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

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

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

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

**From the Human Services Committee:**

The appointment to the Community Service Board and Sub-Committee as follows:

Vice-Chair for the Community Service Board - George Anderson, Moriah for the term extending through December 31, 2014.

Community Service Board - David Blades, Lewis and Barbara Reed, Wilmington for the term ending December 31, 2012.

Community Service Board - Virginia Weeks, MD, Saranace Lake and John O'Neill, Saranac Lake for the term ending December 31, 2014.

For the MRDD Sub-Committee of the Community Service Board - Edna Coonrod, Willsboro and Marty Nephew, Moriah for a term ending December 31, 2014.

For the Mental Health Sub-Committee of the Community Services Board - John O'Neill, Saranac Lake and Kelly Tromblee, Westport.

**From the Personnel Committee:**

Appointing following members to the Essex County Ethics Board:

Alex Shmulsky - 1 year term; Ken Doyle - 2 year term; Frank Kearns - 3 year term; Michael Oticelle - 4 year term; Phyllis Klein - 5 year term; and James Herrmann, Alternate.

**From Ways and Means Committee:**

Appointing Joseph Kusalonis to the Essex County Industrial Development Board to fill the vacancy caused by the resignation of Bruce Bourgeois.

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

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

***Resolution No.74*** ***April 4, 2011***
***Regular Board Meeting***

**RESOLUTION AUTHORIZING BUDGET AMENDMENTS FOR VARIOUS DEPARTMENTS**

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

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

***BE IT RESOLVED***, that the Essex County Board of Supervisors hereby amends the 2011 Essex County Budget as follows:

**From Human Services Committee:**

1. For the Mental Health Department, to increase revenues and appropriations by $5,000.00, insurance recoveries as follows:

**REVENUES**

| Account Number | Account Name | Amount |
|---|---|---|
| 4320 42680 | Insurance Recovery | $5,000.00 |

**APPROPRIATIONS**

| Account Number | Account Name | Amount |
|---|---|---|
| 43202 5230 | Auto Equipment | $5,000.00 |

**From Department of Public Works Committee:**

1. For DPW, to increase revenues and appropriations by $1,591.47, insurance recoveries as follows:

**REVENUES**

| Account Number | Account Name | Amount |
|---|---|---|
| 5130 42680 | Insurance Recovery | $1,591.47 |

**APPROPRIATIONS**

| Account Number | Account Name | Amount |
|---|---|---|
| 51304.5441 | Auto Supplies and Repair | $1,591.47 |

**From Finance Committee:**

1. For Public Health Department, to increase revenues and appropriations by $25,586.00, COLA grant as follows:

**REVENUES**

| Account Number | Account Name | Amount |
|---|---|---|
| 4082.4448286 | Fed Aid WIC | $25,586.00 |

**APPROPRIATIONS**

| Account Number | Account Name | Amount |
|---|---|---|
| 40822.5230 | Auto Equipment | $25,586.00 |

***BE IT FURTHER RESOLVED,*** this Board authorizes the Chairman and/or County Manager to execute a contract for the purchase of a new mini-van in the Public Health Department using said funds from WIC grant, upon the approval of the County Attorney.

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

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

***Resolution No. 75*** ***April 4, 2011***
***Regular Board Meeting***

***RESOLUTION AUTHORIZING THE EXECUTION OF ACCOUNT CHANGES WITH RESPECT TO ACCOUNTS HELD BY THE HORACE NYE HOME WITH CHAMPLAIN NATIONAL BANK AND CHANGING THE AUTHORIZED SIGNATURES DELETING STEVE LAUNDREE AND ADDING CHERYL LYNN***

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

Upon the recommendation of the Human Services Committee, 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 execution of account changes with respect to accounts held by the Horace Nye Home with Champlain National Bank, and changing the authorized signatures deleting Steven Laundree and adding Cheryl Lynn for the following purposes:

1. endorsing checks and/or orders for the payment of money and to withdraw funds on deposit with Champlain National Bank.

2. executing all documents and agreements as well as modifications thereto, pertaining to deposit relationship with Champlain National Bank.

3. executing all documents and agreement as well as modifications thereto that pertain to fund transfer authorization agreements.

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

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

***Resolution No. 76*** ***April 4, 2011***
***Regular Board Meeting***

**RESOLUTION ADOPTING AND APPROVING QUALITY IMPROVEMENT REVIEWS AND POLICIES/PROCEDURES FOR THE CERTIFIED HOME HEALTH AGENCY AND PREVENTIVE SERVICES**

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

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

***WHEREAS,*** listed below are the policies and procedures which were submitted and approved by the Professional Advisory/Public Health Advisory Committee on March 1, 2011:

**CERTIFIED HOME HEALTH AGENCY**

- Quality Assurance Review for the 4th Quarter of 2010 - [No Specific Action Required]

Policies and Procedures:

- [New] Weight Check for Infant and Children Procedure
- [New] Pediatric Length Procedure
- [New] Pediatric Venipuncture Blood Samples
- [New] Birth-36 Months of Age
- [New] Access/Reaccess of Port-A-Cath
- [New] Pediatric Central Venous Catheter Blood Withdrawal
- [New] Temperature-Pulse-Respiration (T-P-R) in the Newborn/Pediatric
- [Revised] Yearly Required In-Services Policy
- Home Health Advance Beneficiary Notice
- Timed Up & Go Test (TUG) Procedure
- Suprapubic Catheter Care Procedure
- Oxygen Therapy Procedure
- Pulse Oximetry Procedure
- Denial of Claims Procedure
- Credit Balance Report Procedure
- Write-Off Bad Debts Procedure
- Depression Screening Policy and Procedure
- High-Risk Medications Policy and Procedure
- Intervenous Catheter Antisepsis
- Medication Reconciliation for Therapy Only Patients Policy and Procedure

- Skin Assessment/Rash for Skin Breakdown
- Access/Reaccess of Port-A-Cath Policy and Procedure
- Central Venous Catheter Blood Withdrawal
- Central Venous Catheter Cap Change
- Central Venous Catheter Irrigation

[no designation=no change]

**PREVENTIVE SERVICES**

- Preventive Services Quality Improvement Report for the 4th Quarter of 2010 - [No Specific Action Required]

Policies and Procedures:

- [R] Immunization Clinic Policy and Procedure
  Emergency Medical Protocol for Management of Anaphylactic Reactions in Children, Teens and Adults
- [R] Emergency Kit Policy & Procedure
  Vaccine Information Statement (VIS) Policy & Procedure
  Vaccine Adverse Event Policy & Procedure
  Charges for Vaccine Policy & Procedure
  Disposing of Needles & Sharps Policy & Procedure
- [R] Administering Td/Tdap to Children Ages 7 years and older
  Administering DtaP to Children under 7 years old
  Administering Haemophilus Influenza Type B to children and teens
- [R] Meningococcal to Children and Teens
  Administering Measles, Mumps & Rubella to children and teens
  Administering Pneumococcal Polysaccharide to children and teens
- [R] Administering Hepatitis A to children and teens
  Administering Hepatitis B to children and teens
- [R] Administering Season Influenza inactivated and live intranasal to children and adolescents
- [R] Administering Pneumococcal Conjugate to children
- [R] Administering Human Papillomavirus to children and teens
- [R] Administering Rotavirus to infants
- [R] Administering Tetanus-Diphtheria Toxoids & Pertussis (Td/Tdap) to adults
  Administering Measles, Mumps & Rubella to Adults
- [R] Administering Meningococcal to Adults
- [R] Administering Pneumococcal Polysaccharide to Adults
  Administering Hepatitis B to adults
- [R] Administering Seasonal Influenza inactivated and live intranasal to adults
- [R] Administering Hepatitis A to adults
- [R] Administering Human Papillomavirus to adults
  Administering Poliovirus inactivated to children and teens

Administering Varicella (chickenpox) to children and teens
Administering Varicella (chickenpox) to adults
Administering Zoster to adults

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

***BE IT RESOLVED,*** that the Essex County Board of Supervisors hereby accepts, adopts, approves, or places on file the following herein above referenced Policies and Procedures for both the Certified Home Health Agency and Preventive Services.

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

***Resolution No. 77*** ***April 4, 2011***
***Regular Board Meeting***

**RESOLUTION AUTHORIZING A CONTRACT WITH SABINE WEBER FOR NUTRITION COUNSELING THROUGH HOME VISITS AT A COST OF $75.00/VISIT, NOT TO EXCEED $3,300.00, FROM BUDGETED FUNDS IN THE PUBLIC HEALTH DEPARTMENT**

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

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

***BE IT RESOLVED*** that the Essex County Board of Supervisors hereby authorizes the Chairman of this Board or the County Manager to execute a contract with Sabine Weber for Nutrition Counseling through home visits at a cost of $75/visit, not to exceed $3,300.00, to come from budgeted funds in the Public Health Department, upon the approval of the County Attorney.

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

| | | | |
|---|---|---|---|
| **AYES:** | **2609** | **votes** | |
| **NOES:** | **0** | **votes** | |
| **ABSENT:** | **170** | **votes** | **(Kosmider)** |
| **ABSTAIN:** | **64** | **votes** | **(Montgomery-Corey)** |

***Resolution No. 78*** ***April 4, 2011***
***Regular Board Meeting***

**RESOLUTION AUTHORIZING A CONTRACT WITH PLACE SENSE FOR A COMPREHENSIVE BIKE PEDESTRIAN PLAN FOR ELIZABETHTOWN, AT A COST OF $10,000.00, FROM BUDGETED HEALTHY COMMUNITY GRANT FUNDS**

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

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

***BE IT RESOLVED*** that the Essex County Board of Supervisors hereby authorizes the Chairman of this Board or the County Manager to execute a contract with Place Sense for a Comprehensive Bike/Pedestrian Plan for Elizabethtown, at a cost of $10,000.00, to come from budgeted Healthy Community Grant Funds in Public Health Department, upon the approval of the County Attorney.

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

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

***Resolution No. 79*** ***April 4, 2011***
***Regular Board Meeting***

***RESOLUTION AUTHORIZING THE PURCHASING AGENT TO SOLICIT AND/OR ACCEPT PROPOSALS AND/OR BIDS AND TO AWARD FOR REVIEW OF MEDICARE PPS BILLING FOR THE PAST 12 MONTHS AND RE-SUBMISSION OF MISSED REIMBURSEMENT***

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.

***BE IT RESOLVED*** that the Essex County Board of Supervisors hereby authorizes the Purchasing Agent to solicit and/or accept proposals and/or bids and to award for the review of Medicare PPS billing for past twelve months and re-submission of missed reimbursement; and

***BE IT FURTHER RESOLVED,*** that the Essex County Board of Supervisors hereby authorizes the Chairman and/or County Manager to execute a contract upon the approval of the County Attorney of the awarded proposal and/or bid.

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

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

***Resolution No. 80*** ***April 4, 2011***
***Regular Board Meeting***

***RESOLUTION AUTHORIZING AN UPGRADE TO THE CONTRACT WITH SANSIO FOR MOBILE MEDICAL DOCUMENTATION FOR THE HOME HEALTH AGENCY, AN INCREASE OF APPROXIMATELY $250/MONTH, WITH A ONE-TIME SETUP FEE OF $1,150.00, WITH FUNDS TO COME FROM 2011 BUDGETED RECRUITMENT AND RETENTION MONIES***

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

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

***BE IT RESOLVED*** that the Essex County Board of Supervisors hereby authorizes an upgrade to the contract with Sansio for mobile medical documentation for the Home Health Agency for an increase of approximately $250/month and with a one-time set up charge of $1,150.00, with funds to come from 2011 budgeted Recruitment and Retention monies; and

***BE IT FURTHER RESOLVED,*** that the Essex County Board of Supervisors hereby authorizes the Chairman and/or County Manager to execute a contract with Sansio upon the approval of the County Attorney of such contract.

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

| | | |
|---|---|---|
| **AYES:** | **2609** | **votes** |
| **NOES:** | **0** | **votes** |
| **ABSENT:** | **170** | **votes (Kosmider)** |
| **ABSTAIN:** | **64** | **votes (Montomgery-Corey)** |

***Resolution No. 81*** ***April 4, 2011***

***Regular Board Meeting***

***RESOLUTION AUTHORIZING THE PURCHASE/LEASE OF 15 TABLET COMPUTERS FOR UPGRADE TO ELECTRONIC MEDICAL DOCUMENTATION FOR HOME CARE AGENCY, IN AN AMOUNT NOT TO EXCEED $20,000, FROM 2011 BUDGETED RECRUITMENT AND RETENTION FUNDS IN THE PUBLIC HEALTH DEPARTMENT***

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.

***BE IT RESOLVED*** that the Essex County Board of Supervisors hereby authorizes the purchase/lease of 15 tablet computers for upgrade to electronic medical documentation for Home Health Care Agency, in an amount not to exceed $20,000, with funds to come from 2011 budgeted Recruitment and Retention monies; and

***BE IT FURTHER RESOLVED,*** that the Essex County Board of Supervisors hereby authorizes the Chairman and/or County Manager to execute a contract, upon the approval of the County Attorney of such contract.

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

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

***Resolution No. 82*** ***April 4, 2011***

***Regular Board Meeting***

## *RESOLUTION DECLARING THE OLD LEVER VOTING MACHINES AS SURPLUS COUNTY EQUIPMENT AND GIVING THEM TO THE TOWNS*

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

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

***BE IT RESOLVED*** that the Essex County Board of Supervisors hereby declares the old lever voting machines as surplus and give them back to the towns that bought them originally.

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

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

***Resolution No. 83*** ***April 4, 2011***
***Regular Board Meeting***

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

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

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

***BE IT RESOLVED***, that the Essex County Board of Supervisors hereby accepts, adopts and/or places on file the following:

**From the Public Safety Committee:**

The 2010 Annual Report of the Department of Weights and Measures.

**From the Economic Development Committee:**

The 2010 Annual Report of the Soil and Water District.

**From the Personnel Committee:**

The 2010 Annual Report to the New York State Civil Service Commission.

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

***Resolution No. 84*** ***April 4, 2011***
***Regular Board Meeting***

**RESOLUTION TO EXPLORE THE POSSIBILITY AND COST OF CHANGING THE NAME OF THE ESSEX COUNTY JAIL AND PUBLIC SAFETY BUILDING TO THE HENRY HOMMES MEMORIAL JAIL AND PUBLIC SAFETY BUILDING**

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

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

***BE IT RESOLVED***, that the Essex County Board of Supervisors hereby approves the exploration and cost of changing the name of the Essex County Jail and Public Safety Building to The Henry Hommes Memorial Jail and Public Safety Building.

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

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

***Resolution No. 85*** ***April 4, 2011***
***Regular Board Meeting***

**RESOLUTION OF APPRECIATION TO VICKI & RANDY DICKERSON AND THE MANY VOLUNTEERS WHO ASSISTED, FOR ALL THEIR HARD WORK AND DEDICATION FOR MAINTAINING AND RECORDING THE BURIAL RECORDS AT THE ESSEX COUNTY HOME CEMETERY IN WHALLONSBURG**

The following resolution was offered by Supervisors Boisen and Hatch, who moved its adoption.

Upon the recommendation of the Economic Development 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 their deep appreciation to Vicki and Randy Dickerson and the many volunteers for all of their hard work and dedication for taking on the project of going to the Essex County Home Cemetery in Whallonsburg and recording the names, dates of birth, dates of death and cleaning up the cemetery and for continuing to maintain the cemetery in the future.

This resolution was unanimously seconded and adopted.

***Resolution No. 86*** ***April 4, 2011***
***Regular Board Meeting***

**RESOLUTION IN SUPPORT OF RURAL PRESERVATION PROGRAM STATE FUNDING AND HOUSING ASSISTANCE PROGRAM OF ESSEX COUNTY**

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

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

***WHEREAS,*** the Housing Assistance Program of Essex County, Inc. responds to the development needs of the towns, villages and hamlets of Essex County in order to preserve and promote community vitality; and

***WHEREAS,*** the Housing Assistance Program of Essex County, Inc. recognizes the importance of a stable and strong housing stock and counsels and provides financial assistance to local residents; and

***WHEREAS,*** the Housing Assistance Program of Essex County, Inc.'s program activities in 2010 created 91.8 jobs representing 5% of all jobs in Essex County, and is a significant employer for Essex County; and

***WHEREAS,*** the Housing Assistance Program of Essex County, Inc.'s regional economic value output for 2010 was $9.4 million; and

***WHEREAS,*** the Housing Assistance Program of Essex County, Inc. strengthens the economic security of local working families and the communities in which they live by providing this financial stability.

***BE IT RESOLVED,*** that the Essex County Board of Supervisors recognizes that the HAPEC programs are essential services with significant economic impact and hereby requests the State of New York to maintain Article XVII of the Private Housing Finance Law; and

***BE IT FURTHER RESOLVED,*** that the Essex County Board of Supervisors requests full funding for the Rural Preservation Program; and

***BE IT FURTHER RESOLVED,*** that a copy of this resolution shall be sent to the NYS Senate Majority Leader, NYS Assembly Speaker, NYS Senate Housing, Construction and Community Development Committee Chairperson, NYS Assembly Housing Committee Chairperson, NYS Senate Finance Committee Chairperson, NYS Assembly Ways and Means Chairperson, NYS Senator Elizabeth O'C. Little, NYS Assemblywoman Teresa Sayward and NYS Assemblywoman Janet Duprey.

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

***Resolution No. 87*** ***April 4, 2011***
***Regular Board Meeting***

**RESOLUTION AUTHORIZING THE ADDITION OF THREE FARMS TO THE ESSEX COUNTY AGRICULTURAL DISTRICT #1**

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

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

***WHEREAS,*** Essex County Board of Supervisors established the month of October for open requests to join an Agricultural District; and

***WHEREAS,*** the following farmers have requested to join Essex County Agricultural District #1 during the open period:

1. Tom and Brenda McNally of 7 Townshed Road, Minerva, NY 12851, parcel number 154.4-6-10.000 of 16.8 acres consisting of Becket fine sandy loam and Skerry loam. (Raise and sell Bashkir Curly horses).

2. Seldon West, 25 Scott's Way, Lake Placid, NY 12946, parcel number 52.003-1-6.00 of 22.75 acres consisting of Monadnock fine sandy loam, Sunapee fine sandy loam. (Raise and sell cattle, pigs, sheep and eggs).

3. Todd and Dawn Bessett of 1221 County Route 10, Lewis, NY 12950, parcel number 47.3-2-9.100, 10.100, 1 and 3 consisting of 34.02 acres of Champlain loamy sand. (Raise and sell cattle, pigs, hay and corn).

***WHEREAS,*** the Essex County Agriculture and Farmland Protection Board has met and reviewed the applications and found them to be predominantly viable agricultural land and inclusion in the agricultural district would serve the public interest by assisting in maintaining a viable agricultural industry within Essex Agricultural District #1; and

***WHEREAS,*** the Essex County Board of Supervisors held a Public Hearing on Monday, March 14, 2011 at 11:00 a.m. and all comments were in favor of the additions.

***BE IT RESOLVED,*** that the Essex County Board of Supervisors hereby accepts the addition of said properties to Essex County Agricultural District #1 and moves forward to New York State for their review.

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

***Resolution No. 88*** ***April 4, 2011***

***Regular Board Meeting***

**RESOLUTION SUPPORTING EAT SMART NY IN RURAL NEW YORK, REQUESTING EQUITABLE DISTRIBUTION OF THE FUNDING AND PROVIDE AT LEAST THIRTY DAYS NOTICE FOR FUNDING CHANGES**

The following resolution was offered by Supervisors Boisen and Politi, who moved its adoption.

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

***WHEREAS,*** Eat Smart New York (ESNY) provides nutrition education to the food stamp population through SNAP-Ed (Supplemental Nutrition Assistance - Education) funding from USDA; Cornell Cooperative Extension is the largest extension program of this type in the United States with ESNY in Essex County serving our Essex County population; and

***WHEREAS,*** in 2010, 164 families with 553 people participating; 114 families graduated with six lessons completed; 30 were referrals for special needs; and

***WHEREAS,*** in addition, 205 youth were from the Summer Youth Program, After School Programs and Head Start; and

***WHEREAS,*** ESNY also supports the 4-H Youth Development programs and the new food preservation/canning program; and

***WHEREAS,*** at Cornell Cooperative Extension six people and 4 full-time equivalent are paid through this program; and

***WHEREAS,*** Eat Smart New York is requesting Governor Andrew Cuomo and Deputy Commissioner Russell Sykes to equitably divide the federal rescission for Eat Smart NY among contracting partners based on previous funding, provide at least thirty (30) days notice for funding changes and inform partner organizations as soon as possible of changes.

***BE IT RESOLVED,*** that the Essex County Board of Supervisors hereby supports Eat Smart NY in Rural New York and requests Governor Andrew Cuomo and Deputy Commissioner Russell Sykes to equitably divide the federal rescission for Eat Smart NY among contracting partners based on previous funding, provide at least 30 days notice for funding changes and inform partner organizations as soon as possible; and

***BE IT FURTHER RESOLVED,*** that a copy of this resolution be forwarded to Governor Cuomo and Deputy Commissioner Russell Sykes.

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

***Resolution No. 89*** ***April 4, 2011***
***Regular Board Meeting***

**RESOLUTION AUTHORIZING THE ISSUANCE OF A PERMIT TO IRONMAN LAKE PLACID FOR THE USE OF COUNTY ROADWAYS FOR THE 2011 IRONMAN TRIATHLON RACE**

The following resolution was offered by Supervisor Politi, 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.

**WHEREAS,** the 2011 Ironman Triathlon Race will take place within Essex County on July 24, 2011; and

**WHEREAS,** the organizers of the event have requested the use of certain County roadways for the event, which roadways will either be closed or partially closed for all or a portion of the race.

**BE IT RESOLVED,** that the Essex County Board of Supervisors hereby authorizes its Superintendent of Public Works and County Chairman and/or County Manager to execute a Permit authorizing the use of County Roads 73 and 86 for the 2011 Ironman Triathlon to Ironman Lake Placid on July 24, 2011, subject to the terms and conditions approved by the County Attorney.

This resolution was duly seconded by Supervisors Ferebee and Preston and adopted.

***Resolution No. 90*** ***April 4, 2011***
***Regular Board Meeting***

**RESOLUTION AUTHORIZING THE ISSUANCE OF A PERMIT TO LAKE PLACID MARATHON/INSPIRATION SPORTS, LLC FOR THE USE OF COUNTY ROADWAYS FOR THE 2011 LAKE PLACID MARATHON/HALF MARATHON**

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

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

**WHEREAS,** the 2011 Lake Placid Marathon/Half Marathon will take place within Essex County on June 2, 2011; and

**WHEREAS,** the organizers of the event have requested the use of certain County roadways for the event, which roadways will either be closed or partially closed for all or a portion of the race.

**BE IT RESOLVED,** that the Essex County Board of Supervisors hereby authorizes its Superintendent of Public Works and County Chairman and/or County Manager to execute a Permit authorizing the use of Riverside Drive and River Road for the 2011 Lake Placid Marathon/Half Marathon to Inspiration Sports, LLC on June 2, 2011, subject to the terms and conditions approved by the County Attorney.

This resolution was duly seconded by Supervisor Morency and adopted.

***Resolution No. 91*** ***April 4, 2011***
***Regular Board Meeting***

**RESOLUTION AUTHORIZING THE ISSUANCE OF A PERMIT TO TEAM PLACID PLANET, INC. FOR THE USE OF COUNTY ROADWAYS FOR THE 2011 WILMINGTON-WHITEFACE ROAD RACE**

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

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

**WHEREAS,** the 2011 Wilmington-Whiteface Road Race will take place within Essex County on June 11, 2011; and

**WHEREAS,** the organizers of the event have requested the use of certain County roadways for the event, which roadways will either be closed or partially closed for all or a portion of the race.

**BE IT RESOLVED,** that the Essex County Board of Supervisors hereby authorizes its Superintendent of Public Works and County Chairman and/or County Manager to execute a Permit authorizing the use of Springfield Road and Bonnie View Road for the 2011 Wilmington-Whiteface Road Race to Team Placid Planet, Inc. on June 11 , 2011, subject to the terms and conditions approved by the County Attorney.

This resolution was duly seconded by Supervisor Preston and adopted.

***Resolution No. 92*** ***April 4, 2011***
***Regular Board Meeting***

**RESOLUTION DESIGNATING APRIL 2011 AS NATIONAL DONATING LIFE MONTH IN ESSEX COUNTY**

The following resolution was offered by Supervisors Canon and Morrow, 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.

***WHEREAS,*** the month of April is designated nationwide as National Donating Life Month; and

***WHEREAS,*** 97% of all organ donors register at local Department of Motor Vehicles; and

***WHEREAS,*** New York State has the lowest percentage rate in the United States, with only 13% of people eligible to register doing so; and

***WHEREAS,*** as of August 2009, more than 103,000 Americans were waiting for organ transplants and another patient is added to the list every 11 minutes; and

***WHEREAS,*** in 2008, more than 6,300 individuals on the list died waiting for the transplant that could have saved their lives; and

***WHEREAS,*** Essex County residents have benefitted by the generous donations of others, including Molly Rascoe and Brock Marvin, two bright young people with their whole lives before them; and

***WHEREAS,*** Essex County is so appreciative of the selfless donations of others, such as Ben Sudduth, that it has recommitted itself to the idea of donating life for others; and

***WHEREAS,*** our County Clerk and DMV staff have planned to participate in National Donating Life Month.

***BE IT RESOLVED,*** that the Essex County Board of Supervisors hereby designates April 2011 as National Donating Life in Essex County and

***BE IT FURTHER RESOLVED,*** that this Board encourages the residents of this County to seriously consider the need for organ donors.

This resolution was unanimously seconded and adopted.

***Resolution No. 93*** ***April 4, 2011***
***Regular Board Meeting***

## *RESOLUTION AUTHORIZING THE CORRECTION OF THE 2009 AND 2010 TOWN AND COUNTY TAX ROLLS ON ONE PARCEL IN THE TOWN OF ELIZABETHTOWN*

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

Upon the recommendation of the Finance Committee, 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 that the 2009 and 2010 Town and County Tax Rolls for the Town of Elizabethtown be corrected due to a clerical error which listed the assessment for an improvement not located on the property on Account No. 595L103315, assessed to Richard and Patricia Buell, from an erroneously assessment for an improvement not located on the parcel on Taxable Status for 2009 and 2010 and adjusting the amount taxes due as a result of this clerical error and that the same be charged back to the appropriating taxing authorities.

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

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

***Resolution No. 94*** ***April 4, 2011***
***Regular Board Meeting***

***RESOLUTION AUTHORIZING THE PAYMENT OF $109.00 TO RICHARD CARPENTER, JR., AN EMPLOYEE OF THE SHERIFF'S DEPARTMENT, DUE TO AN UNDER-PAYMENT OF FEDERAL AND STATE TAXES, CONTINGENT UPON APPROVAL BY THE COUNTY ATTORNEY***

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

Upon the recommendation of the Finance Committee, 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 payment of $109.00 to Richard Carpenter, Jr., Sheriff Department employee due to an underpayment of Federal and State taxes, upon the approval of the County Attorney.

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

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

***Resolution No. 95*** ***April 4, 2011***
***Regular Board Meeting***

## *RESOLUTION IN SUPPORT OF MAINTAINING FUNDING TO ADIRONDACK COMMUNITY ACTION PROGRAMS, INC.*

The following resolution was offered by Supervisor Montgomery-Corey, who moved its adoption.

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

***WHEREAS,*** as all levels of government continue to recover from the greatest economic downturn of our lives, many tough cuts must be made; and

***WHEREAS,*** as the federal government works to reign in spending, it is considering drastic cutbacks, including halving the budget for the Community Service Block Grant (CSBG) funds upon which social service agencies across the country rely; and

***WHEREAS,*** non-profit groups across New York State receive approximately $60 million in funding for their programs and outreach; and

***WHEREAS,*** Adirondack Community Action Programs, Inc. (ACAP), an Essex County based non-profit that provides an array of social service programs for residents in need across our county receives approximately $220,000.00 per year in these grants; and

***WHEREAS,*** ACAP predicts if cuts are made to these grants, the group would have to reduce the number of programs and services it offers, making it harder for Essex County residents in need to get help to improve their lives; and

***WHEREAS,*** it is critical that the federal government work to reduce spending in a way that does not affect Essex County's most vulnerable residents.

***BE IT RESOLVED,*** that the Essex County Board of Supervisors join with other leaders in New York in working to maintain the funding to the Adirondack Community Action Programs, Inc.; and

***BE IT FURTHER RESOLVED,*** that a copy of this resolution be sent to Governor Andrew Cuomo, Senator Elizabeth O'C. Little, Assemblywoman Teresa R. Sayward and Assemblywoman Janet Duprey.

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

***Resolution No. 96*** ***April 4, 2011***
***Regular Board Meeting***

**RESOLUTION AUTHORIZING THE EXTENSION OF THE EXISTING AGREEMENT BETWEEN THE COUNTY OF ONEIDA AND ESSEX COUNTY RELATIVE TO ONEIDA COUNTY PROVIDING SECURITY SERVICES FOR ESSEX COUNTY AT THE CENTRAL NEW YORK PSYCHIATRIC CENTER FORENSIC UNIT FOR THE TERM JANUARY 1, 2011 THROUGH DECEMBER 31, 2011 AND AUTHORIZING THE COUNTY CHAIRPERSON AND/OR COUNTY MANAGER TO EXECUTE THE SAME**

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

Upon the recommendation of the Finance Committee, 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 extension of the existing Agreement between the County of Oneida and Essex County relative to Oneida County providing security services for Essex County at the Central New York Psychiatric Center Forensic Unit for the term January 1, 2011 through December 31, 2011 and authorizes its County Chairperson and/or County Manager to execute the same.

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

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

***Resolution No. 97*** ***April 4, 2011***
***Regular Board Meeting***

**RESOLUTION OF CONGRATULATIONS TO
PAIGE HUGHES
OF TICONDEROGA HIGH SCHOOL
WHO WAS ELECTED THE NEW YORK STATE YOUTH
GOVERNOR DURING THE 2011 YOUTH IN GOVERNMENT
CONFERENCE IN ALBANY, NEW YORK**

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

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

***BE IT RESOLVED,*** that the Essex County Board of Supervisors hereby congratulates Paige Hughes of Ticonderoga High School, who was elected the New York State Youth Governor during the 2011 Youth In Government Conference in Albany, New York.

This resolution was unanimously seconded and adopted.

***Resolution No. 98*** ***April 4, 2011***
***Regular Board Meeting***

**RESOLUTION AUTHORIZING THE COUNTY CHAIRMAN AND/OR COUNTY MANAGER TO ENTER INTO AN AGREEMENT WITH THE NEW YORK POWER AUTHORITY (NYPA) FOR ENERGY AUDITS OF COUNTY OWNED BUILDINGS, AT NO COST TO THE COUNTY**

The following resolution was offered by Supervisor Montgomery-Corey, who moved its adoption.

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

***BE IT RESOLVED,*** that the Essex County Board of Supervisors hereby authorizes the County Chairman and/or County Manager to execute a contract with NYPA to conduct energy audits on County owned buildings at no cost to the County, upon the approval of the County Attorney.

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

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

***Resolution No. 99*** ***April 4, 2011***
***Regular Board Meeting***

**RESOLUTION ADOPTING A HOME RULE REQUEST FOR ADOPTION BY THE NEW YORK STATE ASSEMBLY OF ASSEMBLY BILL NO. A.06336 AND SENATE BILL NO. S.04049 EXTENDING THE AUTHORIZATION GRANTED ESSEX COUNTY TO IMPOSE AN ADDITIONAL THREE-QUARTERS OF ONE PERCENT OF SALES AND COMPENSATING USE TAXES UNTIL NOVEMBER 30, 2013**

The following resolution was offered by Supervisors Moses and Morency, who moved its adoption.

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

***WHEREAS,*** Assembly Bill No. A-06336 and Senate Bill No. S-040409 have been introduced in their respective Houses for the purposes of extending the authorization granted Essex County to impose an additional three-quarters of one percent of sales and compensating use taxes until November 30, 2013, and the County needs to adopt a Home Rule Request for such necessary legislation to be considered enacted.

***BE IT RESOLVED*** that the Essex County Board of Supervisors hereby adopts a Home Rule Request requesting enactment of Assembly Bill A.06336 and Senate Bill S.04049 which extend the authorization granted Essex County to impose an additional three-quarters of one percent of sales and compensating use taxes until November 30, 2013; and

***BE IT FURTHER RESOLVED*** that the Essex County Board of Supervisors declares that a necessity exists for the enactment of such legislation as the County does not have the legal authority to enact this legislation by local law; and

***BE IT FURTHER RESOLVED*** that the Clerk of this Board be and is hereby authorized and directed to immediately execute all required Home Rule Request documents and immediately forward the same to Senator Elizabeth O'C. Little and Assemblywoman Teresa R. Sayward.

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

**AYES: 3487 votes**
**NOES: 203 votes (Hatch)**
**ABSENT: 226 votes (Kosmider)**

**RESOLUTION ADOPTING A HOME RULE REQUEST FOR THE ENACTION AND ADOPTION BY THE NYS ASSEMBLY OF NYS ASSEMBLY BILL 150-A AND FOR ENACTION AND ADOPTION BY THE NYS SENATE OF NYS SENATE BILL NO. 344-A AUTHORIZING THE COUNTY OF ESSEX TO IMPOSE AN ADDITIONAL ONE PERCENT RATE OF SALES AND COMPENSATING USE TAXES FOR THE PERIOD BEGINNING DECEMBER 1, 2011, AND ENDING NOVEMBER 30, 2013.**

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

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

**WHEREAS,** Assembly Bill 150-A and Senate Bill No. 344-A have been introduced in the NYS Assembly and NYS State Assembly respectively each entitled "An Act to Amend the Tax Law, in Relation to Authorizing the County of Essex to Impose an Additional One Percent of Sales and Compensating Use Tax"; and

**WHEREAS,** the purpose of this legislation is to authorize Essex County to impose an additional one percent rate of sales and compensating use taxes (the combination of the existing three quarter percent rate and a new one quarter percent rate) for the period beginning December 1, 2011, and ending November 30, 2013; and

**WHEREAS,** Essex County needs to adopt a Home Rule Request for such necessary legislation to be considered and enacted.

**BE IT RESOLVED,** that the Essex County Board of Supervisors hereby adopts a Home Rule Request requesting enactment of Assembly Bill 150-A and Senate Bill No. 344-A authorizing Essex County to impose an additional one percent rate of sales and compensating use taxes for the period beginning December 1, 2011, and ending November 30, 2013; and

**BE IT FURTHER RESOLVED,** that the Essex County Board of Supervisors hereby declares that a necessity exists for the enactment of such legislation as the County does not have the legal authority to enact this legislation by Local Law and because of the current economic climate this increase is to offset the increased Budget deficit; and

**BE IT FURTHER RESOLVED,** that the Clerk of this Board be and is hereby authorized and directed to immediately execute all required Home Rule Request documents and immediately forward the same to Senator Elizabeth O'C. Little and Assemblywoman Teresa R. Sayward.

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

***AYES: 3342 votes***
***NOES: 348 votes (Connell, Hatch)***
***ABSENT: 226 votes (Kosmider)***

***Resolution No. 101*** ***April 4, 2011***
***TABLED*** ***Regular Board Meeting***

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

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

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

***BE IT RESOLVED*** that the Essex County Board of Supervisors hereby introduces proposed Local Law No. 2 of 2011, continuing the imposition of a hotel/motel occupancy tax in Essex County as authorized by Part T of §1 of Chapter 406 of the Laws of 1999, and continued by Local Law No. 7 of 2002, and by Local Law No. 4 of 2005, and by Local Law No. 3 of 2008, the same to read and provide as follows:

**"ESSEX COUNTY PROPOSED LOCAL LAW NO. 2 OF 2011**

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

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

### *ESSEX COUNTY ROOM OCCUPANCY TAX LAW*

Section

***Section 1. Title & Statement of Intent.***

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

***Section 2. Definitions.***

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

(a) *County* - Essex County, New York.

(b) *Effective Date* - the date set forth in Section 28 of this local law.

(c) *Hotel or Motel* - Any facility providing lodging on an overnight basis and shall include those facilities designated and commonly known as "bed and breakfast" and "tourist" facilities.

(d) *Occupancy* - The use of possession, or the right to the use or possession, of any room in a hotel or motel.

(e) *Occupant* - A person who, for a charge or any consideration, uses, possesses, or has the right to use or possess, any room in a hotel or motel under any lease, concession, permit, right, license, agreement, or otherwise.

(f) *Operator* - Any person operating a hotel or motel in Essex County including but not limited to the owner, proprietor, lessee, sub-lessee, mortgagee in possession, licensee, or any other person otherwise operating such hotel or motel.

(g) *Permanent Resident* - Any person occupying any room or rooms in a hotel or motel for at least thirty (30) consecutive days.

(h) *Person* - An individual, partnership, society, association, joint stock company, corporation, limited liability company, general or limited or limited liability partnership, estate, receiver, trustee, assignee, referee, and any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and/or any combination of the foregoing.

(i) *Rent* - The charge and/or consideration received for occupancy valued in money, whether received in money or otherwise.

(j) *Return* - Any return filed or required to be filed as herein provided.

(k) *Room* - Any room or rooms of any kind in any part or portion of a hotel or motel, which is available for, rented or otherwise let out for the lodging of guests.

(l) *Tax Imposition Date* - the date set forth in Section 3 of this local law.

(m) *Treasurer* - The Essex County Treasurer, or such other fiscal officer(s) as may be designated by the Board of Supervisors.

***Section 3. Imposition of Tax.***

Upon expiration of Local Law No. 3 of 2008 there shall continue to be, and hereby is, imposed and there shall be paid a tax of three percent (3%) of the per diem rental rate for each room or rooms in a hotel or motel located within the County, except that such tax shall not be applicable to a permanent resident of a hotel or motel.

***Section 4. Transitional Provisions.***

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

***Section 5. Exempt organizations.***

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

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

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

(c) Any corporation or association, or trust, or community chest, fund or foundation, organized and operated exclusively for religious, charitable or educational purposes, or for the prevention of cruelty to children or animals, and no part of the net earnings of which inures to the benefit of any private shareholder or individual and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation; provided, however, that nothing in this paragraph shall include an organization operated for the primary purpose of carrying on a trade or business for profit, whether or not all of its profits are payable to one or more organizations described in this paragraph.

***Section 6. Territorial limitations.***

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

***Section 7. Registration.***

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

(b) The Treasurer shall within five (5) days after receipt of a registration application issue without charge to the operator a certificate of authority empowering such operator to collect the tax from the occupant and duplicate thereof, for each additional hotel or motel of such operators.

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

(d) Each certificate of authority shall be prominently displayed by the operator in such manner that it may be seen and come to the notice of all occupants and person seeking occupancy.

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

***Section 8. Administration and collection.***

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

(b) The tax to be collected shall be stated and charged separately from the rent and shown separately on any record thereof, at the time when the occupancy is arranged or contracted for and charged for, and upon every evidence of occupancy or any bill or statement or charge made for said occupancy issued or delivered by the operator, and the tax shall be paid by the occupant to the operator as trustee for and on account of the County, and the operator shall be liable for the collection thereof and for the tax.

(c) The operator and any officer of any corporate operator shall be personally liable for the tax collected or required to be collected under this local law, and the operator shall have the same right in respect to collecting the tax from the occupant, or in respect to nonpayment of the tax by the occupant as if the tax were part of the rent for the occupancy payable at the time such tax shall become due and owing, including all rights of eviction, dispossession, repossession and enforcement of any innkeeper's lien that he may have in the event of non-payment of rent by the occupant; provided, however, that the Treasurer shall be joined as a party in any action or proceeding brought by the operator to collect or enforce collection of the tax.

(d) The Treasurer may, whenever he deems it necessary for the proper enforcement of this local law, provide by order that the occupant shall file returns and pay directly to the Treasurer the tax herein imposed, at such times as returns are required to be filed and payment over made by the operator.

(e) The tax imposed by this local law shall be paid upon any occupancy on and after the tax imposition date , although such occupancy is had pursuant to a contract, lease or other arrangement made prior to such date; and where rent is paid, charged, billed or falls due on either a weekly, monthly or other term basis, the rent so paid, charged, billed or falling due shall be subject to the tax herein imposed to the extent that it covers any portion of the period on and after the tax imposition date.

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

(g) For the purpose of the proper administration of this local law and to prevent evasion of the tax hereby imposed, it shall be presumed that all rents are subject to tax until the contrary is established, and the burden of proving that a rent for occupancy is not taxable hereunder shall be upon the operator or occupant.

(h) Where an occupant claims exemption(s) from the tax under the provisions

of section five of this local law, the rent shall be deemed taxable hereunder unless the operator shall receive from the occupant claiming such exemption

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

(i) the occupant is a duly authorized agent, representative or employee of the exempt organization,

(ii) the occupant's occupancy is paid or to be paid by such exempt organization, and

(iii) the occupant's occupancy is necessary or required in the course and furtherance of, and/or in connection with, the affairs of said exempt organization; or

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

***Section 9. Records to be kept.***

(a) Every operator shall keep records of every occupancy and of all rent paid, charged or due thereon and of the tax payable thereon, in such form as the Treasurer may by regulation or order require.

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

***Section 10. Returns.***

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

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

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

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

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

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

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

(f) If a return required by this local law is not filed, or if a return when filed is incorrect or insufficient on its face or otherwise, the Treasurer shall take the necessary steps to enforce the filing of a properly completed and sufficient return or of a corrected return.

***Section 11. Payment of Tax.***

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

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

(c) At the time of filing a return of occupancy and of rents, each operator shall pay to the Treasurer the taxes imposed by this local law upon the rents required to be included in such return, as well as all other moneys collected by the operator acting or purporting to act under the provisions of this local law.

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

***Section 12. Bonds & Security For Payment of Tax.***

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

(b) Any bond so required by the Treasurer shall be issued by a surety company authorized to transact business in this state and approved by the superintendent of insurance of this state as to solvency and responsibility, in such amount as the Treasurer may fix.

(c) In the event the Treasurer determines that an operator is to file such bond he shall give notice to such operator to that effect specifying the amount of the bond required.

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

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

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

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

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

***Section 13. Determination of tax.***

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

(b) If a return required by this local law is not filed, or if a return when filed is incorrect or insufficient as to the amount of tax due, the amount of tax due under and pursuant to this local law shall be determined by the Treasurer from such information as may be obtainable and, if necessary, the tax may be estimated on the basis of external indices, such as number of rooms, location, scale of rents, comparable rents, type of accommodations and service, number of employees and/or other factors.

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

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

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

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

(e) Within fifteen (15) days after the conclusion of a hearing conducted pursuant to subdivision (d) (1) of this section, the Treasurer shall give written notice of the Treasurer's determination to the person against whom the tax is assessed.

(f) Except in the case of a wilfully false or fraudulent return with intent to evade the tax, no assessment of additional tax shall be made after the expiration of more than three years from the date of the filing of a return; provided, however, that

(1) where no return has been filed as provided by this local law the tax may be assessed at any time; and/or

(2) where, before expiration of the period prescribed herein for the assessment of an additional tax, a taxpayer has consented in writing that such period be extended, the amount of such additional tax due may be determined at any time within such extended period or any extension(s) thereof.

***Section 14. Refunds.***

(a) In the manner provided in this section the Treasurer shall refund or credit,

without interest, any tax, penalty or interest erroneously, illegally or unconstitutionally collected or paid provided that written application for such refund shall be made to the Treasurer within one year from the payment thereof.

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

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

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

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

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

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

***Section 15. Disposition of Revenues.***

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

(1) shall retain five per cent (5%) of the gross revenues to cover the County's costs for administration and collection; and

(2) endeavor to expend the revenues in such fund in a manner reasonably intended to publicize the areas within the County commensurate with the amount of revenues generated from such areas.

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

(1) dissolves, or

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

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

***Section 16. Reserves.***

Whenever the occupant or operator has applied for a refund and has instituted a proceeding under article seventy-eight of the civil practice law and rules to review a determination adverse to such occupant or operator on such application for refund, the Treasurer shall set up appropriate reserves to meet any decision adverse to the County.

***Section 17. Remedies exclusive.***

The remedies provided by sections thirteen and fourteen of this local law shall be exclusive remedies available to any person for the review of tax liability imposed by this local law; and no determination or proposed determination of tax or determination on any application for refund or credit shall be enjoined, contested or reviewed by any action or proceeding, except by a proceeding under article seventy-eight of the civil practice law and rules pursuant to section twenty-three of this local law.

***Section 18. Proceedings to recover tax.***

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

(b) Notwithstanding any other provision of this section, if the Treasurer in his discretion believes that any such operator, occupant or other person is about to cease

business, leave the state or remove or dissipate the assets out of which the tax or penalties might be satisfied, and that any such tax or penalty will not be paid when due, the Treasurer may declare such tax or penalty to be immediately due and payable and may issue a warrant, as provided in this section, immediately.

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

(d) The sheriff receiving a warrant issued under this section shall, within five (5) days after receipt of the warrant, file with the county clerk a copy thereof, and thereupon such clerk shall enter in the judgment docket the name of the person mentioned in the warrant and the amount of the tax, penalties and interest for which the warrant is issued and the date when such copy is filed.

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

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

(2) the sheriff shall then proceed upon the warrant, in the same manner, and with like effect, as that provided by law in respect to executions issued against property upon judgments of a court of record and for services in executing the warrant he shall be entitled to the same fees, which he may collect in the same manner; and

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

(f) If a warrant is returned not satisfied in full, the Treasurer may from time to time issue new warrants and shall also have the same remedies to enforce the amount due thereunder as provided in this section.

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

(1) the purchaser, transferee or assignee shall at least twenty (20) days before taking possession of the subject of said sale, transfer or assignment, or paying therefor, notify the Treasurer by registered mail of the proposed sale and of the price, terms and conditions thereof and whether or not the operator has represented to or informed the purchaser, transferee or assignee that it owes any tax pursuant to this local law, and whether or not the purchaser, transferee or assignee has knowledge that such taxes are owing, and whether any such taxes are in fact owing;

(2) for failure to comply with the provisions of this paragraph, including but not limited to subdivision (1) above, the purchaser, transferee or assignee shall be personally liable for the payment to the County of any such taxes theretofore or thereafter determined to be due to the County from the operator, seller, transferor, or assignor, and such liability may be assessed and enforced in the same manner as the liability for tax under this local law;

(3) whenever the purchaser, transferee or assignee shall fail to give notice to the Treasurer as required by subdivision (1) of this paragraph, or whenever the Treasurer shall inform the purchaser, transferee or assignee that a possible claim for such tax or taxes exists, any sums of money, property or choses in action, or other consideration, which the purchaser, transferee or assignee is required to transfer over to the seller, transferrer or assignor shall be subject to a first priority right and lien for any such taxes theretofore or thereafter determined to be due from the operator, seller, transferor or assignor to the County, and the purchaser, transferee or assignee is forbidden to transfer to the operator, seller, transferor or assignor, and shall withhold any such sums of money, property or choses in action, or other consideration, to the extent of the amount of the County's claim;

(4) within fifteen (15) days of receipt of the notice of the sale, transfer or assignment from the purchaser, transferee or assignee, the Treasurer shall give notice to the purchaser, transferee or assignee and to the operator, seller, transferor or assignor, of the total amount of any tax or taxes, as well as of any penalties or interest due thereon, which the Treasurer claims to be due from the operator, seller, transferor or assignor, to the County;

(5) whenever the Treasurer shall fail to give the notice required by subdivision (4) of this paragraph, within fifteen (15) days from receipt of notice of the sale, transfer and assignment required by subdivision (1) of this paragraph, such failure shall release the purchaser,

transferee or assignee from any further obligation to withhold any sums of money, property or choses in action, or other consideration, which the purchaser, transferee or assignee is required to transfer over to the operator, seller, transferor or assignor;

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

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

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

***Section 19. General powers of the Treasurer.***

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

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

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

(c) To request information from the tax commission of the state of New York or the treasury department of the United States relative to any person; and to afford information to such tax commission or such treasury department relative to any person, any other provision of this local law to the contrary notwithstanding;

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

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

(f) To require any operator within the county to keep detailed records of the nature and type of hotel or motel maintained. nature and type of service rendered, the rooms available and rooms occupied daily, lease's or occupancy contracts or arrangements, rents received, charged and accrued, the names and addresses of the occupants, whether or not any occupancy is claimed to be subject to the tax imposed by this local law, and to furnish such information upon request to the County Treasurer;

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

***Section 20. Administration of Oaths and Compelling Testimony.***

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

(b) The Treasurer shall have power to subpoena and require the attendance of witnesses and the production of books, papers and documents to secure information pertinent to the performance of his duties hereunder and of the enforcement of this local law, and to examine them in relation thereto, and to issue commissions for the examination of witnesses who are out of the state or unable to attend before the Treasurer or excused from attendance.

(c) A justice of the supreme court, either in court or at chambers, shall have power summarily to enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of books, papers and documents called for by the subpoena of the Treasurer under this local law.

(d) Any person who shall refuse to testify or to produce books or records or who shall testify falsely in any material matter pending before the Treasurer under this local law shall be guilty of a misdemeanor, punishment for which shall be a fine of not more than one thousand dollars or imprisonment for not more than one year, or both such fine and imprisonment.

(e) The officers who serve the summons or subpoena of the Treasurer and witnesses attending in response thereto shall be entitled to the same fees as are allowed to officers and witnesses in civil cases in courts of record, except as herein otherwise provided.

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

***Section 21. Reference to tax.***

Wherever reference is made in placards or advertisements or in any other publications to this tax such reference shall be substantially in the following form: "Tax on occupancy of hotel or motel rooms"; except that in any bill, receipt, statement or other evidence or memorandum of occupancy or rent charge issued or employed by the operator, the work "tax" will suffice.

***Section 22. Penalties, Interest & Violations.***

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

(1) a penalty of five per centum (5%) of the amount of tax due; plus

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

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

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

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

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

(f) In addition to the penalties herein or elsewhere prescribed, any person found to have committed any of the following acts shall be guilty of a misdemeanor, punishment for which shall be a fine of not more than one thousand dollars or imprisonment for not more than one year, or both such fine and imprisonment:

(1) failing to file a return required by this local law,

(2) filing or causing to be filed, or making or causing to be made, or giving or causing to be given, any return, certificate, affidavit, representation, information, testimony or statement required or authorized by this local law which is wilfully false,

(3) wilfully failing to file a bond required to be filed pursuant to this local law,

(4) failing to file a registration certificate and such data in connection therewith as the Treasurer may by order, regulation or otherwise require,

(5) failing to display, or to surrender upon demand of the Treasurer, the certificate of authority as required by this local law,

(6) assigning or transferring such a certificate of authority,

(7) wilfully failing to charge separately from the rent the tax herein imposed, or wilfully failing to state such tax separately on any evidence of occupancy and on any bill or statement or receipt of rent issue or employed by the operator,

(8) wilfully failing or refusing to collect any tax imposed by this local law from the occupant,

(9) referring or causing reference to be made to this tax in a form or manner other than that required by this local law, or

(10) failing to keep or maintain the records required by this local law.

(g) The certificate of the County Treasurer to the effect that a tax has not been paid, that a return, bond or registration certificate has not been filed, or that information has not been supplied pursuant to the provisions of this local law, shall be presumptive evidence thereof.

***Section 23. Judicial Review.***

Any final determination of the amount of any tax payable pursuant to this local law,

as well as any final determination on an application for refund or credit under section 14 of this local law, shall be reviewable for error, illegality or unconstitutionality or any other reason whatsoever by a proceeding under article seventy-eight of the civil practice law and rules if application therefor is made to the supreme court within thirty days after the giving of the notice of such final determination, provided, however, that any such proceeding under article seventy-eight of the civil practice law-and rules shall not be instituted unless:

(a) The amount of any tax sought to be reviewed, with such interest and penalties thereon as may be provided for by local law or regulation shall be first deposited and there is filed an undertaking, issued by a surety company authorized to transact business in this state and approved by the superintendent of insurance of this state as to solvency and responsibility, in such amount as a justice of the supreme court shall approve to the effect that if such proceeding be dismissed or the tax confirmed the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding; or

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

***Section 24. Returns to be secret.***

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

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

(2) the officers charged with the custody of such returns shall not be required to produce any of such returns or evidence of anything contained therein in any action or proceeding in any court, except on behalf of the Treasurer in an action or proceeding under the

provisions of this local law, or on behalf of any party to any action or proceeding under the provisions of this local law when the returns or facts shown thereby are directly involved in such action or proceeding, provided that in either of which events the court may require the production of, and may admit in evidence, so much of said returns or of the facts shown thereby, as are pertinent to the action or proceeding and no more.

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

(1) the delivery to a taxpayer or such taxpayer's duly authorized representative of a copy of any return filed in connection with this local law, or

(2) the publication of statistics so classified as to prevent the identification of particular returns and items thereof, or

(3) the inspection by the county attorney or other legal representatives of the county, or by the district attorney of any county, of the return(s) of any taxpayer who shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding has been instituted for the collection of a tax or penalty.

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

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

***Section 25. Notices and Limitations of Time.***

(a) Any notice authorized or required under the provisions of this local law may be given by mailing the same to the person for whom it is intended in a postpaid envelope addressed to such person at the address given in the last return filed pursuant to the provisions of this local law, or in any application made by such person, or if no return has been filed or application made then to such address as may be obtainable.

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

(c) Any period of time which is determined according to the provisions of this local law by the giving of notice shall commence to run from the date of mailing of such

notice.

(d) The provisions of the civil practice law and rules or any other law relative to limitations of time for the enforcement of a civil remedy shall not apply to any proceeding or action taken by the county to levy, appraise, assess, determine or enforce the collection of any tax or penalty provided by this local law.

***Section 26. Limitation of Effect of Local Law.***

This local law shall remain in full force and effect for a period of three (3) years from the date of enactment by the Board of Supervisors; except that nothing shall prohibit or prevent the adoption and enactment of subsequent local laws continuing or imposing the tax authorized hereby after the expiration of this or any other local law adopted and enacted pursuant to the provisions of Part T of §1 of Chapter 406 of the Laws of 1999.

***Section 27. Separability.***

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

***Section 28. Effective Date.***

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

This resolution was duly seconded by Supervisor Morency, and ***tabled*** upon a motion by Supervisor Politi , seconded by Supervisor Scozzafava.

***Resolution No. 102*** ***April 4, 2011***
***Regular Board Meeting***

**RESOLUTION AUTHORIZING THE COUNTY CHAIRMAN AND/OR COUNTY MANAGER TO EXECUTE AN AGREEMENT WITH NEW YORK STATE FOR THE 2010 HAZMAT GRANT AND TO PARTNER WITH WARREN, CLINTON, FRANKLIN AND WASHINGTON COUNTIES WITH ESSEX COUNTY TO BE THE LEAD AGENCY, IN THE AMOUNT OF $110,016.00**

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

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

***BE IT RESOLVED,*** that the Essex County Board of Supervisors hereby authorizes the County Chairman and/or County Manager to execute an agreement with NYS for the 2010 Hazmat Grant and to partner with Warren, Clinton, Franklin and Washington Counties with Essex County to be the lead agency, in the amount of $110,016.00 and upon the approval of the County Attorney.

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

**AYES: 2582 votes**
**NOES: 0 votes**
**ABSENT: 261 votes (Kosmider, Preston)**

***Resolution No. 103*** ***April 4, 2011***
***Regular Board Meeting***

**RESOLUTION OF CONGRATULATIONS TO JOSEPH PROVONCHA, COUNTY CLERK AND THE DEPARTMENT OF MOTOR VEHICLES**

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

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

***WHEREAS,*** April is Donate Life Month in New York State. Over the years, Department of Motor Vehicles in New York State have developed successful partnerships with the Department of Health, New York Alliance for Donation as well as organ procurement/donation organizations. From June 2000 to date, NYS Department of Motor Vehicles have enrolled more than 95 percent of the two million donors in the registry through license, permit and non-driver ID transactions; and

***WHEREAS,*** in March 2011, Essex County, along with Rensselaer and Herkimer County's, were honored with Community Service Awards. Essex County's Community Service Award was presented to the Department of Motor Vehicles of Essex County and Joseph A. Provoncha, County Clerk, for their work in education and awareness of the need for organ donations and for their service to the Center for Donation and Transplant; and

***WHEREAS,*** through the efforts of our County Clerk, Joseph Provoncha, and our Department of Motor Vehicles, Essex County DMV is holding a Donor Registration Drive today, Monday, April 4, 2011, with the campaign entitled "Have a Heart".

***BE IT RESOLVED***, the Essex County Board of Supervisors congratulates County Clerk Joseph Provoncha and our Department of Motor Vehicles for receiving the Community Service Award as well as for their efforts and support of organ donations.

This resolution was unanimously seconded and duly adopted.

***Resolution No. 104*** ***April 4, 2011***
***Regular Board Meeting***

**RESOLUTION OF CONGRATULATIONS TO TOM BIESEMEYER OF KEENE, NEW YORK, FOR WINNING THE NOR-AM OVERALL ALPINE CHAMPIONSHIP AND FOR FINISHING SECOND IN THE US NATIONAL ALPINE CHAMPIONSHIP IN THE SUPER G SLALOM**

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

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

***BE IT RESOLVED***, the Essex County Board of Supervisors hereby congratulates Tom Biesemeyer of Keene, New York, for winning the Nor-Am overall Alpine Championship and for finishing second in the U.S. National Alpine Championship in the Super G Slalom which results give him a starting place in the 2012 Alpine World Cup.

This resolution was unanimously seconded and duly adopted.

***Resolution No. 105*** ***April 4, 2011***
***Regular Board Meeting***

**RESOLUTION AUTHORIZING A BUDGET AMENDMENT IN THE TREASURER'S OFFICE, TO INCREASE REVENUES AND APPROPRIATIONS BY $5,799.02 - UNALLOCATED REVENUE, SUCH AMENDMENT TO COVER THE PART-TIME SALARY OF CAROLYN KARCHER UNTIL THE ANNUAL REPORT IS FILED**

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

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

***BE IT RESOLVED***, that the Essex County Board of Supervisors hereby amends the 2011 Essex County Budget in the Treasurers Office, to increase revenues and appropriations by $5,799.02 - unallocated revenue to cover the part-time salary of Carolyn Karcher until Annual Report is filed, as follows:

**REVENUES**

| Account Number | Account Name | Amount |
|---|---|---|
| 43001 | Assorted Unallocated | $5,799.02 |

**APPROPRIATIONS**

| Account Number | Account Name | Amount |
|---|---|---|
| 13251 5130 | Personal Services | $5,386.93 |
| 13258 5820 | Employee Benefits | 412.09 |
| | | $5,799.02 |

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

**AYES: 2582 votes**
**NOES: 0 votes**
**ABSENT: 261 votes (Kosmider, Preston)**

***Resolution No. 106*** ***April 4, 2011***
***Regular Board Meeting***

**RESOLUTION AUTHORIZING THE APPOINTMENT OF CHARLI LEWIS AS DIRECTOR OF REAL PROPERTY TAX SERVICES, AT A SALARY OF $61,578.00**

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

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

***BE IT RESOLVED,*** that the Essex County Board of Supervisors hereby authorizes the appointment of Charli Lewis as Director of Essex County Real Property Tax Services, at a salary of $61,578.00.

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

**AYES: 2582 votes**
**NOES: 0 votes**
**ABSENT: 261 votes (Kosmider, Preston)**

***Resolution No. 107*** ***April 4, 2011***
***Regular Board Meeting***

**RESOLUTION AUTHORIZING THE ISSUANCE OF A PERMIT TO THE TOWN OF WILMINGTON FOR THE USE OF COUNTY ROADWAYS FOR THE 2011 WILMINGTON-WHITEFACE 100K MOUNTAIN BIKE RACE**

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

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

**WHEREAS,** the 2011 Wilmington-Whiteface 100K Mountain Bike Race will take place within Essex County on June 19, 2011; and

**WHEREAS,** the organizers of the event have requested the use of certain County roadways for the event, which roadways will either be closed or partially closed for all or a portion of the race.

**BE IT RESOLVED,** that the Essex County Board of Supervisors hereby authorizes its Superintendent of Public Works and County Chairman and/or County Manager to execute a Permit authorizing the use of Fox Farm, Springfield Road, Haselton Road and Bonnie View Road in the Town of Wilmington and Styles Brook Road in Town of Keene and Wells Hill Road in Town of Lewis for the Wilmington-Whiteface 100K Mountain Bike Race on June 19 , 2011, subject to the terms and conditions approved by the County Attorney.

This resolution was duly seconded by Supervisor Ferebee and adopted.

***Resolution No. 108*** ***April 4, 2011***
***Regular Board Meeting***

***RESOLUTION AUTHORIZING A CONTRACT WITH THE TOWN OF WILMINGTON IN THE AMOUNT OF $6,000.00 FOR THE LEADVILLE 100 BIKE RACE***

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

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

***BE IT RESOLVED*** that the Essex County Board of Supervisors hereby authorizes the Chairman of this Board or the County Manager to execute a contract in the amount of $6,000.00 with the Town of Wilmington to host the Leadville 100 Bike Race, upon the approval of the County Attorney.

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

| | | | |
|---|---|---|---|
| ***AYES:*** | ***2518*** | ***votes*** | |
| ***NOES:*** | ***0*** | ***votes*** | |
| ***ABSENT:*** | ***261*** | ***votes*** | **(Kosmider, Preston)** |
| **ABSTAIN:** | **64** | **votes** | **(Montgomery-Corey)** |