



Essex County Board of Supervisors

Resolution No. 16

February 3, 2020
Regular Board Meeting

RESOLUTION AUTHORIZING BUDGET AMENDMENTS FOR VARIOUS DEPARTMENTS

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

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

BE IT RESOLVED, that the Essex County Board of Supervisors hereby amends the 2020 Essex County Budget as follows:

From Human Services Committee:

1. From the Department of Social Services, to increase revenues and appropriations in the amount of \$30,050.00, from unspent SNAP bonus award from NYS Office of Temporary and Disability Assistance, as follows:

REVENUES

<u>Account Number</u>	<u>Account Name</u>	<u>Amount</u>
6010 43610	State Aid Admin	\$30,050.00

APPROPRIATIONS

<u>Account Number</u>	<u>Account Name</u>	<u>Amount</u>
60102 5216	Renovation & Repair	\$10,000.00
60104 5400INV	Inventory	18,050.00
60104 5410	Office Supplies	<u>2,000.00</u>
		\$30,050.00

2. From the Department of Social Services, to increase revenues and appropriations in the amount of \$500,000.00, from expansion of Childcare Assistance Program, as follows:

REVENUES

<u>Account Number</u>	<u>Account Name</u>	<u>Amount</u>
6055 43655	State Aid SS Daycare	\$500,000.00

APPROPRIATIONS

<u>Account Number</u>	<u>Account Name</u>	<u>Amount</u>
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6055487 5487 Day Care \$500,000.00

3. Amending the 2019 Budget, from the Health Department, to increase revenues and appropriations in the amount of \$49,513.83, DSRIP funds, as follows:

REVENUES

<u>Account Number</u>	<u>Account Name</u>	<u>Amount</u>
4189 43450DSR	DSRIP	\$49,513.83

APPROPRIATIONS

<u>Account Number</u>	<u>Account Name</u>	<u>Amount</u>
41894 54DSRIP	DSRIP	\$49,513.83

From Public Safety Committee:

1. From Emergency Services Department, to increase revenues and appropriations in the amount of \$869,562.00, from 2019 SICG grant, as follows:

REVENUES

<u>Account Number</u>	<u>Account Name</u>	<u>Amount</u>
3020 449645	SICG	\$869,562.00

APPROPRIATIONS

<u>Account Number</u>	<u>Account Name</u>	<u>Amount</u>
30202 5200SIC9	Equipment	\$699,562.00
30204 5413SIC9	Maintenance	170,000.00
		<u>\$896,562.00</u>

BE IT FURTHER RESOLVED, that the Board of Supervisors hereby authorizes the purchase of radio equipment and upgrades to the radio system from SICG grant funds.

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

AYES: 2669 votes
NOES: 0 votes
ABSENT: 252 votes (Wilson, Gilliland)

**RESOLUTION AUTHORIZING THE CHAIRMAN OR COUNTY
MANAGER TO EXECUTE AN AGREEMENT BETWEEN
ESSEX COUNTY MENTAL HEALTH DEPARTMENT AND
BOQUET VALLEY CENTRAL SCHOOL - MOUNTAIN VIEW
CAMPUS AND LAKEVIEW CAMPUS FOR MENTAL HEALTH
SERVICES FOR THE REMAINDER OF 2019-2020 SCHOOL
YEAR**

The following resolution was offered by Supervisor Tyler, 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 a contract between Essex County Mental Health Department and Boquet Valley Central School at the Mountain View Campus and Lakeside Campus for mental health services for the remaining 2019-2020 school year; and

BE IT FURTHER RESOLVED, that this Board further authorizes the County Chairman and/or County Manager to execute such contract upon the approval of the County Attorney.

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

AYES: 2669 votes
NOES: 0 votes
ABSENT: 252 votes (Wilson, Gilliland)

**RESOLUTION AUTHORIZING THE HEALTH DEPARTMENT
TO APPLY FOR AND ACCEPT A FIVE YEAR CREATING
HEALTH SCHOOLS AND COMMUNITIES GRANT IN THE
AMOUNT OF \$305,000.00, FROM THE NEW YORK STATE
DEPARTMENT OF HEALTH BUREAU OF COMMUNITY
CHRONIC DISEASE PREVENTION FOR A FIVE YEAR TERM
OF OCTOBER 1, 2020 THROUGH SEPTEMBER 30, 2025**

The following resolution was offered by Supervisor DeZalia, 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 Essex County Health Department to apply for and accept a five year Creating Health Schools and Communities grant in the amount of \$305,000.00, from the NYS DOH Bureau of Community Chronic Disease Prevention for the term October 1, 2020 through September 30, 2025.

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

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

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

Upon the recommendation of the various 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:

1. Appointment of Danielle Van Ness to replace Sheila Kapper on the PHAC/PAC Advisory Board.

From the Personnel Committee:

1. Appointing the following members to the Lake Champlain-Lake George Regional Planning Board:

Joseph Giordano to fill the term of Ronald Jackson which will expire on 12/31/2020

Charles Harrington reappointed for the term 1/1/2020 through 12/31/2022

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

**RESOLUTION URGING THE FEDERAL GOVERNMENT TO
RECONSIDER FEMA ASSISTANCE FOR PERSONAL PROPERTY
DAMAGES SUSTAINED DURING THE HALLOWEEN STORM
AND FLOODING IN ESSEX COUNTY**

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

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

WHEREAS, Essex County declared a State of Emergency on October 31, 2019 due to a severe wind, rainstorm and flooding resulting in devastating and substantial damages to property, roads and bridges.

BE IT RESOLVED, that the Essex County Board of Supervisors hereby urges the Federal Government to reconsider FEMA assistance for the personal property damages sustained during the Halloween storm and flooding in Essex County; and

BE IT FURTHER RESOLVED, that a copy of this resolution be forwarded to: Governor Andrew Cuomo, FEMA, Senator Elizabeth O'C. Little and Assemblyman Dan Stec.

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

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

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

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

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

Public Safety Committee:

1. The 2019 Sheriff's Office Annual Report.

DPW Committee:

1. The Needs Assessment Report prepared by the County Facilities Committee.

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

**RESOLUTION OF CONGRATULATIONS AND APPRECIATION TO
PAUL BENWAY
UPON HIS RETIREMENT FROM
ESSEX COUNTY SHERIFF DEPARTMENT**

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

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

WHEREAS, Paul Benway began employment with the Essex County Sheriff Department on June 27, 1988, as Deputy Sheriff Jailer; and

WHEREAS, Paul Benway has dedicated his time, attention, knowledge and talent to the County of Essex and its residents; and

WHEREAS, Paul Benway has graciously, competently and with professionalism performed his duties for over 31 years and retired effective December 18, 2019; and

WHEREAS, the Essex County Board of Supervisors wishes to extend its deep and abiding appreciation to Paul Benway for his outstanding public service to the people of Essex County.

BE IT RESOLVED, that the Essex County Board of Supervisors, its Clerk of the Board, County Manager and County Attorney hereby extend their most heartfelt appreciation to Paul Benway for his dedication and service to Essex County and upon his retirement as Deputy Sheriff and wishes him continued success and best wishes in his future endeavors.

This resolution was unanimously seconded and duly adopted.

**RESOLUTION AUTHORIZING CONTRACT
AMENDMENTS/CHANGE ORDERS IN VARIOUS DEPARTMENTS**

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

Upon the recommendation of the various Committees, and the same appearing proper and necessary.

BE IT RESOLVED, that the Essex County Board of Supervisors hereby authorizes an amendment or change order to the following contracts:

Public Safety Committee

1. Contract amendment between Essex County Sheriff and UVM at Elizabethtown Community Hospital, bearing Contract No. S-20-0005, for nursing services at the Jail, to increase the LPN hours by 1,480 at the same hourly rate of \$25.89, and to renew and extend the term of the contract through March 31, 2021, under the same terms and conditions.

DPW Committee

1. Contract amendment with Atlantic Testing Laboratories, Ltd., bearing Contract No. DPW-20-0015, in an amount not to exceed \$8,266.56, for soil and concrete testing services for the Gulf Brook Phase II Project, in the Town of Keene, with funds to come from Governor's Office of Storm Recovery (GOSR) grant funds.
2. Credit Change Order with Prime Highway Contractors in the amount of \$99,030.96, for final +/- unit price reconciliation of contracted work for CR43 Shore Airport Road Drainage Improvement Project, with funds to come from FHWA State and budgeted funds.

BE IT FURTHER RESOLVED, that the Essex County Board of Supervisors hereby authorizes the above referenced contract amendments; and

BE IT FURTHER RESOLVED, that the County Chairman or County Manager are hereby authorized to execute the same upon the approval of the County Attorney.

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

AYES: 2669 votes
NOES: 0 votes
ABSENT: 252 votes (Wilson, Gilliland)

RESOLUTION AUTHORIZING A TEN (10) YEAR PAYMENT IN LIEU OF TAXES (PILOT) AGREEMENT WITH TRAILHEAD RESORT PROJECT, IN THE TOWN OF NEWCOMB

The following resolution was offered by Supervisor DeLoria, 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 authorizes a ten (10) year PILOT Agreement between Trailhead Resort, the Town of Newcomb, Minerva-Newcomb Central School, Essex County and the Essex County Industrial Development Agency with the property located in the Town of Newcomb, bearing Tax Map No. 109.16-2-32.000, upon a sliding scale exemption starting with 100% in years one and two and ending with 5% in year ten as hereinbelow set forth, upon approval of the County Attorney.

Year	<u>Percentage of Assessment Exempt from Taxation</u>
1	100%
2	100%
3	50%
4	45%
5	40%
6	35%
7	30%
8	20%
9	10%
10	5%

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

AYES: 2669 votes
NOES: 0 votes
ABSENT: 252 votes (Wilson, Gilliland)

**RESOLUTION AUTHORIZING THE ISSUANCE OF A PERMIT
ALLOWING USE OF COUNTY ROADWAYS FOR THE
WILMINGTON WHITEFACE WHISKEY 5K/10K RUN/RACE TO
BE HELD ON SATURDAY, JUNE 20, 2020, UPON APPROVAL
OF THE COUNTY ATTORNEY AND WITH THE PROVISION OF
INSURANCE**

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

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

WHEREAS, the 2020 Wilmington Whiteface Whiskey 5K/10K run/race will take place within Essex County on Saturday, June 20, 2020; 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 for the Wilmington Whiteface Whiskey 5K/10k run/race on June 20, 2020, subject to the terms and conditions approved by the County Attorney and with the provision of insurance.

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

**RESOLUTION AUTHORIZING THE PURCHASING AGENT TO
AWARD BIDS, ISSUE CONTRACTS OR PURCHASE ORDERS**

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

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

BE IT RESOLVED, that the Essex County Board of Supervisors hereby authorizes the Purchasing Agent to award bids and issue contracts or purchase orders for the following:

From DPW Committee:

1. Neoplanta Restoration Inc., in the amount of \$14,000.00, for abatement and disposal of asbestos containing materials from the Essex County Agricultural Center Building located at the Essex County Fairgrounds, with funds to come from grant funds.
2. Trane U.S., Inc., in the amount of \$325,696.84, to furnish and install new roof top air conditioning units on the Essex County Courthouse, with funds to come from budgeted and Capital funds.
3. Central Dodge, Inc., in the amount of \$34,101.70, for a new and unused 2020 Dodge Ram 2500 regular cab pick-up truck, with 8' box and V-plow, from budgeted funds.
4. Central Dodge, Inc., in the amount of \$129,993.92, for a new and unused 2020 Dodge Ram 5500 regular cab pick-up truck with Knapheide utility box, crane and welder, from budgeted funds.

Ways and Means Committee:

1. Award bid for two (2) Medic Cars for the EMS Consolidation Program, in an amount not to exceed \$100,000.00, from funds from the Department of State MRF Grant #C1001187.

BE IT FURTHER RESOLVED, that the Chairman or County Manager are hereby authorized to execute contracts or purchase orders for the above referenced, upon the approval of the County Attorney.

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

AYES: 2669 votes
NOES: 0 votes
ABSENT: 252 votes (Wilson, Gilliland)

Resolution No. 27

February 3, 2020
Regular Board Meeting

**RESOLUTION AUTHORIZING THE DEPARTMENT OF PUBLIC
WORKS TO APPLY FOR AND ACCEPT A 2019 NEW YORK
STATE DEPARTMENT OF ENVIRONMENTAL
CONSERVATION HOUSEHOLD HAZARDOUS WASTE GRANT
WITH UP TO 50% REIMBURSEMENT OF COSTS OF
HOUSEHOLD HAZARDOUS WASTE COLLECTION**

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

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

BE IT RESOLVED, that the Essex County Board of Supervisors hereby authorizes the Department of Public Works to apply for and accept a 2019 grant from New York State Department of Environmental Conservation for Household Hazardous Waste, with up to 50% reimbursement of costs of household hazardous waste collection.

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

**RESOLUTION AUTHORIZING THE ESSEX COUNTY
PURCHASING AGENT TO GO TO BID FOR VARIOUS
PROJECTS IN THE DEPARTMENT OF PUBLIC WORKS**

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

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

BE IT RESOLVED, that the Essex County Board of Supervisors hereby authorizes the Purchasing Agent to go to bid for the following DPW projects:

- The Little Ray Brook culvert replacement project in the Town of North Elba.
- The Big Brown Brook culvert replacement project in the Town of Wilmington.

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

Resolution No. 29

**February 3, 2020
Regular Board Meeting**

**RESOLUTION TO WAIVING PENALTIES IN THE AMOUNT OF \$237.13, WITH
RESPECT TO SCHOOL TAXES, ON PROPERTY CURRENTLY OWNED BY
LAWRENCE J. HAZEN AND PAMELA TREZZA, BEARING TOWN OF NORTH ELBA
TAX MAP NO. 33.16-1-23.000**

The following resolution was offered by Supervisor DeLoria, 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 waives all penalties and all other charges pursuant to RPTS Tax Law Article 11, Title 4, §1182, in the amount of \$237.13, with respect to school taxes on property currently owned by Lawrence J. Hazen and Pamela Trezza, bearing Town of North Elba Tax Map No. 33.16-1-23.000; and

BE IT FURTHER RESOLVED, that the certified funds already paid are hereby accepted.

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

AYES: 2669 votes
NOES: 0 votes
ABSENT: 252 votes (Wilson, Gilliland)

**RESOLUTION AUTHORIZING AN AMENDMENT TO
RESOLUTION NO. 372 OF DECEMBER 30, 2019,
AUTHORIZING CONTRACTS FOR INSURANCE COVERAGE
IN 2020, TO AMEND ESSEX COUNTY GROUP FIRE AND
AMBULANCE PLAN IN THE AMOUNT OF \$387,337.00; TO
INCLUDE \$238.00 RATE STABILIZATION FUND; AND TO
INCLUDE \$15,493.00 SIGNAL RISK MANAGEMENT FEE; AND
FURTHER AUTHORIZING TO AMEND PART 1 - WORKERS
COMPENSATION AND PART 2 - EMPLOYERS LIABILITY IN
THE TOTAL AMOUNT OF \$840,716.00, TO INCLUDE
ESTIMATE NEW YORK STATE ASSESSMENT**

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

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

WHEREAS, this Board pursuant to Resolution No. 372 of December 30, 2019, authorized contracts for insurance coverage in 2020; and

WHEREAS, it is necessary to amend Resolution No. 372 of December 30, 2019.

BE IT RESOLVED, that the Essex County Board of Supervisors hereby amends Resolution No. 372 of December 30, 2019, as follows:

- Amend Essex County Group Fire and Ambulance Plan in the amount of \$387,337.00, to include \$238.00 rate stabilization fund.
- Include \$15,493.00 Signal Risk Management Fee.
- Amend Part 1 - Workers Compensation and Part 2 - Employers Liability in the total amount of \$840,716.00 to include the estimate NYS Assessment.

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

AYES: 2669 votes
NOES: 0 votes
ABSENT: 252 votes (Wilson, Gilliland)

Resolution No. 31
AMENDED

February 3, 2020
Regular Board Meeting

**RESOLUTION AUTHORIZING THE CHAIRMAN OR COUNTY
MANAGER TO EXECUTE A LEASE AGREEMENT WITH
GEORGE HUTTIG FOR THE RENTAL OF OFFICE SPACE FOR
THE DEPARTMENT OF SOCIAL SERVICES ATTORNEYS**

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

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

WHEREAS, the Department of Social Services is desirous of leasing office space from George Huttig for the Social Services Attorneys.

BE IT RESOLVED, that the Essex County Board of Supervisors hereby authorizes the Chairman or County Manager to execute a lease agreement with George Huttig for the use of office space for the Department of Social Services Attorneys located in Elizabethtown, at the monthly rate of \$1,560.00 with 2% per year escalator, for a three (3) year term beginning February 1, 2020 through January 31, 2023, with the option to renew annually upon mutual agreement.

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

AYES: 2669 votes
NOES: 0 votes
ABSENT: 252 votes (Wilson, Gilliland)

**RESOLUTION INTRODUCING PROPOSED LOCAL LAW NO. 2 OF
2020, ENTITLED, "ESSEX COUNTY ROOM OCCUPANCY TAX LAW"
CONTINUING THE IMPOSITION OF A
HOTEL/MOTEL OCCUPANCY TAX INCREASING THE TAX TO FIVE
PERCENT (5%) OF THE PER DIEM RENTAL RATE FOR EACH ROOM
OR ROOMS IN A HOTEL OR MOTEL LOCATED WITHIN ESSEX
COUNTY**

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

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

WHEREAS, Local Law No. 2 of 2017, entitled, "Essex County Room Occupancy Tax Law" which provides for a three percent (3%) per diem rental rate for each room or rooms in a hotel or motel located within Essex County will expire on May 1, 2020, and this Board desires to continue the imposition of the hotel/motel occupancy tax; and

WHEREAS, Senate Bill 54551/Assembly Bill A754 were duly enacted into law on December 20, 2019, amending Subdivision 1 of Section 1202-s of the New York State Tax Law and permitting of the increase in the tax rate from three percent (3%) to five percent (5%) of the per diem rental rate for each room; and

WHEREAS, in addition to continuing the imposition of the Essex County Room Occupancy Tax, this Board is desirous of increasing the rate of the tax to five percent (5%) of the per diem rental rate for each room pursuant to this new legislation.

BE IT RESOLVED that the Essex County Board of Supervisors hereby introduces proposed Local Law No. 2 of 2020, 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 further increasing the rate of such tax to five percent (5%) of the per diem rental rate for each room as authorized by Chapter 700 of the Laws of 2019, the same to read and provide as follows:

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

"ESSEX COUNTY PROPOSED LOCAL LAW NO. 2 OF 2020"

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 and increasing the tax

rate to five percent (5%) as authorized by Chapter 700 of the Laws of 2019.

ESSEX COUNTY ROOM OCCUPANCY TAX LAW

Section

1. Title & Statement of Intent
2. Definitions
3. Imposition of Tax
4. Transitional Provisions
5. Exempt Organizations
6. Territorial Limitations
7. Registration
8. Administration and Collection
9. Records to be kept
10. Returns
11. Payment of Tax
12. Bonds & Security for Payment of Tax
13. Determination of Tax
14. Refunds
15. Disposition of Revenues
16. Reserves
17. Remedies Exclusive
18. Proceedings to Recover Tax
19. General Powers of Treasurer
20. Administration of Oaths & Compelling
Testimony
21. Reference to Tax
22. Penalties, Interest & Violations
23. Judicial Review
24. Returns to be Secret
25. Notices and Limitations of Time
26. Limitation of Effect of Local Law
27. Separability
28. Effective Date

Section 1. Title & Statement of Intent.

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

Section 2. Definitions.

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

- (a) *County* - Essex County, New York.
- (b) *Effective Date* - the date set forth in Section 28 of this local law.

- (c) *Hotel or Motel - Any facility or structure, or any portion of any facility or structure which is occupied or designated for transient occupancy which provides lodging on an overnight basis for dwelling, lodging or sleeping purposes, commonly known as, hotels, motels, rooming houses, bed and breakfast, inns, cabins, condominiums, cottages, campgrounds, lodges, tourist homes, convention centers, vacation rentals, motor courts, boarding houses, lake cottages, personal residences or similar type of accommodations by whatever name designated.*

The provisions of this section relating to campgrounds, shall only apply to those leases and rentals in which the campground provides overnight shelter or lodging, and shall not apply to the provision of services by a campground when the customer provides his or her own shelter or lodging such as a motorhome, camper or tent.

The term vacation rental or condominium shall mean and include those units rented or leased directly by the owner or through an owner's agent or a real estate agent or rental management agency or other similar agent.

- (d) *Occupancy - The use of possession, or the right to the use or possession, of any room in a hotel or motel.*
- (e) *Occupant/Guest - 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. Where the operator performs his/her duties through a managing agent or real estate broker or any type or character other than employee, the managing agent/real estate broker shall also be deemed an operator for purposes of this local law and shall have the same duties and liabilities as his/her principal. Compliance with the provisions of this local law by either the principal or managing agent/real estate broker shall be considered to be compliance by both.*
- (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, operator, as hereinabove defined, or 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.

Effective June 1, 2020, there shall be and hereby is, imposed and there shall be paid a tax of five percent (5%) 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. Prior to June 1, 2020, the tax shall remain at three percent (3%).

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 and Chapter

700 of the Laws of 2019.

Section 27. Separability.

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

Section 28. Effective Date.

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

AND BE IT FURTHER RESOLVED that the Essex County Board of Supervisors shall hold and conduct a public hearing on the foregoing proposed local law on March 2, 2020, at 9:30 a.m. of that day, to hear any and all persons concerning the same.

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

AYES: 2669 votes
NOES: 0 votes
ABSENT: 252 votes (Wilson, Gilliland)

RESOLUTION ENCOURAGING THE NEW YORK LEGISLATURE AND GOVERNOR ANDREW CUOMO TO MAKE IT A PRIORITY TO ALLOCATE FUNDS FROM THE 2020 BUDGET FOR THE CONTINUED REDEVELOPMENT AND IMPLEMENTATION OF THE TOURISM HUB THAT WILL SERVE AS A GATEWAY TO THE ADIRONDACKS AT EXIT 29/FRONTIER TOWN PROJECT, NORTH HUDSON

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

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

WHEREAS, Essex County is involved in a cooperative and joint effort with Empire State Development (ESD), Department of Environmental Conservation (DEC), and the Town of North Hudson to redevelop and conserve the former Frontier Town property and potential related or adjacent properties to create a world class outdoor recreational and tourism hub that will serve as a Gateway to the Adirondacks at Exit 29 of the Northway; and

WHEREAS, in order to facilitate this cooperative effort, it is necessary for the various parties, as referenced above, to cooperate with each other and commence the next steps necessary to facilitate a private/public initiative that will transform the site into a world class destination; and

WHEREAS, since Governor Cuomo's 2017 announcement of this joint effort to bring economic development and tourism to the area of the Upper Hudson Recreation Hub, there is a new New York State Department of Environmental Conservation Campground known as Frontier Town Campground, Equestrian and Day Use Area, a new brewery known as the Paradox Brewery and a new private owner of the A-Frame site on the Master project site; and

WHEREAS, as the project moves into the next phase of critical development the Essex County Board of Supervisors strongly urges New York State Legislators and Governor Cuomo to commit to the completion of its vision and continue in its efforts to move this Gateway Project forward.

BE IT RESOLVED, in order to promote tourism and a better visitor experience and to provide economic development the Essex County Board of Supervisors is encouraging the New York State Legislators and Governor Cuomo to provide State funding for the next critical phase of the Gateway Project; and

BE IT FURTHER RESOLVED, that a copy of this resolution be forwarded to: Governor Andrew Cuomo, Senator Elizabeth O'C. Little, and Assemblyman Dan Stec.

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

**RESOLUTION AUTHORIZING THE PURCHASING AGENT TO
REQUEST FOR QUALIFICATIONS/PROPOSALS FROM
CONSULTING FIRMS FOR PROFESSIONAL ENGINEERING
SERVICES INCLUDING PRELIMINARY AND FINAL DESIGN,
ESTIMATING, PERMITTING, BIDDING AND CONSTRUCTION
PHASE ASSISTANCE REGARDING THE FEMA DR-4472
DECLARED HALLOWEEN STORM EVENT**

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

Upon 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 Purchasing Agent to go out to RFQ or RFP of consulting firms for professional engineering services including preliminary and final design, estimating, permitting, bidding and construction phase assistance regarding the FEMA DR-4472 declared Halloween storm event.

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

AYES: 2669 votes
NOES: 0 votes
ABSENT: 252 votes (Wilson, Gilliland)

**RESOLUTION AUTHORIZING BUDGET AMENDMENT TO
INCREASE REVENUES AND APPROPRIATIONS IN THE
AMOUNT OF \$171,789.00, FROM HURRELL-HARRINGTON
FUNDS FOR COUNSEL AT FIRST APPEARANCE**

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

Upon 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 amends the 2020 Essex County Budget as follows:

From the Public Defenders Office, to increase revenues and appropriations in the amount of \$171,789.00, from state aid - Hurrell Harrington, Year 1, as follows:

REVENUES

<u>Account Number</u>	<u>Account Name</u>	<u>Amount</u>
1172 43089012	State Aid - Hurrell Harrington	\$171,789.00

APPROPRIATIONS

<u>Account Number</u>	<u>Account Name</u>	<u>Amount</u>
11721 5110	Wages	\$ 70,000.00
11728 5810	Retirement	6,860.00
11728 5820	Social Security	5,355.00
11728 5850	Health Insurance	20,447.00
11728 5851	Pharmacy	3,893.00
11728 5434	Consultant	<u>65,234.00</u>
		\$171,789.00

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

AYES: 2669 votes
NOES: 0 votes
ABSENT: 252 votes (Wilson, Gilliland)

RESOLUTION REQUESTING THAT THE GOVERNOR REINSTATE THE \$300,000.00 STIPEND THAT ESSEX COUNTY RECEIVES FROM THE STATE OF NEW YORK TO SUPPLEMENT COSTS OF SOLID WASTE DISPOSAL AND RECYCLING AS AN INDUCEMENT FOR CLOSING THE ESSEX COUNTY LANDFILL IN 1999

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

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

WHEREAS, in September of 1995, the County solicited proposals for the purchase, management and operation of a county-wide solid waste management system including, a landfill and transfer stations; and

WHEREAS, in November of 1995, Essex County accepted the proposal of Serkil to purchase, manage and operate the County's solid waste management system; and

WHEREAS, the County and Serkil entered into an agreement for the privatization and purchase the sale of a solid waste management system; and

WHEREAS, in December of 1995, the County and Serkil applied to the New York State Department of Environmental Conservation for a permit modification which was denied in May of 1996; and

WHEREAS, the County and Serkil commenced a proceeding seeking a judicial determination that DEC's denial was invalid which resulted in DEC subsequently commencing an administrative enforcement proceeding against the County and Serkil; and

WHEREAS, as a result of this litigation, the County of Essex, Serkil and the New York State Department of Environmental Conservation entered into an Order and Judgment on Consent dated the 2nd day of September, 1999 and entered into the Office of the Essex County Clerk on September 2, 1999, wherein Essex County and Serkil gave up all rights to the use and development of the Essex County Landfill and to close the same with Essex County relinquishing any and all right in the future to develop, construct and/or use the landfill; and

WHEREAS, such Order and Consent also provided for monetary compensation to the County of Essex which for the past 24 years has ranged between \$320,000.00 and \$300,000.00 per year as payment to Essex County to defray some of the costs of hauling outside of the County and the Adirondack Park; and

WHEREAS, in 2019, Essex County incurred expenses for outside hauling in the amount of \$1,315,288.00 ±; and

WHEREAS, Essex County has been recently been informed by the New York State Bureau of Solid Waste and Land Management, Division of Solid Waste and Hazardous Materials that the State of New York has removed this annual \$300,000.00 stipend from the budget and that Essex County will no longer receive these monies.

BE IT RESOLVED, that the Essex County Board of Supervisors vehemently opposes the removal of this \$300,000.00 yearly stipend which supplements the \$1,315,288.00 annual cost of the operation of the Essex County landfill provided by the State of New York and requests that the Governor reinstate this \$300,000.00 yearly stipend to Essex County, as without it, Essex County will be unable to collect and haul solid waste outside of the County and the Adirondack Park; and

BE IT FURTHER RESOLVED, that this Board reminds the State of New York that Essex County agreed not to construct its landfill based upon representations that it would receive these monies annually; and

BE IT FURTHER RESOLVED, a copy of this resolution be forwarded to: Governor Andrew Cuomo, Senator Elizabeth O’C. Little, Assemblyman Dan Stec, Stephen Hammond, Bureau of Solid Waste and Land Management, Basil Seggos, Commissioner of New York State Department of Environmental Conservation and Bob Stegemann, Region 5 Director, New York State Department of Environmental Conservation.

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

**RESOLUTION OF CONDOLENCE TO THE FAMILY OF
WALTER A. "BUD" DOYLE**

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

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

WHEREAS, Walter A. "Bud" Doyle, of Elizabethtown, New York passed away at his home on January 31, 2020, with his loving family by his side; and

WHEREAS, Walter A. "Bud" Doyle was born in Willsboro, New York on January 14, 1936, the son of Rolland and Ethel (Hathaway) Doyle; and

WHEREAS, Bud married the love of his life, Nancy Gilligan, on November 3, 1956; and

WHEREAS, Bud worked for many years as a crane and shovel operator for the New York State Department of Transportation; and

WHEREAS, for 28 years, Bud served the Town of Elizabethtown Town Board as Town Councilman and as Town Assessor; and

WHEREAS, Bud was a member of the Elizabethtown Fire Department as a Fireman and Fire Commissioner for many years and was a charter member of the ambulance squad; and

WHEREAS, Bud is survived by his wife, Nancy, his children, Deborah (Daniel) Palmer, Patrick (Shona) Doyle, Michael (Patti) Doyle, Suzanne (Jeff) Cook and Maureen (Ed) Rose; several grandchildren, great-grandchildren, nieces and nephews; and

WHEREAS, Bud is also survived by two sisters, Ella Coonrod and Diane (Tom) Brooks; and

WHEREAS, Bud is predeceased by his son, Kevin; grandson, Shawn; his brothers Rolland, (Jr.) and Earl Doyle and his sister, Gloria Kenney; and

WHEREAS, Bud is the beloved father of former Clerk of the Board of Supervisors, Deborah Palmer and father-in-law of County Manager, Daniel Palmer; and

WHEREAS, Walter A. "Bud" Doyle was a loving son, husband, father, grandfather, great-grandfather, brother, uncle and friend who will be sorely missed but never forgotten.

BE IT RESOLVED, that the Essex County Board of Supervisors, Clerk of the Board, County Manager and County Attorney hereby express and extend their deepest sympathy and condolences to the family of Walter A. "Bud" Doyle; and

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

This resolution was unanimously seconded and adopted.

RESOLUTION AUTHORIZING THE COUNTY CHAIRMAN OR COUNTY MANAGER TO EXECUTE AN ORDER ON CONSENT (R5-20170814-2258) WITH THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION RELATIVE TO VIOLATIONS OCCURRING AT THE ESSEX COUNTY FISH HATCHERY AND FURTHER AUTHORIZING THE PAYMENT OF A \$1,000.00 PENALTY TO THE STATE OF NEW YORK, NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION OR THEIR DESIGNEE

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

Upon 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 County Chairman or County Manager to execute an Order on Consent being R5-2017-0814-2258 with the New York State Department of Environmental Conservation relative to violations occurring at the Essex County Fish Hatchery; and

BE IT FURTHER RESOLVED, that this Board authorizes a payment of a \$1,000.00 penalty to the State of New York, New York State Department of Environmental Conservation or their designee.

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

AYES: 2271 votes (Barber, Harrington, Merrihew, Depo, McNally, Scozzafava, DeLoria, Rand, DeZalia, Subra, Giordano, Holzer)
NOES: 398 votes (Hughes, Monty, Winemiller, Tyler)
ABSENT: 252 votes (Wilson, Gilliland)