

RESOLUTION AUTHORIZING THE COUNTY CHAIRPERSON AND/OR COUNTY MANAGER TO EXECUTE CONTRACTS FOR THE PURCHASE OF RIGHTS OF WAY, EASEMENTS, FEE INTEREST OR OTHER INTERESTS IN LAND UPON THE APPROVAL OF THE COUNTY ATTORNEY WITH RESPECT TO THE OLD MILITARY ROAD (CR-35) PROJECT AND FURTHER AUTHORIZING THE COUNTY MANAGER AND SUPERINTENDENT OF PUBLIC WORKS TO APPROVE AND EXECUTE APPRAISAL REVIEWS WITH RESPECT TO THE PURCHASE OF THESE RIGHTS OF WAY, EASEMENTS, FEE INTEREST AND OTHER LAND INTEREST

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

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

WHEREAS, Essex County is currently involved in the re-construction of Old Military Road (CR-35) and, incident thereto, the County needs to acquire rights-of-way, easements, fee interest and other interest in lands; and

WHEREAS, the County has authorized and will be receiving appraisals with respect to each right-of-way, easement or fee interest in land which must be reviewed and approved.

BE IT RESOLVED, that the Essex County Board of Supervisors hereby authorizes its County Chairperson and/or County Manager, with the approval of the County Attorney to execute any and all contracts for purchase of required rights-of-way, easements, fee interest or other rights of land relative to the reconstruction of Old Military Road (CR-35) with said purchases to come from budgeted funds; and

BE IT FURTHER RESOLVED, that the Essex County Board of Supervisors hereby authorizes the County Chairperson and/or County Manager and Superintendent of Public Works to approve and execute any and all appraisal reports.

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

AYES: 2752 votes
NOES: 0 votes
ABSENT: 91 votes (Preston)

Resolution No. 295

**September 8, 2009
Regular Board Meeting**

**RESOLUTION TO APPLY FOR AND ACCEPT A MEDICAL
RESERVE CORPS GRANT FUNDS IN THE AMOUNT OF \$5,000;
AND AUTHORIZING THE EXECUTION OF SUCH AGREEMENT**

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, the Public Health Department wishes to apply for a Medical Reserve Corps Grant in the amount of \$5,000.00; and

WHEREAS, if awarded the MRC grant, funds would be used to support MRC training and activities; and

BE IT RESOLVED that the Essex County Board of Supervisors hereby authorizes the Public Health Department to apply for a Medical Reserve Corps grant in the amount of \$5,000.00 and if approved, agrees to accept the same and further authorizes the Chairman and/or County Manager to execute agreement.

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

AYES: 2752 votes
NOES: 0 votes
ABSENT: 91 votes (Preston)

Resolution No. 296

**September 8, 2009
Regular Board Meeting**

**RESOLUTION TO SUBMIT FOR CONSIDERATION INTO THE
2010 BUDGET, AN ACCOUNT CLERK POSITION IN THE
TRANSPORTATION DEPARTMENT TO BE RESPONSIBLE FOR
BILLING OF TRANSPORTATION SERVICES**

The following resolution was offered by Supervisor Douglas, 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, the Transportation Department is requesting to submit for consideration an increase in personnel in the 2010 Budget by hiring an Account Clerk to provide billing of transportation services at a cost of approximately \$10,000.00; and

BE IT RESOLVED, that the Essex County Board of Supervisors hereby authorizes the increase in personnel to the Transportation Department by hiring an Account Clerk and further authorizes the increase to the 2010 Budget by approximately \$10,000.00.

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

AYES: 2752 votes
NOES: 0 votes
ABSENT: 91 votes (Preston)

Resolution No. 297

September 8, 2009
Regular Board Meeting

**RESOLUTION OF CONDOLENCE TO THE FAMILY OF
DOUGLAS O. KNIGHT**

The following resolution was offered by Supervisor Morrow, 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, Douglas O. Knight of Keeseville passed away on August 9, 2009, following a long struggle with ALS; and

WHEREAS, Douglas O. Knight was born on February 18, 1952 in London, England, the son of Frederick W. Knight, Jr. and Marilyn D. (Johnson) Knight; and

WHEREAS, Douglas O. Knight was a 1970 graduate of AuSable Valley Central School; and

WHEREAS, Douglas O. Knight was a well-known local bluegrass musician and song writer, founder of the bands Mardi Gras and Three Doug Knight, proprietor of Adirondack Heirloom Furniture, school bus driver, advisor for the AuSable Valley Ski Club and participant of AVCS musical productions; and

WHEREAS, Douglas O. Knight was a hiker, boater, skier and avid outdoorsman and his exuberance and joy for life served as an inspiration for many others; and

WHEREAS, Douglas O. Knight is survived by his wife of 34 years, Alice, sons Travis and Tanner; his mother, Marilyn Kearney; brother Frederick M. Knight; sister, Andrea Knight; and several nieces and nephews; and

WHEREAS, Douglas O. Knight was a loving, loyal and devoted husband, son, father, brother, uncle and good 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 the County Attorney hereby express and extend their deepest sympathy and condolences to the family of Douglas O. Knight; 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 Knight family.

This resolution was unanimously seconded and adopted.

Resolution No. 298

September 8, 2009
Regular Board Meeting

**RESOLUTION AUTHORIZING THE APPOINTMENT OF JAMIE
ROGERS TO THE ESSEX COUNTY INDUSTRIAL
DEVELOPMENT BOARD TO FILL THE VACANCY CAUSED BY
THE RESIGNATION OF ROBERT KANE**

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

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

BE IT RESOLVED, that the Essex County Board of Supervisors hereby appoints Jamie Rogers to the Essex County Industrial Development Board to fill the vacancy caused by the resignation of Robert Kane.

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

Resolution No. 299

September 8, 2009
Regular Board Meeting

**RESOLUTION DESIGNATING THE LAKE PLACID/ESSEX
COUNTY VISITORS BUREAU AND CAROL JOANETTE AS
THE PROJECT MANAGER FOR THE 2009-2010 I LOVE NEW
YORK MATCHING FUNDS PROGRAM**

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

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

BE IT RESOLVED, that the Essex County Board of Supervisors hereby designates the Lake Placid/Essex County Visitors Bureau as the tourism promotion agency and Carol Joannette as the Project Manager of the 2009-2010 I Love NY Program.

This resolution was seconded by Supervisors Dedrick and Dobie, and duly adopted.

Resolution No. 300

September 8, 2009
Regular Board Meeting

**RESOLUTION AUTHORIZING THE APPOINTMENT OF
NANCY COOPER TO THE CLINTON-ESSEX-FRANKLIN
BOARD OF TRUSTEES
FOR A TERM TO EXPIRE DECEMBER 31, 2013**

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.

BE IT RESOLVED, that the Essex County Board of Supervisors hereby appoints Nancy Cooper to the Clinton-Essex-Franklin County Board of Trustees for a term to expire December 31, 2013.

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

Resolution No. 301

September 8, 2009
Regular Board Meeting

**RESOLUTION EXTENDING THE CONTRACT WITH BARRY
MILLER FOR CONSULTING WORK IN THE REAL PROPERTY
TAX OFFICE, UNTIL DECEMBER 31, 2009**

The following resolution was offered by Supervisor Morrow, 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 extends the current contract with Barry Miller to provide consulting work in the Real Property Tax Office until December 31, 2009.

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

Resolution No. 302

September 8, 2009
Regular Board Meeting

**RESOLUTION AUTHORIZING AN AGREEMENT WITH
SYSTEMS DEVELOPMENT GROUP FOR ANNUAL
SOFTWARE MAINTENANCE IN THE AMOUNT OF \$7,500.00
FOR THE REAL PROPERTY TAX OFFICE**

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 an agreement with Systems Development Group for annual software support maintenance in the amount of \$7,500.00 for the Real Property Tax Office; and

BE IT FURTHER RESOLVED, that this Board has determined that Systems Development Group is a sole source exception to the competitive bidding requirements of the General Municipal Law and further determines that the purpose of competitive bidding would not be furthered by formally soliciting or inviting bids; finds that this is a unique situation in that it does not appear that there are any other providers or products which would allow the two complexes to interconnect and warrant the same; that the cost is reasonable in comparison to other options which may be available and the equipment is uniquely suited and compatible; and

BE IT FURTHER RESOLVED, that provided the purchase monies are in every annual budget of the Real Property Tax Office, this sole source purchase authorization shall be effective for future years and will not warrant separate resolutions each year unless the current situation changes.

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

AYES: 2752 votes
NOES: 0 votes
ABSENT: 91 votes (Preston)

Resolution No. 303

September 8, 2009
Regular Board Meeting

**RESOLUTION OF CONDOLENCE TO THE FAMILY OF
CAROLE A. CARPENTER**

The following resolution was offered by Supervisor Blades, 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, Carole A. Carpenter passed away on July 24, 2009, at the Horace Nye Nursing Home in Elizabethtown, surrounded by her loving family; and

WHEREAS, Carole was born in Ticonderoga, September 8, 1940, the daughter of Michael "Mickey" Music Sr. And Bonnie (Young) Music; and

WHEREAS, Carole retired from the Horace Nye Nursing Home where she was a nurse's assistant for 27 years. She enjoyed her retirement, reading, gambling and most of all spending her summers camping at Port Henry Beach with her children and grandchildren. Her favorite holiday was Christmas where she got together with her children and grandchildren on Christmas Eve and opened gifts; and

WHEREAS, Carole Carpenter is survived by her mother, Bonnie Music of South Glens Falls; her brother, Michael Music and his wife Cheryl of Feura Bush, NY; her children, Michele Gilbo and her husband Walter of Moriah, Denise Carpenter of Lewis, Scott Carpenter and his wife Stacia of Moriah; her grandchildren, Keith Gilbo and his fiancée Jessica Sprague of Plattsburgh, Steven Gilbo of Indiana, Jeremy Carpenter and his fiancée Jennifer Geer of Plattsburgh, Evan Drew of Lewis, Casey Green and her husband Peter of Port Henry, Kevin Carpenter of Moriah, Billie Bledsoe and his wife of Utah; and her great-grandson, Thomas Ryan Green of Port Henry. She is also survived by her beloved companion, Calvin McDougal of Lewis and his children, Deborah Smith and Dan, Gordon McDougal, Cliff McDougal, Travis McDougal and his wife Nora. She is also survived by several aunts, uncles; nieces and cousins. Mrs. Carpenter was predeceased by her father, Michael "Mickey" Music; and her son, Thomas Ryan Carpenter.

NOW THEREFORE, 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 Carole A. Carpenter; 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 Carpenter family.

This resolution was unanimously seconded and adopted.

Resolution No. 304

September 8, 2009
Regular Board Meeting

**RESOLUTION CONGRATULATING RSVP OF ESSEX COUNTY ON
CELEBRATING ITS 35TH ANNIVERSARY AND ACKNOWLEDGING
THE CONTRIBUTIONS OF RSVP VOLUNTEERS**

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

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

WHEREAS, the Retired & Senior Volunteer Program (RSVP) of Essex County will celebrate its 35th Anniversary on October 7, 2009; and

WHEREAS, RSVP engages men and women age 55 and older in meaningful volunteer service that strengthens the well being of both self and community, to serve as volunteers in connection with community projects, programs and services in each and every one of the eighteen towns in Essex County; and

WHEREAS, RSVP's vision is to serve as a bridge between those who need and those who give and since RSVP's inception in July of 1974 these volunteers have given over one million hours of service with an average of 425 enrolled volunteers; and

WHEREAS, RSVP has had and continues to have a strong commitment to improving the quality of life for citizens of all ages within Essex County; and

WHEREAS, RSVP and its many dedicated volunteers have made a significant and positive difference to the People of Essex County, serving as tutors, docents, transporters,

office aides, reading buddies, osteo exercise leaders, medical transportation drivers, HOSPICE and Literacy volunteers, nutrition and home delivered meals volunteers, mentors and much, much more.

BE IT RESOLVED that the Essex County Board of Supervisors hereby wishes to express its deep appreciation to the Retired & Senior Volunteer Program of Essex County on its 35th Anniversary and to its many past and present volunteer members, for their substantial contribution to the quality of life for the People of Essex County.

This resolution was unanimously seconded and adopted.

Resolution No. 305

September 8, 2009
Regular Board Meeting

**RESOLUTION AUTHORIZING THE COUNTY CHAIRPERSON
AND/OR COUNTY MANAGER TO EXECUTE A CONTRACT
WITH STATE OF NEW YORK EXECUTIVE DEPARTMENT
DIVISION OF PROBATION AND CORRECTIONAL
ALTERNATIVES - ENHANCED SUPERVISION OF SEX
OFFENDERS CONTRACT**

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.

BE IT RESOLVED, that the Essex County Board of Supervisors hereby authorizes its County Chairperson and/or County Manager to execute a contract with NYS Division of Probation and Correctional Alternatives (Contract #T523041) for enhanced supervision of sex offenders with New York State to provide funding up to \$25,112.00.

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

AYES: 2752 votes
NOES: 0 votes
ABSENT: 91 votes (Preston)

Resolution No. 306

September 8, 2009
Regular Board Meeting

**RESOLUTION AUTHORIZING THE PURCHASE OF A REPEATER
FROM WELLS COMMUNICATION FOR PALMER HILL**

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

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

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

the purchase of a repeater from Wells Communication for Palmer Hill in the amount of \$9,088.03 from budgeted funds; and

BE IT FURTHER RESOLVED, that a budget transfer of \$9,820.00 is authorized from budgeted funds, from the Sheriff's budget line 31104-5422 (Equipment Repair) to 31102-5260 (Other Equipment).

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

AYES: 2752 votes
NOES: 0 votes
ABSENT: 91 votes (Preston)

Resolution No. 307

September 8, 2009
Regular Board Meeting

**RESOLUTION AUTHORIZING AN AGREEMENT BETWEEN
FLETCHER ALLEN HEALTH CARE, INC. SYSTEMS AND
ESSEX COUNTY PUBLIC HEALTH DEPARTMENT FOR
ACCESS TO FLETCHER ALLEN SYSTEMS**

The following resolution was offered by Supervisor Merrihew, 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.

BE IT RESOLVED, that the Essex County Board of Supervisors hereby authorizes its County Chairperson and/or County Manager to execute an agreement between Fletcher Allen Health Care, Inc. Systems and Essex County Public Health Department for access of information and data of Fletcher Allen Systems.

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

AYES: 2752 votes
NOES: 0 votes
ABSENT: 91 votes (Preston)

Resolution No. 308

September 8, 2009
Regular Board Meeting

**RESOLUTION AUTHORIZING THE COUNTY CHAIRPERSON
AND/OR COUNTY MANAGER TO EXECUTE A
MEMORANDUM OF AFFILIATION WITH CLINTON, ESSEX,
WARREN AND WASHINGTON COUNTIES' BOARD OF
COOPERATIVE EDUCATIONAL SERVICES (AKA CHAMPLAIN**

**VALLEY EDUCATIONAL SERVICES) PENDING APPROVAL
OF THE COUNTY ATTORNEY**

The following resolution was offered by Supervisor Blades, 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.

BE IT RESOLVED, that the Essex County Board of Supervisors hereby authorizes its County Chairperson and/or County Manager to execute a Memorandum of Affiliation with Clinton, Essex, Warren & Washington Counties' Board of Cooperative Educational Services (a.k.a Champlain Valley Educational Services) for educational programs covering the term September 1, 2009 through August 31, 2010 pending approval of the County Attorney with the payment therefore to come from budgeted funds.

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

AYES:2752 votes
NOES: 0 votes
ABSENT: 91 votes (Preston)

Resolution No. 309

September 8, 2009
Regular Board Meeting

**RESOLUTION AUTHORIZING THE COUNTY ATTORNEY TO
PREPARE THE NECESSARY PAPERWORK TO ESTABLISH A
SERIAL BOND IN THE AMOUNT NOT TO EXCEED \$650,000 TO
FINANCE THE REMAINDER OF THE STOWERSVILLE ROAD BANK
STABILIZATION PROJECT**

The following resolution was offered by Supervisor Blades, 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, the Superintendent of Public Works, has advised that there is a need for an additional \$650,000 in order to complete the Stowersville Road bank stabilization project; and

WHEREAS, it is further advised that the only means in order to obtain these funds would be through the issuance of a serial bond not to exceed \$650,000.

BE IT RESOLVED that the Essex County Board of Supervisors hereby authorizes the County Attorney to prepare and or obtain the necessary paperwork to establish serial bond and/or bond anticipation note in an amount not to exceed \$650,000 which monies are to be used to finish the Stowersville Road bank stabilization project.

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

AYES: 2752 votes
NOES: 0 votes
ABSENT: 91 votes (Preston)

Resolution No. 310

September 8, 2009
Regular Meeting

**RESOLUTION CONGRATULATING
MICHAEL G. DISKIN, ESSEX COUNTY TREASURER ,
ON BEING ELECTED TO SERVE AS SECRETARY OF
THE NATIONAL ASSOCIATION OF COUNTY
COLLECTORS, TREASURERS AND FINANCE OFFICERS
FOR THE YEAR 2009-2010**

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

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

WHEREAS, Michael G. Diskin has served the People of Essex County and the State of New York with exemplary integrity, distinction and dedication as Essex County Treasurer since January 1, 1995; and

WHEREAS, Michael G. Diskin has willingly accepted the assignment by the Board of Supervisors of many additional duties in order to promote and protect the best interest of Essex County residents;

WHEREAS, the National Association of County Collectors, Treasurers and Finance Officers has elected Michael G. Diskin to serve as its Secretary for the year 2009-2010; and

BE IT RESOLVED that the Essex County Board of Supervisors, its Clerk of the Board, County Attorney and County Manager hereby extend their most heartfelt congratulations to Michael G. Diskin on being elected to serve as Secretary of the National Association of County Collectors, Treasurers and Finance Officers for the year 2009-2010, and express their deep appreciation for his exemplary public service and for bringing honor and distinction to Essex County.

This resolution was unanimously seconded and adopted.

Resolution No. 311

September 8, 2009
Regular Board Meeting

RESOLUTION AUTHORIZING THE ESSEX COUNTY PLANNING

**DEPARTMENT TO APPLY FOR A NEW YORK STATE OFFICE OF
PARKS, RECREATION AND HISTORIC PRESERVATION - STATE
HISTORIC PRESERVATION OFFICE (SHIPPO) GRANT/FUNDING
FROM THE ENVIRONMENTAL PROTECTION FUND FOR THE MILL
HILL BRIDGE IN THE VILLAGE OF KEESEVILLE**

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, the Environmental Protection Fund has monies available to State Historic Preservation Office (SHIPPO) to be used for the rehabilitation and repair of the Mill Hill Bridge located in the Village of Keeseville; and

WHEREAS, the Mill Hill Bridge located in the Village of Keeseville is in dire need of rehabilitation and repair and may be an eligible project under the SHIPPO funding.

BE IT RESOLVED that the Essex County Board of Supervisors hereby authorizes the Essex County Planning Department to apply for a SHIPPO grant seeking funding sufficient to rehabilitate and repair the Mill Hill Bridge in the Village of Keeseville.

This resolution was seconded by Supervisors Jackson and Douglas, and duly adopted.

Resolution No. 312

**September 8, 2009
Regular Board Meeting**

**RESOLUTION AUTHORIZING THE COUNTY ATTORNEY TO HIRE A
PART-TIME EMPLOYEE TO FILL IN FOR HIS SENIOR
LEGISLATIVE AIDE FOR THE PERIOD SEPTEMBER 21, 2009
THROUGH DECEMBER 31, 2009 AT THE RATE OF \$15.16 PER
HOUR FOR A 35 HOUR WEEK WITH SUCH FUNDS TO COME
FROM THE CONTINGENCY ACCOUNT**

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, the County Attorney's Sr. Legislative Aide, Sarrah Zagrodzki, will take maternity leave from approximately September 21, 2009 to December 31, 2009; and

WHEREAS, based upon the foregoing, it will be necessary for the County Attorney to hire a part-time employee.

BE IT RESOLVED, that the Essex County Board of Supervisors hereby authorizes the County Attorney to employ a part-time employee to temporarily fill the position of Senior

Legislative Aide at the hourly rate of \$15.16/hour for a total of \$9,500.00 ,which funds are to come from the Contingency Account (19904-5487) to Account Numbers (14201-5130 - Part-time Wages - \$8,000.00; 14208-5820 - Social Security - \$612.00; 14208-5810 - Retirement - \$888.00).

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

AYES: 2752 votes
NOES: 0 votes
ABSENT: 91 votes (Preston)

BUDGET IMPACT STATEMENT:	
<i>Contingent Account Balance as of 8/3/09 :</i>	\$298,786.77
<i>Reduction Impact of this resolution:</i>	\$ 9,500.00
<i>FY2009 Contingent Account Balance:</i>	\$289,286.77

Resolution No. 313

September 8, 2009
Regular Board Meeting

RESOLUTION AUTHORIZING A CONTRACT WITH BARTON & LOGUIDICE FOR ENGINEERING SERVICES FOR TANK CLOSURE, TEST PIT ASSESSMENT AND SPILL PREVENTION CONTROL AND COUNTERMEASURE (SPCC) PLAN RELATIVE TO THE UNREGISTERED UNDERGROUND STORAGE TANK CONTAINING USED OIL LOCATED AT THE ESSEX COUNTY DEPARTMENT OF PUBLIC WORKS FACILITY

The following resolution was offered by Supervisor Dobie, 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, Barton & Loguidice has conducted an audit of the Essex County Department of Public Works facility located in Elizabethtown, New York and has identified that the facility maintained an unregistered underground storage tank containing used oil which does not meet federal requirements and is required to be closed and removed; and

WHEREAS, in addition the audit identified that the facility must prepare a Spill

Prevention Control and Countermeasure (SPCC) Plan pursuant to federal requirements;
and

WHEREAS, Essex County Department of Public Works Superintendent has advised that all of these measures must be completed prior to September 18, 2009.

BE IT RESOLVED that the Essex County Board of Supervisors hereby authorizes its County Chairman and/or County Manager to execute a contract with Barton & Loguidice, P.C. in an amount not to exceed \$13,100.00, to come from budgeted funds; and

BE IT FURTHER RESOLVED, these services are deemed by this Board to be a professional service which, by the terms of the Essex County Procurement Policy are generally to be solicited pursuant to RFP however, because of the extreme time constraint mandated, the nature of the situation, the value of the contract and the intimate knowledge of Barton & Loguidice with the site as the result of their audit, this Board is constrained to waive the RFP requirement and to authorize the execution of this contract.

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

AYES: 2752 votes
NOES: 0 votes
ABSENT: 91 votes (Preston)

Resolution No. 314

September 8, 2009
Regular Board Meeting

**RESOLUTION AUTHORIZING DEBORAH GIFFORD, ADMINISTRATOR
OF THE HORACE NYE NURSING HOME TO SOLICIT AND RECRUIT A
NEW DIRECTOR OF NURSING FOR THE HORACE NYE NURSING
HOME, THE SALARY RANGE OF UP TO \$31.00 PER HOUR**

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

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

WHEREAS, Brooke Beaton, the current Director of Nursing for the Horace Nye Nursing Home has indicated that she will be resigning from the position effective October 2, 2009; and

WHEREAS, because of her resignation, it is necessary for the Horace Nye Nursing Home to fill the Director of Nursing position immediately; and

WHEREAS, Deborah Gifford, Administrator of the Horace Nye Nursing Home has informed this body that there is a paucity of qualified individuals available to fill this position and further advised that a salary of up to \$31.00 per hour would be appropriate under the

current circumstances.

BE IT RESOLVED, that the Essex County Board of Supervisors hereby authorizes Deborah Gifford, Administrator of the Horace Nye Nursing Home to solicit and recruit a new Director of Nursing for the Horace Nye Nursing Home at a salary of up to \$31.00 per hour, with payment to come from budgeted funds.

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

AYES: 2752 votes
NOES: 0 votes
ABSENT: 91 votes (Preston)

Resolution No. 315

September 8, 2009
Regular Board Meeting

RESOLUTION AUTHORIZING THE COUNTY CHAIRPERSON AND/OR COUNTY MANAGER TO EXECUTE A CONTRACT WITH ALCATEL-LUCENT, N.R. IN AN AMOUNT NOT TO EXCEED \$1,500,000 FOR ENGINEERING SERVICES RELATED TO TRANSMISSION AND RECEPTION OF RADIO SIGNALS VIA MICROWAVE, EQUIPMENT, MATERIALS AND SUPPLIES, THE PROVISION OF PATH SURVEYS AND PATH SURVEY DESIGNS AND THE INSTALLATION OF MICROWAVE, ANTENNA AND WAVELENGTH SYSTEMS AND OTHER ANCILLARY EQUIPMENT INCIDENT TO THE NEW ESSEX COUNTY P25 RADIO SYSTEM

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

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

WHEREAS, the County of Essex is currently constructing a new P25 Digital Radio System to replace the existing antiquated 1950s vintage system in order to provide radio coverage for emergency services, police, fire, EMT, first responders and other county agencies to ensure adequate protection for the well being and interests of the residents of Essex County; and

WHEREAS, Essex County has contracted with Motorola, Inc. incident to the purchase of radio electronics equipment and the installation thereof with respect to this system and is currently involved in obtaining long term leases with various tower and property owners for the erection or use of radio transmission towers in order to send and receive radio signals; and

WHEREAS, as a necessary component to the overall P25 Radio System, it is necessary for the County to obtain engineering and system design services and relative

to the microwave system and microwave paths together with the purchase of microwave radio equipment and other ancillary equipment necessary for the reception and transmission of radio frequencies; and

WHEREAS, Alcatel-Lucent currently holds a state contract relative to these services.

BE IT RESOLVED that the Essex County Board of Supervisors hereby authorizes its County Chairperson and/or County Manager to execute a contract with Alcatel-Lucent in an amount not to exceed \$1,500,000 to be funded from existing Bond monies for engineering and system design, purchase and installation of antenna, microwave and other ancillary equipment necessary for transmission and reception frequencies and upon the approval of the County Attorney.

BE IT FURTHER RESOLVED, that the Essex County Board of Supervisors acknowledges that the purchase hereunder is through state contract and therefore the competitive bidding requirements of General Municipal Law Section 103 do not apply.

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

AYES: 2271 votes
NOES: 481 votes (Politi)
ABSENT: 91 votes (Preston)

Resolution No. 316

September 8, 2009
Regular Board Meeting

RESOLUTION AUTHORIZING THE COUNTY CHAIRPERSON AND/OR COUNTY MANAGER TO EXECUTE A CONTRACT WITH FEDERAL ENGINEERING, INC. FOR CIVIL WORK PROCUREMENT AND OVERSIGHT ON THE NEW ESSEX COUNTY P25 DIGITAL RADIO SYSTEM IN AN AMOUNT NOT TO EXCEED \$8,950 TO BE PAID FROM THE \$10 MILLION SERIAL BOND OR RELATED BANS

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.

WHEREAS, the County of Essex is currently constructing a new P25 Digital Radio System to replace the existing antiquated 1950s vintage system in order to provide radio coverage for emergency services, police, fire, EMT, first responders and other county agencies to ensure adequate protection for the well being and interests of the residents of Essex County; and

WHEREAS, Essex County has contracted with Motorola, Inc. incident to the purchase of radio electronics equipment and the installation thereof with respect to this

system and is currently involved in obtaining long term leases with various tower and property owners for the erection or use of radio transmission towers in order to send and receive radio signals; and

WHEREAS, it is necessary for Essex County to solicit RFPs from qualified vendors for civil engineering, site development, site plan maps, work and design, shelter design and construction, and the construction, extension or reinforcement of new and existing towers; and

WHEREAS, Cortland County has solicited RFPs pursuant to proposal dated May 1, 2009 with respect to a design for a new Cortland County inter-operable emergency communication system which included requests for civil work; and

WHEREAS, Federal Engineering, Inc. of Fairfax, Virginia was awarded the contract with Cortland County for the design of their new emergency communications system and a contract has been entered into between Cortland County and Federal Engineering dated August 18, 2009; and

WHEREAS, Essex County is desirous of piggybacking upon a portion of the existing contract between Cortland County and Federal Engineering, Inc. pursuant to General Municipal Law Section 103(3) and County Law Section 408-a(2) as the same has been properly put out to bid; and

WHEREAS, the contract between Cortland County and Federal Engineering contains the appropriate Extension Of Prices clause allowing any County, Town or Village to make a purchase through the Cortland County agreement and to “piggyback” thereon; and

WHEREAS, General Municipal Law Section 103(e) and County Law Section 408-a(2) are exceptions to the requirements of the competitive bidding requirements of Section 103 of the General Municipal Law.

BE IT RESOLVED that the Essex County Board of Supervisors hereby authorizes and permits the use by Essex County of the pertinent portion of the agreement between Cortland County and Federal Engineering pursuant to General Municipal Law Section 103(3) and County Law Section 408-a(2) accepting the cost proposal and long term consulting rates set forth therein with particular emphasis upon the \$140 per hour senior consultant rate as an exception to competitive bidding.

BE IT FURTHER RESOLVED, that the Essex County Board of Supervisors hereby authorizes its County Chairperson and/or County Manager to execute a contract with Federal Engineering for Civil Works Procurement in an amount not to exceed \$8,950 upon approval of the County Attorney with the funds therefore to be paid from the existing Bond.

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

AYES: 2752 votes
NOES: 0 votes
ABSENT: 91 votes (Preston)

Resolution No. 317

September 8, 2009
Regular Board Meeting

**RESOLUTION OF APPROVAL/SUPPORT FOR PROPOSED STATE
LEGISLATION/SENATE BILL S.4080/ASSEMBLY BILL A.7504 TO
AMEND NEW YORK STATE CIVIL PRACTICE LAW & RULES**

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

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

WHEREAS, under current State law, negligence damages recovered against a municipality by its employees are not reduced by the amount of the employee's disability pension, and as such, public employees who may be hurt while on the job are being paid twice for the same future lost earnings; and

WHEREAS, private employers are permitted to reduce future lost earnings by the amount of any pension benefits that may be received by the employee, while public employers are not afforded such equitable relief; and

WHEREAS, there is legislation currently being considered by the New York State Senate and Assembly (S.4080-A and A.7504-A, respectively) which would amend the New York State Civil Practice Law and Rules to allow municipalities to offset awards for future lost earnings made to employees by disability pensions and other collateral sources of compensation, thereby ending the unfair double recoveries against public employers; and

WHEREAS, this legislation would save municipalities millions of dollars annually by giving the same benefit to public employers that private employers currently enjoy, a matter of fundamental fairness and sound public policy; and

WHEREAS, the proposed legislation would also protect public employers who settle litigation from being subjected to a claim by a health benefits provider or other collateral source payor for reimbursement of monies that it may have paid to the employee in said case; and

BE IT RESOLVED that the Essex County Board of Supervisors hereby supports the proposed legislation designated in the New York State Senate as S.4080-A and in the Assembly as A.7504-A, and therefore urges lawmakers to adopt said bills.

BE IT FURTHER RESOLVED that the Clerk of this Board is hereby authorized and directed to immediately send certified copies of this resolution to: Governor David A. Paterson; New York State Senate Majority Leader Malcolm A. Smith; Senator Elizabeth O'C. Little; Senate Minority Leader James N. Tedisco; Assembly Speaker Sheldon Silver;

and Assembly Members Teresa R. Sayward and Janet Duprey.

This resolution was duly seconded by Supervisors McSweeney and French, and adopted.

Resolution No. 318

September 8, 2009
Regular Board Meeting

**RESOLUTION ADOPTING LOCAL LAW NO. 3 OF 2009
ESTABLISHING THE POSITION OF ESSEX COUNTY DEPARTMENT
OF TRANSPORTATION COORDINATOR**

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

WHEREAS, by Resolution No. 289 duly adopted at the Regular Board Meeting held on August 3, 2009, this Board of Supervisors introduced Local Law No. 3 of 2009, "Creating the Office of Essex County Department of Transportation Coordinator", and scheduled a public hearing thereon on August 17, 2009 at 9:15 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. 3 of 2009, as follows:

**"ESSEX COUNTY
LOCAL LAW NO. 3 OF 2009**

A local law to create the office of Essex County Department of Transportation Coordinator and assigning to said office specified administrative functions, powers and duties to be performed on behalf of the Board of Supervisors.

BE IT ENACTED by the Board of Supervisors as follows:

Section 1. ESSEX COUNTY DEPARTMENT OF TRANSPORTATION COORDINATOR

The Office of Essex County Department of Transportation Coordinator is hereby created and established, with such office to be in the competitive class of the civil service.

Section 2. TERM

The term of office of the Essex County Department of Transportation Coordinator shall commence on the first day of January of each even numbered calendar year.

Section 3. COMPENSATION

The compensation to be paid to the Essex County Department of Transportation Coordinator shall be annually negotiated with and set by the Board of Supervisors.

Section 4. APPOINTMENT; QUALIFICATIONS

The Essex County Department of Transportation Coordinator shall be appointed by resolution duly adopted by the Board of Supervisors. At the time of appointment, the Essex County Department of Transportation Coordinator shall possess

- (a) Graduation from a regionally accredited or New York State registered college or university with a Bachelor's Degree in planning, transportation planning, civil engineering, transportation engineering or closely related field and one year of transportation planning experience; OR
- (b) Graduation from a regionally accredited or New York State registered college or university with a Bachelor's Degree in economics, geography, government, public administration, statistics or closely related field and two years of experience in transportation planning; OR
- (c) Graduation from a regionally accredited or New York State registered college or university with an Associates' Degree in planning, transportation planning, civil engineering, transportation engineering or closely related field and three years of transportation planning experience; OR
- (d) An equivalent combination of training and experience as defined by the limits of A), B) and C) above; OR
- (e) Education beyond a Bachelor's Degree in a specified field may be substituted for experience on a year for year basis

Section 5. REMOVAL AND DISCIPLINE

The Essex County Department of Transportation Coordinator may be disciplined by the Board of Supervisors in accordance with the procedures set forth in Section 75 of the Civil Service Law.

If the Essex County Department of Transportation Coordinator is found guilty of disciplinary charges, the penalty imposed may consist of either "1. A reprimand; 2. A suspension for a period not exceeding two months; or 3. Termination from office.

If the Essex County Department of Transportation Coordinator is found guilty, he or she shall be provided a copy of the charges, the written answer thereto, a transcript of the hearing, and the determination rendered by the appointing authority.

The determination rendered by the Board of Supervisors shall constitute a final determination by the County of Essex and may be reviewed upon a Petition filed in accordance with the provisions of Article 78 of the Civil Practice Law and Rules or an application to the state of municipal commission having jurisdiction pursuant to Section 76 of the Civil Service Law.

Section 6. POWERS AND DUTIES

Without curtailing, diminishing or transferring the powers of any elected or appointed County official or the Essex County Board of Supervisors, the Essex County Department of Transportation Coordinator/ shall be responsible for the overall administration of the Essex County Department of Transportation, and shall perform all the duties now and hereafter conferred or imposed upon such office by law and directed by the Board of Supervisors, and shall have all powers and perform all duties necessarily implied or incidental thereto. All of the powers and duties of the Essex County Department of Transportation Coordinator shall be exercised and performed on behalf of the Board of Supervisors and subject to said Board's supervision, direction and control. The powers and duties of Essex County Department of Transportation Coordinator include, but are not limited to, the following:

- (a) Preparation of a variety of reports and applications necessary to secure funding or reimbursement for the department;
- (b) Provides fiscal, statistical and business management information in support of Federal or State grant applications and leverage of funding for transportation projects;
- (c) Submits grant proposals for operating and capital assistance;
- (d) Coordination of fiscal, management and administrative functions to assure compliance with Federal, State and local requirements;
- (e) Acts as the liaison, and maintains effective relationships with Federal, State and local agencies, individuals and groups in matters relating to the operation, funding, planning, marketing and analysis of transportation projects and mandates for continuation of services;
- (f) Preparation and management of program budget;
- (g) Creation of promotional, marketing, public relations materials and assists in organization of staff training and orientation;
- (h) Creation, planing, implementing, scheduling and dispatching protocols and evaluates the programs and services;

- (i) Interpretation of federal, state and local rules and regulations relating to the implementation of the transportation system;
- (j) Establishment and maintenance liaison with representatives from partner agencies to enlist their participation;
- (k) Development and management all contracts with outside agencies;
- (l) Development of varied research assignments related to community and master planning;
- (m) Assistance in developing long-range plans to maintain continuous improvement for effective program development and budget development;
- (n) Preparation and interpretation of a wide variety of narrative and tabular records and reports necessary for control and operation of activities;
- (o) Oversees Countywide public transportation system, including three operators in the County operating system. This includes all reporting to NYS DOT, completing applications for grant funding and grant administration;
- (p) Oversees one call center and County operated public transit including all employees, accounting, route justification, planning, development, funding and procurement;
- (q) Coordination bringing providers of services together to share services, to reduce cost and duplication;
- (r) Reports to the Board of Supervisors on an at least monthly basis as to all activities of the Department of Transportation;
- (s) Attend all regular meetings of the Board of Supervisors and the transportation committee meetings;
- (t) Responsibility for the supervision and performance of a variety of public transportation business functions including budgeting, accounting, finance, grant writing and office management.
- (u) Any and all other powers and duties determined by the Essex County Board of Supervisors.

Section 7. LIMITATIONS

No provision, clause or sentence of this local law shall operate to divest the Board

of Supervisors of any of its administrative or legislative functions, powers and duties; nor shall the grant herein of any of the powers and duties to the Essex County Department of Transportation Coordinator operate or be construed as a transfer of any such functions, powers and duties by said Board.

Section 8. SEPARABILITY

If any clause, sentence, paragraph, section or part of this Local Law shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment, decree or order shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment, decree or order shall have been rendered and the remainder of this local law shall not be affected thereby and shall remain in full force and effect.

Section 9. EFFECTIVE DATE

This local law shall take effect on the first day of the month following the date of adoption and compliance with the requirements of law.

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

AYES: 2752 votes
NOES: 0 votes
ABSENT: 91 votes (Preston)

Resolution No. 319

September 8, 2009
Regular Board Meeting

*RESOLUTION INTRODUCING PROPOSED LOCAL LAW NO. 4 OF 2009
CONTINUING THE IMPOSITION OF THE ADDITIONAL MORTGAGE
TAX IN ESSEX COUNTY*

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.

BE IT RESOLVED that the Essex County Board of Supervisors hereby introduces proposed 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” 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 RESOLVED 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 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 indorse 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 indorsed 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.

AND BE IT FURTHER RESOLVED that the Essex County Board of Supervisors shall hold and conduct a public hearing on the foregoing proposed local law on 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 BE IT FURTHER RESOLVED that the Clerk of the Board of Supervisors publish a Notice of such Hearing in the designated County newspapers at least five (5) days prior to said Hearing.

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

AYES: 2752 votes
NOES: 0 votes
ABSENT: 91 votes (Preston)

Resolution No. 320

September 8, 2009
Regular Board Meeting

**RESOLUTION AUTHORIZING THE ISSUANCE OF UP TO \$650,000
AGGREGATE PRINCIPAL AMOUNT SERIAL BONDS OF THE
COUNTY OF ESSEX, STATE OF NEW YORK, PURSUANT TO THE
LOCAL FINANCE LAW, TO FINANCE THE COSTS OF THE
ACQUISITION AND RECONSTRUCTION OF IMPROVEMENTS TO
STOWERSVILLE ROAD IN AND FOR THE COUNTY**

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

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

WHEREAS, the Board of Supervisors of the County of Essex (the "County"), located in the State of New York, hereby determines that it is in the public interest of the County to authorize the financing of the costs of the acquisition and reconstruction of improvements to Stowersville Road, in and for the County, including the acquisition of any applicable equipment, machinery, apparatus, land and rights-in-land necessary therefor and any preliminary and incidental costs related thereto, at a total cost not to exceed \$650,000, pursuant to the Local Finance Law; and

WHEREAS, the Board of Supervisors of the County has not taken any action or adopted any local law which would require the effectiveness of this bond resolution to be subjected to a permissive or mandatory referendum.

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

Section 1. There is hereby authorized to be issued serial bonds of the County, in the aggregate principal amount not to exceed \$650,000, pursuant to the Local Finance Law, in order to finance the costs of the acquisition and reconstruction of improvements to Stowersville Road, in and for the County, including acquisition of any applicable equipment, machinery, apparatus, land and rights-in-land necessary therefor and any preliminary and incidental costs related thereto (the "Project").

Section 2. The Board of Supervisors of the County has ascertained and hereby states that (a) the estimated maximum cost of the Project is not to exceed \$650,000, (b) no money has heretofore been authorized to be applied to the payment of the costs of the Project, (c) the Board of Supervisors of the County plans to finance the costs of the Project from the proceeds of the serial bonds authorized herein, or bond anticipation notes issued in anticipation of the issuance of such serial bonds, except to the extent of Federal or State aid received by the County which shall reduce the principal amount of the serial bonds or bond anticipation notes issued in anticipation of the issuance of such serial bonds, authorized herein *pro tanto*, (d) the maturity of the obligations authorized herein will be in excess of five (5) years, and (e) on or before the expenditure of moneys to pay for the Project, for which proceeds of any obligations are to be applied to reimburse the County, the Board of Supervisors of the County took "official action" for federal income tax purposes to authorize the capital financing of such expenditure.

Section 3. It is hereby determined that the Project is of a class of object or purpose described in subdivision 10 of paragraph a of Section 11.00 of the Local Finance Law and that the period of probably usefulness of the Project is fifteen (15) years. The serial bonds authorized herein shall have a maximum maturity of the fifteen (15) years computed from the earlier of (a) the date of the first issue of such serial bonds, or (b) the date of the first issue of bond anticipation notes issued in anticipation of the issuance of such serial bonds.

Section 4. Subject to the terms and conditions of this bond resolution and the Local Finance Law, including the provisions of Sections 21.00, 30.00, 50.00 and 56.00 to 60.00, inclusive, the power to authorize serial bonds, and bond anticipation notes issued in anticipation of the issuance of such serial bonds, including the renewal thereof, the power to prescribe the terms, form and contents of such serial bonds and such bond anticipation notes, and the power to issue, sell and deliver such serial bonds and such bond anticipation notes, are hereby delegated to the County Treasurer, as chief fiscal officer of the County. The County Treasurer is hereby authorized to execute, by manual or facsimile signature, on behalf of the County, all serial bonds issued pursuant to this bond resolution and all bond anticipation notes issued in anticipation of the issuance of such serial bonds, and the County Clerk is hereby authorized to impress the seal (or to have imprinted a facsimile thereto) of the County to or on all such serial bonds and all such bond anticipation notes, and to attest such seal. Each interest coupon, if any, representing interest payable on such serial bonds, shall be authenticated by the manual or facsimile signature of the County Treasurer. In the absence of the County Treasurer, the Deputy County Treasurer is hereby authorized to exercise the powers delegated to the County Treasurer by this bond resolution.

Section 5. When this bond resolution takes effect, the Clerk of the Board of Supervisors shall cause the same to be published together with a notice in substantially the form prescribed by Section 81.00 of the Local Finance Law in the Plattsburgh Press Republican, Post Star, Adirondack Daily Enterprise and Times of Ti, newspapers having a general circulation in the County. The validity of such serial bonds authorized herein, and of bond anticipation notes issued in anticipation of the issuance of such serial bonds, may be contested only if such obligations are authorized for an object or purpose, or class of object or purpose, for which the County is not authorized to expend money, or the provisions of law, which should have been complied with as of the date of the publication of this bond resolution, were not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty (20) days after the date of such publication, or if such obligations are authorized in violation of the provisions of the Constitution of the State of New York.

Section 6. The faith and credit of the County are hereby and shall be irrevocably pledged for the punctual payment of the principal of and interest on all obligations authorized and issued pursuant to this bond resolution as the same shall become due.

Section 7. The County intends to issue the obligations authorized by this bond resolution to finance the costs of the Project. The County covenants for the benefit of the holders of such obligations that it will not make any use of the proceeds of such obligations, any funds reasonably expected to be used to pay the principal of or interest on such obligations, or any other funds of the County, and will not make any use of the Project which would cause the interest on such obligations to become subject to federal income taxation under the Internal Revenue Code of 1986, as amended (the "Code") (except for the federal alternative minimum tax imposed on corporations by Section 55 of the Code), or subject the County to any penalties under Section 148 of the Code, and that it will not take any action or omit to take any action with respect to such obligations, the proceeds thereof or the Project financed thereby, if such action or omission would cause the interest on such obligations to become subject to federal income taxation under the Code (except for the federal alternative minimum tax imposed on corporations by Section 55 of the Code), or subject the County to any penalties under Section 148 of the Code. The foregoing covenants shall remain in full force and effect notwithstanding the defeasance of such serial bonds or any other provisions hereof until the date which is sixty (60) days after the final maturity date or earlier prior redemption date thereof. The proceeds of the serial bonds authorized herein, and of any bond anticipation notes issued in anticipation of the issuance of such serial bonds, may be applied to reimburse expenditures or commitments made in connection with the Project on or after a date which is not more than sixty (60) days prior to the adoption date of this bond resolution and the County may expend general funds or other available moneys for the Project which shall be reimbursed from the proceeds of such obligations.

Section 8. Prior to the issuance of the obligations authorized herein, the Board of Supervisors of the County shall comply with all applicable provisions prescribed in Article 8 of the Environmental Conservation Law, the regulations promulgated thereunder by the New York State Department of Environmental Conservation, and all applicable Federal laws and

regulations in connection with environmental quality review relating to the Project (collectively, the “environmental compliance proceedings”). In the event that any of the environmental compliance proceedings are not completed, or require amendment or modification subsequent to the date of adoption of this bond resolution, the Board of Supervisors of the County covenants that it will re-adopt, amend or modify this bond resolution prior to the issuance of such obligations authorized herein upon the advice of bond counsel. It is hereby and has been determined by the Board of Supervisors of the County that the Project will not have significant impact or effect on the environment.

Section 9. For the benefit of the holders and beneficial owners from time to time of the serial bonds authorized herein, or bond anticipation notes issued in anticipation of the issuance of such serial bonds, the County agrees, in accordance with, and as an obligated person with respect to the obligations under, Rule 15c2-12 promulgated by the Securities Exchange Commission pursuant to the Securities Exchange Act of 1934 (the “Rule”), to provide or cause to be provided such financial information and operating data, financial statements and notices, in such manner, as may be required for purposes of the Rule. In order to describe and specify certain terms of the County’s continuing disclosure agreement for that purpose, and thereby to implement that agreement, including provisions for enforcement, amendment and termination, the County Treasurer is authorized and directed to sign and deliver, in the name and on behalf of the County, the commitment authorized by subsection 6(c) of the Rule (the “Commitment”) to be placed on file with the County Clerk, which shall constitute the continuing disclosure agreement made by the County for the benefit of holders and beneficial owners of the obligations authorized herein in accordance with the Rule, with any changes or amendments that are not inconsistent with this bond resolution and not substantially adverse to the County and that are approved by the County Treasurer on behalf of the County, all of which shall be conclusively evidenced by the signing of the Commitment or amendments thereto. The agreement formed collectively by this paragraph and the Commitment, shall be the County’s continuing disclosure agreement for purposes of the Rule, and its performance shall be subject to the availability of funds and their annual appropriation to meet the costs the County would be required to incur to perform thereunder. The County Treasurer is further authorized and directed to establish procedures in order to ensure compliance by the County with its continuing disclosure agreement, including the timely provision of information and notices. Prior to making any filing in accordance with the agreement or providing notice of the occurrence of any material event, the County Treasurer shall consult with, as appropriate, the County Attorney and bond counsel or other qualified independent special counsel to the County and shall be entitled to rely upon any legal advice provided by the County Attorney or such bond counsel or other qualified independent special counsel in determining whether a filing should be made.

Section 10. This bond resolution shall take effect immediately upon its adoption by the Board of Supervisors of the County.

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

AYES: 3795 votes
NOES: 0 votes
ABSENT: 121 votes (Preston)

Resolution No. 321
TABLED

September 8, 2009
Regular Board Meeting

*RESOLUTION INTRODUCING PROPOSED LOCAL LAW NO. 6 OF 2009
PROHIBITING THE USE OF WIRELESS HANDSETS TO COMPOSE, READ, OR
SEND TEXT MESSAGES WHILE OPERATING A MOTOR VEHICLE IN ESSEX
COUNTY*

The following resolution was offered by Supervisor Douglas, 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 introduces proposed Local Law No. 6 of 2009 entitled "Local Law No. 6 of the year 2009 - Prohibiting the use of wireless handsets to compose, read or send text messages while operating a motor vehicle in Essex County" as follows:

"ESSEX COUNTY PROPOSED LOCAL LAW NO. 6 of 2009"

A local law prohibiting the use of wireless handsets to compose, read or send text messages while operating a motor vehicle in Essex County.

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

SECTION 1. Title

This local law shall be known as "Local Law to prohibit the use of wireless handsets to compose, read or send text messages while operating a motor vehicle in Essex County".

SECTION 2. Declaration of Intent

The Board of Supervisors finds that the popularity of text messaging has created a new distraction for drivers and has resulted in numerous accidents, many of them fatal, nationwide. Text messaging while driving decreases a drivers awareness and safety on the road, affecting reaction time and diverting attention from surrounding environment and roadways. In order to protect the health, safety and well-being of persons within the County of Essex and to insure that individuals are not distracted while driving, this local law seeks to prohibit text messaging while driving. This governing body finds that it is in the best interest and safety of the driving public to prohibit drivers from composing, reading or sending text messages while driving.

SECTION 3. Definitions

1. "Text Messaging or Text Message" - also referred to as "short messaging service" (SMS), shall mean the process by which users send, read or receive messages on a wireless handset, including but not limited to, text messages, instant messages, electronic or e-mails, in order to communicate with any person or device.

2. "Hands-Free" - shall mean the manner in which a wireless handset is operated for the purpose of composing, reading or sending text messages, by using an internal feature or function, or through an attachment or addition, including but not limited to an ear piece, head set, remote

microphone or short-range wireless connection, thereby allowing the user to operate said device without the use of hands.

3. "Inoperability" - shall mean a motor vehicle that is incapable of being operated or being operated in a safe and prudent manner due to mechanical failure, including but not limited to engine overheating or tire failure.

4. "Motor vehicle" - shall mean any vehicle that is self-propelled by a motor, including but not limited to automobiles, trucks, vans, construction vehicles and all other motor vehicles as defined by the Vehicle and Traffic Law of the State of New York.

5. "Person" - shall mean any natural person, corporation, unincorporated association, firm, partnership, joint venture, joint stock association, or other entity or business organization of any kind.

6. "Use" - shall mean activating, deactivating or initiating functions or keys on a wireless handset.

7. "Wireless handset" - shall mean a portable electronic or computing device, including cellular telephones and personal digital assistants (PDAs), capable of transmitting data in the form of a text message.

8. "Voice Recognition" - shall mean the capability by which wireless handsets can be activated and controlled by voice commands.

SECTION 4. Prohibition

No person shall use a wireless handset to compose, read or send text messages while operating a motor vehicle on any public street, public highway or public roadway within Essex County.

SECTION 5. Exceptions

1. Notwithstanding Section 3, this local law shall not be construed to prohibit the use of any wireless handset by:

- a. any law enforcement, public safety or police officers, emergency services officials and fire safety officials in the performance of duties arising out of and in the course of their employment; or
- b. A person using a wireless handset to contact any law enforcement, public safety, fire safety or emergency officials; or
- c. A person using a wireless handset while the motor vehicle is parked, standing or stopped or while such motor vehicle is stopped due to the inoperability of the motor vehicle.

2. This local law shall not be construed to prohibit a person from operating a motor vehicle while using a "hands-free" wireless handset.

SECTION 6. Penalties

1. A violation of this law shall constitute an offense, and shall be punishable by a fine

not exceeding \$150.00 for each violation. Each such violation shall constitute a separate and distinct offense.

2. This local law shall be enforced by the Essex County Sheriffs Department and sworn officers of an authorized police department or force of a town or village within the geographical boundaries of Essex County. Further, this local law will be enforced anywhere within the geographical boundaries of the County of Essex by a police officer as defined in Section 1-20(34) of the New York State Criminal Procedure Law.

SECTION 7. Applicability

This Local Law shall apply to all actions occurring on or after the effective date of this law.

SECTION 8. Reverse Preemption

This law shall be null and void on the day that statewide legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this law or in the event that a pertinent state or federal administrative agency issued and promulgates regulations preempting such action by the County of Essex. The County Legislature may determine by resolution whether or not identical or substantially similar statewide legislation or pertinent preempting state or federal regulations have been enacted for the purposes of triggering the provisions of this section.

Section 9. Severability

In any clause, sentence, paragraph, subdivision, section or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law or in its application to the person, individual, corporation, firm, partnership, entity or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 10. SEQRA Determination

The Essex County Board of Supervisors, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(21) of Title 6 of the New York Code of Rules and Regulations (6 NYCRR) and within the meaning of Section 8-0109(2) of the New York Environmental Conservation Law as a promulgation of regulations, rules, policies, procedures and legislative decisions in connection with continuing agency administration, management and information collection. The Essex County Board of Supervisors on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

Section 11. Effective Date

This local law shall take effect immediately upon its filing with the Office of the Secretary of State.

AND BE IT FURTHER RESOLVED that the Essex County Board of Supervisors shall hold and conduct a public hearing on the foregoing proposed local law on the 28th day of September, 2009, at 9:45 o'clock in the forenoon of that day, to hear any and all persons concerning the same.

AND BE IT FURTHER RESOLVED that the Clerk of the Board of Supervisors publish a Notice of such Hearing in the designated County newspapers at least five (5) days prior to said Hearing.

This resolution was duly seconded by Supervisors Dedrick, Merrihew and Morency, and **tabled**, upon a motion by Supervisors French and Morrow, with Supervisors Morency, Dedrick and Douglas opposed to the table.

Resolution No. 322

September 8, 2009
Regular Board Meeting

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

The following resolution was offered by Supervisor Jackson, 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 introduces 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 RESOLVED 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.

AND BE IT FURTHER RESOLVED that the Essex County Board of Supervisors shall hold and conduct a public hearing on the foregoing proposed local law on the 28th day of September, 2009, at 9:30 o'clock in the forenoon of that day, to hear any and all persons concerning the same.

AND BE IT FURTHER RESOLVED that the Clerk of the Board of Supervisors publish a Notice of such Hearing in the designated County newspapers at least five (5) days prior to said Hearing.

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

AYES:	2752	votes	
NOES:	0	votes	
ABSENT:	91	votes	(Preston)

**ENVIRONMENTAL COMPLIANCE RESOLUTION TO MAKE FINDINGS
AND DETERMINATIONS RELATIVE TO THE ISSUANCE OF UP TO \$650,000
AGGREGATE PRINCIPAL AMOUNT SERIAL BONDS FOR THE COUNTY OF ESSEX
FOR THE ACQUISITION AND RECONSTRUCTION OF IMPROVEMENTS TO
STOWERSVILLE ROAD IN AND FOR THE COUNTY, INCLUDING THE ACQUISITION OF
ANY APPLICABLE EQUIPMENT, MACHINERY, APPARATUS, LAND AND RIGHTS IN
LAND**

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

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

WHEREAS, Schoder Rivers Associates Consulting Engineers, P.C., a competent engineering firm, duly licensed by the State of New York (the "Engineer"), has, at the instance of the Board of Supervisors of the County of Essex (the "County"), a municipal corporation of the State of New York (the "State"), prepared plans and studies for the construction and reconstruction of bridges, including equipment, apparatus and appurtenances, land, rights-in-land, and any preliminary and incidental costs related thereto (the "Project") and said engineering plans and studies have been filed in the office of the County Clerk and are on file for public inspection; and

WHEREAS, the County has determined that upon the examination of an environmental assessment form ("EAF") the Project is a "Type II action", as that term is defined in 6 NYCRR §617.2(a) and as set forth in 6 NYCRR §617.5, and therefore the County caused the EAF to be prepared and promptly filed with the County Clerk; and

WHEREAS, it is proposed that the maximum amount estimated to be expended for the Project in its entirety is \$650,000 and that the costs of the Project, in whole or in part, as authorized by the qualified voters of the County pursuant to the Local Finance Law of the State of New York and if deemed advisable by the issuance of bond anticipation notes in anticipation of the issuance of such serial bonds; and

WHEREAS, it is proposed that the costs of the Project, as aforesaid, are to be paid from a tax levied upon all the taxable property in the County in annual installments determined by the Board of Supervisors of the County at a County meeting held on September 8, 2009, pursuant to proceedings taken under the Local Finance Law;

NOW THEREFORE, pursuant to proceedings prescribed in 6 NYCRR at §617 of the State Environmental Quality Review Act ("SEQRA") regulations, BE IT RESOLVED, BY THE BOARD OF SUPERVISORS OF THE COUNTY OF ESSEX, STATE OF NEW YORK, as follows:

Section 1. The County, by and through its Board of Supervisors, hereby declares and designates itself to be the “lead agency” as that term is defined in 6 NYCRR §617.2(u), with respect to the continuing environmental review of the Project.

Section 2. It is hereby determined that the Project as aforesaid, is a “Type II action,” as that term is defined in 6 NYCRR §617.2(aj) and as set forth in 6 NYCRR §617.5.

Section 3. No agency other than the County is involved in said environmental review and no coordinated review is necessary or required.

Section 4. No hearing as set forth in 6 NYCRR §617.9(a)(4) is required in making the determinations contained herein with respect to the costs of the Project.

Section 5. Taking into account the criteria set forth in 6 NYCRR §617.7, upon review of all pertinent information, including taking a hard look at all the facts and circumstances, it is determined that the Project (i) will not have a significant effect on the climate or climate change, and (ii) will not have a significant effect on the environment, and no unidentified adverse effects are anticipated with respect thereto and are precluded from further review under the Environmental Conservation Law.

Section 6. It is hereby determined that for purposes of the SEQRA regulations the serial bond resolution to be adopted under the LFL to finance the Project shall not be or be deemed to be an “action”, as that term is defined in 6 NYCRR §617.2(b).

Section 7. The County shall include a true copy of this resolution in the file maintained, readily accessible to the public, in the office of the County Clerk, containing the plans and studies.

Section 8. This resolution shall take effect immediately upon its adoption by the Board of Supervisors of the County.

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

AYES: 2752 votes
NOES: 0 votes
ABSENT: 91 votes (Preston)

Resolution No. 324

September 8, 2009
Regular Board Meeting

***RESOLUTION REQUESTING THAT THE GOVERNOR EXPEDITE THE
CONTRACT APPROVAL PROCESS FOR THE ADIRONDACK
REGIONAL TOURISM COUNCIL (ARTC) TO OPERATE THE OFFICIAL
I LOVE NEW YORK GATEWAY INFORMATION CENTER IN
BEEKMANTOWN, NEW YORK***

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, the Adirondack Regional Tourism Council (ARTC) has contracted with NYSESD to operate the official I Love New York Gateway Information Center in Beekmantown, New York since 1991; and

WHEREAS, the most recent contract with NYSESD expired on March 31, 2009, and the ARTC has been operating this center since April 1, 2009 without a contract and has accumulated expenses of over \$90,000 which need to be paid; and

WHEREAS, the contract between ARTC and NYSESD needs to be completed so that these accumulated expenses can be paid.

BE IT RESOLVED, that the Essex County Board of Supervisors hereby requests that the governor expedite the contract approval process for the ARTC to operate the official I Love New York Gateway Information Center in Beekmantown, New York for the period beginning April 1, 2009 such that accumulated expenses can be reimbursed and a contract is in place; and

BE IT FURTHER RESOLVED, that copies of this resolution shall be forwarded to Governor David Paterson, Senator Elizabeth O’C. Little, Assemblywoman Teresa R. Sayward and Assemblywoman Janet Duprey.

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

Resolution No. 325

September 8, 2009
Regular Board Meeting

**RESOLUTION OF CONGRATULATIONS TO THE CHAMPLAIN
NATIONAL BANK UPON ITS 100TH YEAR ANNIVERSARY AND
SERVICE TO THE PEOPLE OF THE NORTH COUNTRY**

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, Champlain National Bank was formed in 1959 as the result of the merger between the Lake Champlain National Bank in Westport, New York (Established 1909) and Essex County National Bank in Willsboro, New York (Established 1923); and

WHEREAS, Champlain National Bank with offices located in Elizabethtown, Crown Point, Keene, Plattsburgh, Champlain and Lake Placid and has a long and trusted history of service to the people of Essex and Clinton Counties; and

WHEREAS, Champlain National Bank is one of the only independent, community owned, financial institutions in Essex and Clinton Counties; and

WHEREAS, Champlain National Bank has, in one form or another, serviced the residents of Essex and Clinton Counties since 1909 providing banking and financial services to the residents and businesses.

BE IT RESOLVED, that the Essex County Board of Supervisors congratulates the Champlain National Bank upon its celebration of 100 years of service to the residents of Essex and Clinton Counties and wishes it continued prosperity and success.

BE IT FURTHER RESOLVED, that a suitably embossed copy of this Resolution be forwarded to Champlain National Bank.

This resolution was unanimously seconded and adopted.