, Rich Redmond has dedicated over 27 of his time, attention and knowledge to the National Resource Conservation Service and to the Towns of Essex County; and

WHEREAS, the Essex County Board of Supervisors wishes to extend its deep and abiding appreciation to Rich Redmond for his outstanding public service to the people of 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 most heartfelt appreciation to Rich Redmond for his dedication and service to Essex County and upon his retirement from the National Resource Conservation Service and wishes him continued success and best wishes in his future endeavors.

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 Rich Redmond.

This resolution was unanimously seconded and adopted.

**RESOLUTION OF CONDOLENCES TO THE FAMILY OF
MARY AGNES MILLER**

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

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

WHEREAS, Mary Agnes Miller of Minetto, New York passed away at the home of her daughter, Mary Carolyn Miller in Hingham, Massachusetts; and

WHEREAS, Mary Agnes Miller was born in Oswego, New York, the daughter of Albert M. and Mary Grace (Coetta) McHenry; and

WHEREAS, Mary Agnes Miller is survived by her daughter, Mary Carolyn Miller, two sons, Bernard R. Miller and Richard M. Miller; five grandchildren, Jennifer Jordan, Michael Jordan, Stephanie Jordan Brown, Aaron Miller and Tamara Miller Matteson; 4 great-grandchildren, Keely Jordan, Jacob Jordan Brown, Kristal Perrine and Eva Matteson; and

WHEREAS, Mary Agnes Miller was the beloved mother of Bernard R. Miller, the former Director of the Essex County Real Property Tax Service; and

WHEREAS, Mary Agnes Miller was a devoted and loving wife, mother, daughter, grandmother, great-grandmother and friend who will be sorely missed but never forgotten.

BE IT RESOLVED, that the Essex County Board of Supervisors, its Clerk of the Board, County Manager and County Attorney hereby express and extend their deepest and most sincere sympathy and condolences to the family of Mary Agnes Miller; 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 Miller family.

This resolution was unanimously seconded and adopted.

**RESOLUTION OF CONGRATULATIONS TO
SENIOR DAKOTA BENWAY ON HIS GRADUATION FROM
WESTPORT CENTRAL SCHOOL AND CV TECH
PLATTSBURGH WITH HONORS AND FOR RECEIVING THE
OUTSTANDING STUDENT AWARD IN HIS FIELD OF HEAVY
EQUIPMENT MECHANIC**

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

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

WHEREAS, Dakota Benway graduated from Westport Central School; and

WHEREAS, Dakota Benway graduated from CV Tech Plattsburgh with honors; and

WHEREAS, Dakota Benway received the Outstanding Student Award in his field of Heavy Equipment Mechanic; and

WHEREAS, Dakota Benway will attend SUNY Cobleskill in the fall and further his career in the John Deere program.

BE IT RESOLVED, the Essex County Board of Supervisors hereby congratulates Dakota Benway on his graduation from Westport Central School and CV Tech Plattsburgh with honors and for receiving the Outstanding Student Award in his field of Heavy Equipment Mechanic.

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 Dakota Benway.

This resolution was unanimously seconded and adopted.

**RESOLUTION OF CONGRATULATIONS TO
SENIOR LEEANN HOSKINS UPON HER GRADUATION
FROM WESTPORT CENTRAL SCHOOL AND CV TECH
PLATTSBURGH WITH HONORS AND FOR RECEIVING
THE OUTSTANDING STUDENT AWARD IN HER
FIELD OF BUSINESS**

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

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

WHEREAS, LeeAnn Hoskins graduated from Westport Central School; and

WHEREAS, LeeAnn Hoskins graduated from CV Tech Plattsburgh with honors; and

WHEREAS, LeeAnn Hoskins received the Outstanding Student Award in her field of Business; and

WHEREAS, LeeAnn Hoskins will attend North Country Community College in the fall and further her career in business.

BE IT RESOLVED, the Essex County Board of Supervisors hereby congratulates LeeAnn Hoskins upon her graduation from Westport Central School and CV Tech Plattsburgh with honors and for receiving the Outstanding Student Award in her field of Business.

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 LeeAnn Hoskins.

This resolution was unanimously seconded and adopted.

**RESOLUTION OF CONDOLENCES TO THE FAMILY OF
DOROTHY ANGIE RAND PERKETT**

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

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

WHEREAS, Dorothy Angie Rand Perkett of Willsboro, New York passed away on June 25, 2011; and

WHEREAS, Dorothy Angie Rand Perkett was born on April 10, 1915, in Willsboro, New York, the daughter of Harry and Edith (Ellsworth) Rand; and

WHEREAS, Dorothy Angie Rand Perkett graduated from Willsboro High School and attended Plattsburgh Normal School; and

WHEREAS, Dorothy Angie Rand Perkett married Howard Perkett on December 31, 1935; and

WHEREAS, Dorothy Angie Rand Perkett is survived by children, June Anderson, Nancy Hatch and husband Edward, Linda Marcotte and husband Ralph, Randy Perkett and wife Jan, Kathryn Bertrand and husband Brandon, Cynthia Blanchard and husband Gary, David Perkett and wife Jill, Angie Walsh and daughter-in-law Rosemary Perkett; 28 grandchildren; 45 great-grandchildren and several nieces and nephews; and

WHEREAS, Dorothy Angie Rand Perkett is the mother-in-law of Edward Hatch, Town of Willsboro Supervisor; and

WHEREAS, Dorothy Angie Rand Perkett was a devoted and loving wife, mother, daughter, grandmother, great-grandmother, aunt and friend who will be sorely missed but never forgotten.

BE IT RESOLVED, that the Essex County Board of Supervisors, its Clerk of the Board, County Manager and County Attorney hereby express and extend their deepest and most sincere sympathy and condolences to the family of Dorothy Angie Rand Perkett;; 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 Perkett family.

This resolution was unanimously seconded and adopted.

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

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

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

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

1. The appointment of Martha Pritchard Spear to the Clinton-Essex-Franklin Library System Board of Trustees, to fill the unexpired term vacated by Jan Eakins, with such term to end December 31, 2013.

This resolution was seconded by Supervisor Blades, and adopted.

**RESOLUTION OF CONDOLENCES TO THE FAMILY OF
ORLIE JAMES FISH**

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

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

WHEREAS, Orlie James Fish of Moriah Center passed away on June 22, 2011; and

WHEREAS, Orlie James Fish was the son of James and Marie Fish; and

WHEREAS, Orlie James Fish was retired from the Essex County Department of Public Works; and

WHEREAS, Orlie James Fish was a devoted Red Sox fan, loved sports, hunting, gardening, playing music, his family and his pets; and

WHEREAS, Orlie James Fish was predeceased by his beloved wife Virginia Fish; and

WHEREAS, Orlie James Fish is survived by his three daughters, Bonnie Java, Mary Endres and Sandy Allen and Dale Johnson; several grandchildren; great-grandchildren; family and friends; and

WHEREAS, Orlie James Fish was a devoted husband, father, son, grandfather, great-grandfather and friend who will be sorely missed but never forgotten.

BE IT RESOLVED, that the Essex County Board of Supervisors, its Clerk of the Board, County Manager and County Attorney hereby express and extend their deepest and most sincere sympathy and condolences to the family of Orlie James Fish; 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 Fish family.

This resolution was unanimously seconded and adopted.

**RESOLUTION ADOPTING LOCAL LAW NO. 2 OF 2011
CONTINUING THE IMPOSITION OF A HOTEL AND MOTEL
OCCUPANCY TAX**

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

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

WHEREAS, by Resolution No. 180 duly adopted on June 7, 2011, this Board of Supervisors introduced proposed Local Law No. 2 of 2011, 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, and by Local Law No. 4 of 2005, and by Local Law No. 3 of 2008; and

WHEREAS, that a Public Hearing was duly held on the 27th day of June, 2011 to hear any and all persons concerning the adoption of said local law; and

BE IT RESOLVED, that the Essex County Board of Supervisors hereby adopts proposed Local Law No. 2 of 2011, the same to read and provide as follows:

"ESSEX COUNTY PROPOSED LOCAL LAW NO. 2 OF 2011

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
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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. 3 of 2008 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.”

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

AYES: 2673 votes
NOES: 0 votes
ABSENT: 170 votes (Kosmider)