

**REGULAR SESSION  
FIRST DAY**

**Wednesday, September 5, 2007**

The Chairman called the Board to order, the roll was called and the following Representatives were found to be present:

Relic, Powers, Feldstein, Henderson, Durkin, Iversen, Lindberg, McCarty, Schwerd, Stayton, Rothenberger, Laguna, Hodne.

Under Privilege of the Floor, Kay Stuligross from the Oneonta Area League of Women Voters, said the League was hosting five women from Russia. The League was having a picnic to welcome them on Sunday and invited the County Board members to attend.

Wenli Zheng from Cooperstown spoke about his parents who are in prison in China for practicing Falun Gong and the alleged organ harvesting of Falun Gong prisoners..

Adrian Kuzminski from Sustainable Otsego addressed the County Board on the local interest regarding sustainability practices. He feels it would be appropriate for the county to establish an advisory committee to look at these issues and prepare a comprehensive sustainability plan.

The following communications were read and ordered filed:

Daniel Denofrio, Otsego County Commissioner of Social Services - Letter of resignation as Commissioner of Social Services, effective September 29, 2007.

Psalm Wyckoff, Planner - Letter stating the Otsego County Agricultural and Farmland Protection Board recommends adding all four applicants to their respective agricultural districts for the 2007 thirty day open enrollment period for Agricultural Districts.

Psalm Wyckoff, Planner - Letter stating the Otsego County Agricultural and Farmland Protection Board recommends that Agricultural District No. 2 be continued for another eight year period with a modification that furthers the Agricultural District Consolidation Plan by including parcels from District 11 and 4 located in the towns of Decatur, Maryland, Roseboom, Westford and Worcester in District 2.

Notice of Claim - Jeanene Rous Higbie versus the County of Otsego - For the negligence of the county in creating a dangerous condition at the intersection of County Route 52 and County Route 33 in the town of Middlefield. No amount is stated.

The following report is on file with the Clerk of the Board:

Venesky and Company - Otsego County Indirect Cost Recovery Project for 2006

The reports of the Standing Committees were given and ordered filed.

Under Special Presentations, Randy Wilson, a real estate manager for Verizon

Wireless, addressed the County Board on the need for additional wireless telephone coverage in the village of Cooperstown. After looking at various sites, Verizon Wireless feels the Otsego County Courthouse bell tower is the best location. Mr. Wilson said that Verizon Wireless proposes to lease space in the tower to install two antennas, which will be hidden behind black screens, and to construct a small equipment building and landscaped wall to the east of the Courthouse. The Village of Cooperstown Planning Board has been asked for its input on the design of the building. The State Historic Preservation Office (SHPO) will have the final approval of the building. Discussion followed on the design and the proposed lease amounts.

Representative Stayton moved to dispense with the reading of all the resolutions and Local Law. Seconded, Powers. Total: 6,167; Ayes: 5,541; Absent: 626 - Fournier. Motion carried.

### **RESOLUTION NO. 235-2007**

#### **RESOLUTION - AUTHORIZING LOAN FROM OTSEGO COUNTY MICRO-ENTERPRISE LOAN PROGRAM**

#### **FELDSTEIN, IVERSEN, RELIC**

WHEREAS, Otsego County received a 2003 Micro-Enterprise Grant from the New York State Small Cities Community Development Block Grant (CDBG) to assist Otsego County Small Businesses; and

WHEREAS, the Otsego County Micro-Enterprise Loan Program has been established per the Grant Agreement from the repayments of a loan authorized by the Block Grant, said program to perform the purpose of assisting businesses to undertake projects that will retain or create jobs and/or expand the county's tax base in conformance to HUD requirements and Program Guidelines; and

WHEREAS, an application has been made by The River Street Deli/Robert Chiappisi to receive a \$39,000 loan from this program; and

WHEREAS, a review and evaluation of said application by the Otsego County Department of Economic Development and the Administration Committee has determined that the project and proposal meet the guidelines and loan review criteria of the program; now, therefore, be it

RESOLVED, that the Chairman of the Board be and hereby is authorized to enter into a Loan and Development Agreement and other appropriate legal documents which will effectuate a \$39,000 loan to The River Street Deli/Robert Chiappisi for a term of seven (7) years at an annual interest rate of four (4%); and be it further

RESOLVED, that the funds for this loan shall be included in the 2007 Community Development Budget, Account CG8695.4900; and be it further

RESOLVED, that the loan shall be subject to the terms and conditions described in the application proposal and as discussed in the Administration Committee and those legal

documents shall be prepared by the County Attorney to contain these terms and provisions and others as are in the best interest of the County of Otsego.

Seconded, Stayton. Roll call. Total: 6,167; Ayes: 4,982; Abstained: 559 - Feldstein; Absent: 626 - Fournier. Adopted.

**RESOLUTION NO. 236-2007**

**RESOLUTION - AUTHORIZING CHAIRMAN OF THE BOARD TO EXECUTE AGREEMENT FOR COMPLETION OF EMERGENCY FLOOD REPAIR WORK FOR HIGHWAY DEPARTMENT**

**MCCARTY, HENDERSON, HODNE**

RESOLVED, that the Chairman of the Board be and hereby is authorized to execute an agreement with Krol Engineering, Inc., 123 Upper Dutch Hill Road, Oneonta, New York 13820, for the completion of emergency flood repair work for the County Highway Department, at a cost of \$165.00 per hour; and be it further

RESOLVED, that in accordance with the Otsego County Purchasing Policy and Procedures, Section 14(1), Exceptions to Bidding - Emergency, this flood repair work is emergency in nature and does not require public bidding; and be it further

RESOLVED, that the funds for this expenditure are included in the 2007 Highway Budget under D8760.2000 and D8760.4900.

Seconded, Powers and Schwerd. Roll call. Total: 6,167; Ayes: 5,541; Absent: 626 - Fournier. Adopted.

**RESOLUTION NO. 237-2007**

**RESOLUTION - AMENDING RESOLUTION NOS. 313-2006, 10-2007, 11-2007, 12-2007 AND 13-2007 - AUTHORIZING AMENDED CONTRACTS FOR INCREASED COLA FUNDING FOR CERTAIN SERVICES UNDER OTSEGO COUNTY COMMUNITY SERVICES**

**HENDERSON, IVERSEN, STAYTON**

RESOLVED, that the Chairman of the Board be and hereby is authorized to execute amended contracts with the following contractors; said contracts are being amended as a result of increased COLA funding for the following services under Otsego County Community Services:

1. Amending Resolution No. 313-2006 - Mental Health Association in Ulster County for the development of intensive preventive services for youth, for the year 2007, amending contract amount from \$54,473.00 to \$55,413.00;
2. Amending Resolution No. 10-2007 - Otsego-Northern Catskill BOCES

for substance abuse preventive services, for the year 2007, amending contract amount from \$113,913.00 to \$115,878.00;

3. Amending Resolution No. 11-2007 - Leatherstocking Education on Alcoholism/Addictions Foundation, Inc. (LEAF, Inc.) for the rendering of alcoholism services, for the year 2007, amending contract amount from \$443,172.00 to \$444,936.00;
4. Amending Resolution No. 12-2007 - The Harbour Program of MHA in Ulster Co., Inc. for services of a Psychiatric Nurse Practitioner and to operate adolescent outreach services for adolescents aged 12 to 21 years, for the year 2007, amending contract amount from \$300,401.00 to \$303,212.00;
5. Amending Resolution No. 13-2007 - Rehabilitation Support Services, Inc. to develop and operate supportive case management services and to develop psychosocial rehabilitation programs, for the year 2007, amending contract amount from \$758,228.00 to \$771,307.00;

and be it further

RESOLVED, that the budget accounts covering these contracts have been increased and modified in accordance with Resolution No. 227-2007.

Seconded, Rothenberger. Roll call. Total: 6,167; Ayes: 5,541; Absent: 626 - Fournier. Adopted.

#### **RESOLUTION NO. 238-2007**

#### **RESOLUTION – AUTHORIZING AGREEMENT WITH WILDATA SYSTEMS GROUP FOR ANNUAL TECHNICAL SUPPORT FOR SOFTWARE AT THE MENTAL HEALTH CLINIC**

#### **HENDERSON, IVERSEN, STAYTON**

RESOLVED, that the Chairman of this Board be and hereby is authorized to contract with Wildata Systems Group, Inc., 255 Bradenton Avenue, Dublin, Ohio 43017 for annual technical support for the computer billing and scheduling software at the Mental Health Clinic in the amount of \$20,000, for the term February 1, 2007 to January 31, 2008; and be it further

RESOLVED, that the funding for this expenditure is included in the 2007 Mental Health Budget (4310) at line 4900 Contract Services.

Seconded, Feldstein. Roll call. Total: 6,167; Ayes: 5,541; Absent: 626 - Fournier. Adopted.

#### **RESOLUTION NO. 239-2007**

**RESOLUTION - APPOINTING DIRECTOR OF REAL PROPERTY TAX SERVICES II**

**FELDSTEIN, IVERSEN, RELIC**

RESOLVED, that pursuant to Section 1530 of the Real Property Tax Law, Steven R. Child be and hereby is appointed Director of Real Property Tax Services II for the County of Otsego, for a term of six (6) years, commencing October 1, 2007 and ending September 30, 2013, at the salary heretofore established for such position; and be it further

RESOLVED, that Steven R. Child shall be entitled to receive from the County reimbursement for all necessary expenses incidental to the transaction of County business; and be it further

RESOLVED, that funding for this position is included in the 2007 Real Property Tax Service Budget (1355) at line 1000 Personal Service.

Seconded, Laguna and Hodne. Roll call. Total: 6,167; Ayes: 5,541; Absent: 626 - Fournier. Adopted.

**RESOLUTION NO. 240-2007**

**RESOLUTION - CREATING POSITIONS IN CHEMICAL DEPENDENCIES CLINIC (ADDICTIONS COUNSELORS)**

**FELDSTEIN, IVERSEN, RELIC**

RESOLVED, that the following positions be and the same are hereby created in the Chemical Dependencies Clinic, effective immediately:

Two (2) positions of Addictions Counselor, Grade 14  
\$28,819 - \$34,084 (\$1,053)

and be it further

RESOLVED, that the funding for these positions is included in the 2007 Alcoholism Budget (4250) at line 1000 Personal Service and is 100% state reimbursable; and be it further

RESOLVED, that these positions shall exist only as long as 100% grant funding is provided; and be it further

RESOLVED, that the Clerk of the Board be and hereby is authorized and directed to forward a copy of this resolution to the Otsego County Personnel Officer and to the County Treasurer.

Seconded, Durkin and Rothenberger. Roll call. Total: 6,167; Ayes: 4,669; Noes: 872 - Powers, McCarty; Absent: 626 - Fournier. Adopted.

## **RESOLUTION NO. 241-2007**

### **RESOLUTION - CONGRATULATING THE VILLAGE OF COOPERSTOWN ON ITS BICENTENNIAL CELEBRATION**

#### **HODNE, POWERS, SCHWERD, DURKIN**

WHEREAS, the Village of Cooperstown, New York, was founded in the late 1700's by Judge William Cooper and is located on the beautiful shores of Glimmerglass, the name James Fenimore Cooper, son of Judge William Cooper, gave Otsego Lake in his novels, Leatherstocking Tales, and the name Glimmerglass is still used today; and

WHEREAS, the Village of Cooperstown, New York, was the setting for historic events of the American revolution, such as the Sullivan-Clinton Campaign in 1779. In response to Iroquois raids on white settlements, General James Clinton's troops encamped on Otsego Lake and constructed "Clinton's Dam", allowing enough water to float General Clinton's army down the Susquehanna River, meeting a larger force under General Sullivan and destroying Iroquois settlements along the way; and

WHEREAS, the Village of Cooperstown, New York homes served as a stop along the underground railroad of the American Civil War, providing safe harbor for former slaves in their escape to freedom; and

WHEREAS, in 1791, Otsego County was organized with the Village of Cooperstown as its county seat and Judge William Cooper as its judge; and

WHEREAS, the Village of Cooperstown, New York, figures prominently in American literature with novels written by James Fenimore Cooper, many of which were set in and around Cooperstown and celebrate its magnificent wooded hills surrounding the aesthetic centerpiece, the Glimmerglass; and

WHEREAS, the Village of Cooperstown, New York, is the birthplace of many enduring cultural institutions in Otsego County including the Glimmerglass Opera, the Fenimore Art Museum and the Farmer's Museum; and

WHEREAS, the Village of Cooperstown, New York, is the birthplace of baseball as devised by Abner Doubleday in 1839, as well as home to the American baseball shrine to which thousands of baseball enthusiasts travel each year since the opening of the Baseball Hall of Fame in 1939 by the Clark Foundation; and

WHEREAS, the Village of Cooperstown, New York, being situated on the shores of the Glimmerglass and nestled in the hills and woodlands, is a sporting and recreation center for Otsego County residents and visitors and the starting point of the Annual General Clinton Canoe Regatta, which traverses the whole of Otsego County on the headwaters of the great Susquehanna River; and

WHEREAS, the Village of Cooperstown, New York, is home to a modern, nationally known medical center, the Mary Imogene Bassett Hospital, opened in 1922 by Edward Severin Clark, and serving many Otsego County and New York State residents through Bassett satellite health centers located in many communities throughout Otsego County and the surrounding counties; and

WHEREAS, the Village of Cooperstown, New York, is one of America's truly great villages, and the pristine, glimmering nine-mile long Otsego Lake, the toy village-like appeal of Main Street, the well-maintained older Victorian and Colonial homes on picture perfect tree lined streets and the wonderful green rolling hills create a special sense of "place" and pride to its residents and to the members of this Board of Representatives as well; now, therefore, be it

RESOLVED, that the Otsego County Board of Representatives congratulates the Village of Cooperstown, New York, and Mayor Carol Waller on its Bicentennial Celebration - a Village to be extremely proud of and an occasion well worth celebrating.

Seconded, entire Board. Oral vote. Total: 6,167; Ayes: 5,541; Absent: 626 - Fournier. Adopted.

### **RESOLUTION NO. 242-2007**

#### **RESOLUTION - AUTHORIZING CONVEYANCE OF COUNTY OWNED LAND ACQUIRED THROUGH DELINQUENT TAXES TO PREVIOUS OWNER**

#### **FELDSTEIN, IVERSEN, RELIC**

WHEREAS, pursuant to Resolution No. 142 of 1975, the County of Otsego has been paying delinquent property taxes on property in the County rather than permitting third parties to pay the taxes; and

WHEREAS, pursuant to Resolution No. 26 of 1981 and Resolution No. 234 of 1986, any parcel of land acquired by the County for delinquent taxes may be redeemed by its former owner by paying to the Treasurer the total amount of the tax including interest, penalties and other costs; now, therefore, be it

RESOLVED, that this Board be and is hereby authorized to convey the following parcel of land to the previous owner in consideration of taxes paid as listed below:

Town of Worcester  
Tax Map No. 200.00-1-65.01

Sell to: Deborah Provenzano  
10109 NYS Route 7  
Worcester, New York 12197  
for the sum of \$16,919.32

Seconded, Henderson. Roll call. Total: 6,167; Ayes: 5,541; Absent: 626 - Fournier. Adopted.

### **RESOLUTION NO. 243-2007**

#### **RESOLUTION - FIXING FEES FOR REVIEW OF CONDOMINIUM MAPS**

**AND ASSOCIATED DOCUMENTS BY REAL PROPERTY TAX  
SERVICE**

**FELDSTEIN, IVERSEN, RELIC**

WHEREAS, it is in the best interests of the County for this Board of Representatives, by this resolution, to fix fees to be collected from condominium developers by Real Property Tax Service for the review of condominium maps and associated documents prior to filing with the County Clerk; and

WHEREAS, this Board has the authority to fix such fees in accordance with Real Property Tax Law §503(7), which law states as follows:

"Nothing contained in this section shall preclude a county legislature at its option, by resolution, from fixing a fee in an amount not to exceed twenty-five dollars for a one through three lot subdivision map, whether intended as an original subdivision or as an alteration, including correction of a prior subdivision, or an instrument abandoning such subdivision map, or a condominium map; fifty dollars for a four through nine lot subdivision map, whether intended as an original subdivision or as an alteration, including correction of a prior subdivision, or an instrument abandoning such subdivision map, or a condominium map, and one hundred dollars for a ten or more lot subdivision map, whether intended as an original subdivision or as an alteration, including correction of a prior subdivision, or an instrument abandoning such subdivision map, or a condominium map. Such fee shall be paid to the real property tax service agency by any person or corporation filing a map in accordance with the provisions of any general, special or local law or ordinance or of any county, city or village charter, if such map necessitates any change upon a tax map in order to maintain the map in current condition."

now, therefore, be it

RESOLVED, that this Board of Representatives establishes and fixes the following fees to be collected by Real Property Tax Service from condominium developers for the review of condominium maps and associated documents prior to filing with the Otsego County Clerk:

One through Three Units	\$ 25.00
Four through Nine Units	\$ 50.00
Ten or More Units	\$ 100.00

and be it further

RESOLVED, that this resolution shall take effect January 1, 2008.

Seconded, McCarty. Oral vote. Total: 6,167; Ayes: 5,541; Absent: 626 - Fournier.  
Adopted.

**RESOLUTION NO. 244-2007**

**RESOLUTION - OF RESPECT FOR FLORENCE R. AMES**

## **ENTIRE BOARD**

WHEREAS, Florence R. Ames served as County Representative on the Otsego County Board of Representatives from April 13, 1977 to December 31, 1977, representing District No. 9 (Towns of Richfield and Springfield); and

WHEREAS, Florence R. Ames was the first woman to serve on the Otsego County Board of Representatives, having been appointed upon the death of her husband, County Representative Murry Ames; and

WHEREAS, Florence R. Ames had with sincere effort devoted herself to many years of community service in the County of Otsego; now, therefore, be it

RESOLVED, that the members of the Otsego County Board of Representatives regret the passing of Florence R. Ames; and be it further

RESOLVED, that this Board of Representatives pays tribute to Florence R. Ames and expresses its appreciation of her service to the residents of the towns of Richfield and Springfield and the County of Otsego; and be it further

RESOLVED, that this Board of Representatives hereby expresses to the family of Florence R. Ames its sorrow on her passing.

Seconded, entire Board. Oral vote. Total: 6,167; Ayes: 5,541; Absent: 626 - Fournier. Adopted.

### **RESOLUTION NO. 245-2007**

#### **RESOLUTION – TO PURCHASE CERTAIN NON-DURABLE SUPPLIES FOR THE PUBLIC SAFETY BUILDING**

#### **FOURNIER, FELDSTEIN, STAYTON, POWERS**

WHEREAS, the Otsego County Purchasing Agent has advertised and received bids for certain non-durable supplies (food items) for the Public Safety Building for the period of July 1, 2007 to December 31, 2007; and

WHEREAS, the bids have been reviewed by the Public Safety and Legal Affairs Committee and a recommendation has been made approving the lowest acceptable bid; and

WHEREAS, a complete listing of all prices for individual items is on file with the Clerk of the Board; now, therefore, be it

RESOLVED, that the Department Head of the Public Safety Building be and hereby is authorized to purchase from the firms, the supplies set forth in accordance with the prices as are on file with the Clerk of the Board; and be it further

RESOLVED, that the funding for the purchase of said supplies is included in the

2007 Jail Budget (3150) at line 4500 Materials and Supplies.

Seconded, Laguna. Roll call. Total: 6,167; Ayes: 5,541; Absent: 626 - Fournier.  
Adopted.

**RESOLUTION NO. 246-2007**

**RESOLUTION – CREATING POSITIONS IN SHERIFF'S DEPARTMENT  
(SPECIAL PATROL OFFICERS)**

**FELDSTEIN, IVERSEN, RELIC**

RESOLVED, that the following positions be and hereby are created in the Sheriff's Department, effective August 13, 2007:

Two (2) positions of Special Patrol Officer, \$29,897

and be it further

RESOLVED, that the funding for these positions is included in the 2007 Sheriff's Budget (3110) at line 1000 Personal Service; and be it further

RESOLVED, that the Clerk of the Board be and hereby is authorized and directed to forward a copy of this resolution to the County Treasurer and to the Personnel Officer.

Seconded, Durkin. Roll call. Total: 6,167; Ayes: 5,541; Absent: 626 - Fournier.  
Adopted.

**RESOLUTION NO. 247-2007**

**RESOLUTION - ABOLISHING POSITION IN TREASURER'S OFFICE  
(ACCOUNT CLERK-TYPIST)**

**FELDSTEIN, IVERSEN, RELIC**

RESOLVED, that the following position in the Treasurer's Office is abolished, effective immediately:

Account Clerk-Typist (#4), Grade 7

and be it further

RESOLVED, that the Clerk of this Board be and hereby is authorized and directed to forward a copy of this resolution to the Otsego County Personnel Officer and to the County Treasurer.

Seconded, Stayton. Oral vote. Total: 6,167; Ayes: 5,541; Absent: 626 - Fournier.  
Adopted.

**RESOLUTION NO. 248-2007**

**RESOLUTION - RAISING SALARY GRADE FOR PAYROLL  
COORDINATOR IN TREASURER'S OFFICE**

**FELDSTEIN, IVERSEN, RELIC**

WHEREAS, it has become necessary to upgrade the salary grade of the position of Payroll Coordinator due to increased responsibility for this position; now, therefore, be it

RESOLVED, that effective immediately, the salary grade for the position of Payroll Coordinator in the Treasurer's Office is hereby raised to Grade 10 as follows:

\$24,160 - \$28,470 (\$862)

and be it further

RESOLVED, that the Clerk of this Board be and hereby is authorized and directed to forward a copy of this resolution to the Otsego County Personnel Officer and to the County Treasurer; and be it further

RESOLVED, that the funding for this upgrade is included in the 2007 County Treasurer's Budget (A1325) at line 1000 Personal Service.

Seconded, Stayton. Roll call. Total: 6,167; Ayes: 5,164; Noes: 377 - McCarty; Absent: 626 - Fournier. Adopted.

**RESOLUTION NO. 249-2007**

**RESOLUTION – TRANSFERRING FUNDS IN VARIOUS  
DEPARTMENTS**

**FELDSTEIN, IVERSEN, RELIC**

WHEREAS, it appears that it will require funds to complete the year 2007 in certain items of the Otsego County Budget; and

WHEREAS, there are unexpended balances in other items of the 2007 budget; now, therefore, be it

RESOLVED, that the following transfers be and the same are hereby authorized, and the 2007 budget be and it is hereby amended accordingly, pursuant to Section 363 of the County Law:

<b><u>2007 Budget Transfers</u></b>				
	<b>DEPARTMENT</b>	<b>ACCOUNT NAME</b>	<b>ACCOUNT CODE</b>	<b>AMOUNT</b>
<b><u>FUND A - GENERAL</u></b>				

FROM:	Board of Representatives	Equipment	1010.2000A	-105.00
FROM:	Board of Representatives	Lodging, Meals & Tolls	1010.4010A	-400.00
TO:	Board of Representatives	Other	1010.4800A	505.00
FROM:	County Treasurer	Lodging, Meals and Tolls	1325.4010A	-170.00
TO:	County Treasurer	Mileage	1325.4005A	170.00
FROM:	Personnel	Personal Service	1430.1000A	-1,500.00
TO:	Personnel	Other	1430.4800A	1,500.00
FROM:	Emergency Services	Personal Service	3641.1000A	-3,000.00
TO:	Emergency Services	Other Training Center	3641.4801A	3,000.00
FROM:	Early Intervention Program	MIS Charges	4059.4850A	-645.00
TO:	CSHCN Grant	MIS Charges	4061.4850A	645.00

**2007 Budget Modifications**

**Fund A – General Fund**

INCREASE:	Office for the Aging	Est. Rev AAA Transportation	A510 0000.3783A	-2,000.00
INCREASE:	Office for the Aging	Approp. Training	A960 6772.4050A	2,000.00
INCREASE:	Office for the Aging	Est. Rev OFA Wrap	A510 0000.4783A	-6,800.00
INCREASE:	Office for the Aging	Approp. Last Resort Funding	A960 6772.4990A	6,800.00
INCREASE:	Planning	Est. Rev. Emerg. Disaster Assist.-St	A510 0000.3960A	-250,000.00
INCREASE:	Planning	Est. Rev. Emerg. Disaster Assist.-Fed	A510 0000.4960A	-750,000.00
INCREASE:	Planning	Flood 06 Buy Out Program	A960 1940.4000A	1,000,000.00
INCREASE:	County Treasurer	Est. Rev. Tobacco Settlement	A510 0000.2700A	-14,178.60
INCREASE:	County Treasurer	Approp. Other	A960 1325.4800A	2,178.60
INCREASE:	County Treasurer	Approp. Postage	A960 1325.4400A	12,000.00

Seconded, Durkin and Stayton. Representative Feldstein moved to add the following budget modification:

<b>FUND CD – SPECIAL GRANTS FUND</b>				
INCREASE:	TANF	Est. Rev. JTPA TANF	CD510 0000.4793CD	\$94,853.00
INCREASE:	TANF	Approp. Personal Service	CD960 6294.1000CD	\$85,285.00
			CD960	

INCREASE:	TANF	Approp. Mileage	6294.4000CD	\$3,00.00
INCREASE:	TANF	Approp. Fringe Benefits	CD960 6294.8000CD	\$6,568.00

Seconded, Relic. Total: 6,167; Ayes: 5,541; Absent: 626 - Fournier. Motion carried. Roll call on amended resolution. Total: 6,167; Ayes: 5,541; Absent: 626 - Fournier. Adopted as amended.

**LOCAL LAW NO. 4 OF 2007  
COUNTY OF OTSEGO, NEW YORK**

**A LOCAL LAW AMENDING LOCAL LAW NO. 4 OF 2006 - IMPOSING A  
TAX ON THE OCCUPANCY OF CERTAIN HOTEL, MOTEL AND  
SIMILAR ROOMS IN OTSEGO COUNTY**

BE IT ENACTED by the Legislature of the County of Otsego as follows:

**Section 1. Short Title**

This local law shall be known as the Otsego County Hotel/Motel and Similar Room Occupancy Tax Law.

**Section 2. Intent**

The intent of this local law shall be to promote and develop tourism within the County of Otsego.

**Section 3. Text**

1. Definitions.
2. Imposition of Tax.
3. Transitional Provisions.
4. Exempt Organizations.
5. Territorial Limitations.
6. Registration.
7. Administration and Collection.
8. Records to be Kept.
9. Returns.
10. Payment of Tax.
11. Determination of Tax.

12. Disposition of Revenues.
13. Refund, Revision or Credits.
14. Remedies Exclusive.
15. Proceedings to Recover Tax.
16. General Powers of the County Administrator.
17. Administration of Oaths and Compelling Testimony.
18. Reference to Tax.
19. Penalties and Interest.
20. Returns to be Secret.
21. Notices and Limitations of Time.
22. Separability.

## 1. Definitions.

(a) County Administrator. The Treasurer of Otsego County or other persons designated by the Board of Representatives.

(b) Hotel or Motel. For purposes of this section, the term “hotel” or “motel” shall mean and include any facility consisting of rentable units and providing lodging on an overnight basis. Such facilities shall also include those facilities designated and commonly known as “bed and breakfast” and “tourist” facilities, and shall also include inns, boarding houses, condominiums, cabins, cottages, motor courts or clubs, bunk houses, lodges, trailers, campers, tents and camp sites offered for rent by the owner thereof for lodging and shelter on an overnight basis. Such facilities shall also include shelter or lodging provided to campers or guests at youth camps, except for those youth camps owned and operated by persons or entities which are exempt from taxation under federal or state law. With respect to camp sites, this section shall apply only to those leases and rentals in which the owner thereof provides overnight shelter or lodging, and shall not apply to the provision of services by the owner thereof when the customer provides his or her own shelter or lodging.

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

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

(e) Operator. Any person operating a hotel or motel in Otsego County, including but not limited to the owner or proprietor of such premises, lessee, sublessee, mortgage in possession, licensee, or any other person otherwise operating such hotel or motel.

(f) Permanent Resident. Any occupant of any room or rooms in a hotel or motel for at least thirty (30) consecutive days shall be considered a permanent resident with regard to the period of occupancy.

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

(h) Rent. The consideration received for occupancy valued in money, whether received in money or otherwise.

(i) Return. Any return filed or required to be filed as herein provided.

(j) Room. Any room or rooms, being a partitioned part of the inside of a building, of any kind in any part or portion of a hotel or motel, which is available for or let out for any purpose other than a place of assembly.

## 2. Imposition of Tax.

On or after the 1st day of March, 1990, there is hereby imposed and there shall be paid a tax of four (4) percent of the rent for every occupancy of a room or rooms in a hotel or motel in this county except that the tax shall not be imposed upon a permanent resident of the hotel or motel.

## 3. Transitional Provisions.

The tax imposed by this local law shall be paid upon any occupancy on or after the 1st day of March, 1990, although such occupancy is pursuant to a prior contract, lease, or other arrangement. Where rent is paid or payable on a weekly, monthly, or other term, 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 1st day of March, 1990.

## 4. Exempt Organizations.

a. This local law shall not authorize the imposition of such tax upon any transactions by or with any of the following in accordance with Section 1230 of the Tax Law:

- (1) the State of New York or any of its agencies, instrumentalities, public corporations (including a public corporation created pursuant to agreement or compact with another state or Canada), improvement districts or political subdivisions of the State;
- (2) the United States of America or any of its agencies and instrumentalities, insofar as it is immune from taxation;
- (3) any corporation, association, trust, 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 subdivision 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 subdivision.

b. Where any organization described in paragraph (3) of subdivision a of this subsection carries on its activities in the furtherance of the purposes for which it was organized, in premises in which, as part of said activities, it operates a hotel or motel, occupancy of rooms in the premises and rents therefrom received by such corporation or association shall not be subject to tax hereunder.

c. The hotel or motel operator shall submit such written proof as may be required to show that the use or occupancy falls within the aforescribed exempt categories. In the absence of such documentation, the tax must be collected by the operator.

#### 5. Territorial Limitations.

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

#### 6. Registration.

On or before March 1, 1990, the effective date of this local law, or in the case of operators commencing hotel or motel business in Otsego County after such effective date, within three days after such commencement, every operator shall file with the County Administrator's office a certificate of registration in a form prescribed by the County Administrator. Within five days after such registration, the County Administrator shall issue without charge to each 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 operator. Each certificate or duplicate shall state the hotel or motel to which it is applicable. Such certificates of authority shall be prominently displayed by the operator in a manner that it may be seen and come to the notice of all occupants and persons seeking occupancy in the hotel or motel to which it applies. Such certificates shall be nonassignable and nontransferable, and shall be surrendered immediately to the County Administrator upon the cessation of business at the hotel or motel named or upon its sale or transfer.

#### 7. Administration and Collection.

a. The tax imposed by this local law shall be administered and collected by the Otsego County Administrator, or other fiscal officers of the County as he may designate by such means and in such manner as are other taxes which are now administered and collected by such officers in accordance with the County Charter and Code, or as otherwise provided by this local law.

b. The tax to be collected shall be stated and charged separately from the rent and show separately on any record thereof at the time when the occupancy is arranged or contracted or contracted and charged for, and upon every evidence of occupancy or any bill, statement, or charge made for said occupancy issued or delivered by the operator.

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 tax and collection of the same. 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. 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 a 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 nonpayment of rent by the occupant; provided, however, that the County Administrator or other fiscal officer(s), employees or agent duly designated by him shall be joined as a party in any action or proceeding brought by the operator to collect or enforce collection of the tax.

c. The County Administrator may, wherever he deems it necessary for the proper enforcement of this local law, provide by regulation that the occupant shall file returns and pay directly to the County Administrator the tax herein imposed, at such times as returns are required to be filed and payment made by the operator.

d. The tax imposed by this local law shall be paid upon any occupancy on and after the 1st day of March, 1990, although such occupancy is had pursuant to a contract, lease, or other arrangement made prior to such date. 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 1st day of March, 1990. Where any tax has been paid hereunder upon any rent which has been ascertained to be worthless, the County Administrator may, by regulation, provide for the credit and/or refund of the amount of such tax upon application therefor as provided in Section 13 of this local law.

e. 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. The burden of proving that a rent for occupancy is not taxable hereunder shall be upon the operator, except that, whereby regulation pursuant to subdivision 7(c) of this section, an occupant is required to file returns and pay directly to the County Administrator the tax herein imposed, the burden of proving that a rent for occupancy is not taxable shall be upon the occupant. Where an occupant claims exemption from the tax under the provisions of subdivision 4 of this section, the rent shall be deemed taxable hereunder unless the operator shall receive from the occupant claiming such exemption a certificate duly executed by an exempt corporation or association certifying that the occupant is its agent, representative, or employee, together with a certificate executed by the occupant that his occupancy is paid or to be paid by such exempt corporation or association, and is necessary or required in the course of or in connection with the occupant's duties as a representative of such corporation or association. Where deemed necessary by the operator, he may further require that any occupant claiming exemption from the tax furnish a copy of a certificate issued by the County Administrator certifying that the corporation or association therein named is exempt from the tax under subdivision 4 of this section.

## 8. Records to be Kept.

Every operator shall keep records of every occupancy, of all rent paid, charged, or due, and of the tax payable thereon, in such form as the County Administrator may require

by regulation. Such records shall be available for inspection and examination at any time upon demand by the County Administrator or his duly authorized employee or agent, and shall be preserved for a period of three years, except that the County Administrator may consent to their destruction within that period or may require that they be kept longer.

#### 9. Returns.

a. Every operator shall file with the County Administrator a return of occupancy, of rents, and of taxes payable thereon for the periods ending February 28, May 31, August 31, and November 30 of each year, on and after March 1, 1990. Such returns shall be filed within 20 days from the expiration of the period covered thereby. The County Administrator may permit or require returns to be made by other periods and upon such dates as he may specify. If the County Administrator deems it necessary in order to ensure the payment of the tax imposed by this local law, he may require returns to be made for shorter periods than those prescribed pursuant to the foregoing provisions of this section and upon such dates as he may specify.

b. The form of returns shall be prescribed by the County Administrator and shall contain such information as he may deem necessary for the proper administration of this local law. The County Administrator may require amended returns to be filed within 20 days after notice and to contain the information specified in the notice.

c. If a return required by this local law is not filed, or a return when filed is incorrect or insufficient on its face, the County Administrator shall take the necessary steps to enforce the filing of such a return or of a corrected return.

#### 10. Payment of Tax.

At the time of filing a return of occupancy and of rents, each operator shall pay to the County Administrator the taxes imposed by this local law upon rents required to be included in such return, as well as all other monies collected by the operator acting or purporting to act under the provisions of this local law. Where the County Administrator deems it necessary to protect revenues to be obtained under this local law, he may require any operator required to collect the tax imposed by this local law to file with him a bond, 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 County Administrator may fix to secure the payment of any tax and/or penalties and interest due or which may become due from such operator. In the event that the County Administrator determines that an operator is to file such a bond, he shall give notice to the operator to that effect, specifying the amount of the bond required. The operator shall file the bond within five days after the giving of notice unless within those five days the operator requests in writing a hearing before the County Administrator, at which the necessity, propriety, and amount of the bond shall be determined by the County Administrator. This determination shall be final and shall be complied with within 15 days after the giving of notice thereof. In lieu of a bond, securities approved by the County Administrator or cash in the amount he may prescribe may be deposited into the custody of the County Administrator, who may at any time, without notice to the depositor, apply them to any tax and/or interest or penalties due, and for that purpose the securities may be sold by him at public or private sale without notice to the depositor thereof.

#### 11. Determination of Tax.

If a return required by this local law is not filed, or if a return when filed is incorrect or insufficient, the amount of tax due shall be determined by the County Administrator from obtainable information. 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. Notice of such determination shall be given to the person liable for the collection and/or payment of the tax. Such determination shall finally and irrevocably fix the tax unless the person against whom it is assessed, within 30 days after giving notice of such determination, applies to the County Administrator for a hearing, or unless the County Administrator redetermines the same on his own motion. After such a hearing, the County Administrator shall give notice of his determination to the person against whom the tax is assessed. The determination of the County Administrator shall be reviewable for error, illegality, unconstitutionality, or any other reason whatsoever by proceeding under Article 78 of the Civil Practice Law and Rules if application therefor is made to the Supreme Court within 30 days after the filing of the notice of such determination. A proceeding under Article 78 of the Civil Practice Law and Rules shall not be instituted unless the amount of any tax sought to be reviewed with penalties and interest thereon, if any, is first deposited with the County Administrator and an undertaking is filed with the County Administrator, issued by a surety company authorized to transact business in this state, approved by the superintendent of insurance of this state as to solvency and responsibility, in an amount approved by a Supreme Court Justice, to the effect that if the proceeding is dismissed or the tax confirmed, the petitioner will pay all charges and costs which may accrue in the prosecution of the proceeding, or, at the option of the applicant, such undertaking filed with the County Administrator may be in a sum sufficient to cover the taxes, penalties, and interest thereon stated in such determination plus the costs and charges which may accrue against it in the prosecution of the proceeding. In that event, the applicant will not be required to deposit such taxes, penalties, and interest as a condition precedent to the application.

## 12. Disposition of Revenues.

All revenues resulting from the imposition of the tax under this local law shall be paid into the treasury of the County, credited to and deposited into the General Fund of the County, and thereafter, the actual costs for collection and handling, shall be retained by the County as verified by the County Administrator. The net revenues received after deduction of costs of collection and administration, shall be allocated as follows:

1. The net collections therefrom shall thereafter be allocated by the board of representatives of Otsego County in an amount not less than two hundred thousand dollars for the promotion, planning and development of tourism in Otsego County and the remaining net collections therefrom may be allocated by the board of representatives of Otsego County for any county purpose.

The County Legislature shall be authorized to retain and remit to the general fund up to a maximum of ten percent (10%) of such revenue to defer the necessary expenses of the County in administering such tax.

## 13. Refund, Revision or Credits.

- a. In the manner provided in this section, the County Administrator shall refund or

credit, without interest, any tax, penalty, or interest erroneously, illegally, or unconstitutionally collected or paid if application to the County Administrator for such refund is made within one year from the payment thereof. Whenever a refund is made by the County Administrator, he shall state his reason therefor in writing. Such application may be made by the occupant, operator, or other person who has actually paid the tax. Such application may also be made by an operator who has collected and paid over such tax to the County Administrator, provided that the application is made within one year of the payment by the occupant to the operator. However, no actual refund of monies shall be made to such operator until he first establishes to the satisfaction of the County Administrator under such regulations as the County Administrator by authority of the Board of Representatives may prescribe, that he has repaid to the occupant the amount for which the application for refund is made. In lieu of any refund required to be made, the County Administrator may allow credit therefor on payments due from the applicant.

b. An application for a refund or credit made as herein provided shall be deemed an application for a revision of any tax, penalty, or interest complained of and the County Administrator may receive evidence with respect thereto. After making his determination, the County Administrator shall give notice thereof to the applicant, who shall be entitled to review said determination by a proceeding pursuant to Article 78 of the C.P.L.R., provided the proceeding is instituted within 30 days after the giving of the notice of determination and provided a final determination of tax due was not previously made. Such a proceeding shall not be instituted unless an undertaking is filed with the County Administrator in an amount and with sureties approved by a Justice of the Supreme Court to the effect that if such proceedings are dismissed or the tax confirmed, the petitioner will pay all costs and charges that may accrue in the prosecution of said proceeding.

c. A person shall not be entitled under this section to a revision, refund, or credit of a tax, interest, or penalty that had been determined to be due pursuant to the provisions of Section 13 of this local law where said person has had a hearing or an opportunity for a hearing as provided in this section, or who has failed to avail himself of the remedies provided therein. No refund or credit of a tax, interest, or penalty paid after a determination by the County Administrator pursuant to Section 11 of this local law shall be paid unless it is found that the determination was erroneous, illegal, unconstitutional, or otherwise improper by the County Administrator after a hearing or of his own motion, or in a proceeding under Article 78 of the C.P.L.R. pursuant to the provisions of said section. In that event, refund or credit without interest shall be made of the tax, interest, or penalty found to have been overpaid.

#### 14. Remedies Exclusive.

The remedies provided by Sections 11 and 13 of this local law shall be exclusive remedies available to any person for the review of tax liability imposed by this local law. No determination, proposed determination of tax, nor determination on any application for refund shall be enjoined or reviewed except as hereinafter provided, by an action for declaratory judgment, an action for money had and received, or by any action or proceeding other than a proceeding in the nature of a certiorari proceeding under Article 78 of the C.P.L.R. A taxpayer may, however, proceed by declaratory judgment if he/she institutes suit within 30 days after a deficiency assessment is made and pays the amount of the deficiency assessment to the County Administrator prior to the institution of such suit and posts a bond for costs as provided in Section 11 of this local law.

## 15. Proceedings to Recover Tax.

a. Whenever any operator, any officer of a corporate operator, any occupant, or other person fails to collect and pay over any tax and/or penalty or interest as imposed by this local law, the County Attorney shall, at the request of the County Administrator, bring or cause to be brought an action to enforce the payment of same on behalf of the County in any court of the State of New York or of any other state or of the United States. If, however, the County Administrator in his discretion believes that any such operator, officer, 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, he may declare such tax or penalty to be immediately due and payable, and may issue a warrant immediately.

b. As an additional or alternate remedy, the County Administrator may issue a warrant, directed to the Sheriff, commanding him to levy upon and sell the real and personal property of the operator, officer of a corporate operator, or other person liable for the tax, which may be found within the 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 County Administrator and to pay to him the money collected by virtue thereof within 60 days after the receipt of said warrant. Within five days after the receipt of the warrant, the Sheriff shall file a copy of same with the County Clerk. Thereupon the Clerk shall enter in the judgment docket the name of the person stated in the warrant, the amount of the tax, penalties, and interest for which the warrant is issued, and the date when such copy is filed. Thereupon the amount of such warrant so docketed shall become a lien upon the interest in real and personal property of the person against whom the warrant is issued.

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. For services in executing the warrant he shall be entitled to the same fees, which he may collect in the same manner. In the discretion of the County Administrator, a warrant of like terms, force, and effect may be issued and directed to any officer or employee of the County Administrator. In the execution thereof, such officer or employee shall have all the powers conferred by law upon sheriffs, but shall be entitled to no fee or compensation in excess of the actual expenses paid in the performance of such duty. If a warrant is returned not fully satisfied, the County Administrator may, from time to time, issue new warrants and shall also have the same remedies to enforce the amount due thereunder as if the County has recovered judgment therefor and execution thereon has been returned unsatisfied.

c. Whenever an operator makes a sale, transfer, or assignment of any part of the whole of his hotel or motel, or his lease, license, or other agreement or right to possess or operate such hotel or motel, or the equipment, furnishings, fixtures, supplies, or stock of merchandise, or the said premises or lease, license or other agreement or right to possess or operate such hotel or motel and equipment, furnishings, fixtures, supplies and stock of merchandise pertaining to the conduct or operation of said hotel or motel, other than in the ordinary and regular prosecution of business, the purchaser, transferee or assignee shall, at least ten days before taking possession of the subject of said sale, transfer, or assignment, or before receiving payment, notify the County Administrator by registered mail of the proposed sale and the price, terms, and conditions thereof whether or not the seller, transferrer or assignor has represented to or informed the purchaser, transferee, or assignee that it owes any tax pursuant to this local law, whether or not the purchaser, transferee, or assignee has knowledge that such taxes are owing, and whether any such

taxes are in fact owing.

d. Whenever the seller, transferor, or assignor fails to give notice to the County Administrator as required above, or whenever the County Administrator informs the purchaser, transferee, or assignee that a possible claim for such tax(es) exists, any sums of money, property, choses in action, or other consideration which the purchaser, transferee or assignee is required to transfer over to the seller, transferor, 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 seller, transferor, or assignor to the County. The purchaser, transferee, or assignee is then forbidden to transfer to the seller, transferor, or assignor any such sums of money, property, or choses in action to the extent of the amount of the County's claim. For failure to comply with the provisions of this subdivision, the purchaser, transferee, or assignee, in addition to being subject to the liabilities and remedies imposed under the provisions of Article 6 of the Uniform Commercial Code, shall, as well as the seller, transferor, or assignor, 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 seller, transferor, or assignor. Such liability may be assessed and enforced in the same manner as the liability for tax under this local law.

#### 16. General Powers of the County Administrator.

a. In addition to the powers granted to him in this local law, the County Administrator is, subject to the approval of the Otsego County Board of Representatives, hereby authorized and empowered to:

- (1) make, adopt, and amend rules and regulations appropriate to the carrying out of this local law and the purposes thereof;
- (2) extend for cause shown, the time of filing any return for a period not exceeding thirty (30) days; and for cause shown, to remit penalties but not interest; and to compromise disputed claims in connection with the taxes hereby imposed;
- (3) 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 Treasury Department relative to any person, notwithstanding any other provision of this local law to the contrary;
- (4) delegate his functions hereunder to a Deputy County Administrator or any employee(s) of County Administration;
- (5) prescribe methods for confirming the rents for occupancy and to confirm the accuracy of information on the taxable and nontaxable rents;
- (6) require any operator within the County, if it is determined that adequate records are not being maintained, to keep detailed records of the nature and type of hotel maintained; nature and type of service rendered; number of rooms available and occupied; daily leases, 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 at the request of the County Administrator;

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

#### 17. Administration of Oaths and Compelling Testimony.

a. The County Administrator or his employee(s) or agent(s) duly designated and authorized by him shall have the power to administer oaths and take affidavits in relation to any matter or proceeding in the exercise of their powers and duties under this local law. The County Administrator 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, in the enforcement of this local law, and to examine them in relation thereto. The County Administrator shall also have the power to issue commissions for the examination of witnesses who are out of the state, unable to attend before him, or who are excused from attendance.

b. A Supreme Court Justice, either in court or in chambers, shall have the power to summarily 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 County Administrator under this local law.

c. Any subpoenaed person who refuses to testify or produce books or records, or who testifies falsely in any material matter pending before the County Administrator under this local law shall be guilty of a misdemeanor, punishment for which shall be a fine of not more than \$1,000 or imprisonment for not more than one (1) year, or both such fine and imprisonment.

d. The officers who serve the summons or subpoena of the County Administrator and witness 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 provided otherwise. Such officers shall be the County Sheriff and his duly appointed deputies, or any officers or employees of the County Administrator's office designated by him to serve such process.

#### 18. Reference to Tax.

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

#### 19. Penalties and Interest.

a. Any person failing to file a return or to pay over any tax to the County Administrator within the time required by this local law shall be subject to a penalty of ten (10) percent of the amount of tax due, plus interest at the rate of one (1) percent of such tax for each month of delay, except the first month after such return was required to be filed or such tax become due. Such penalties and interest shall be paid and disposed of in the

same manner as other revenues from this local law.

b. The following persons shall, in addition to the penalties herein or elsewhere prescribed, be guilty of a misdemeanor, punishment for which shall be a fine of not more than \$1,000 or imprisonment not exceeding one (1) year, or both:

(1) any operator, occupant, or any officer of a corporate operator or occupant failing to file a return required by this local law, or filing or causing to be filed, making or causing to be made, giving or causing to be given any return, certificate, affidavit, representation, information, testimony or statement authorized or required by this local law, which is willfully false;

(2) any operator or officer of a corporate operator willfully failing to file a bond required to be filed pursuant to Section 11 of this local law, failing to file a registration certificate and such data in connection therewith as the County Administrator may require, failing to display or surrender the certificate of authority as required by this local law, or assigning or transferring such certificate of authority;

(3) any operator or officer of a corporate operator willfully failing to charge separately from the rent the tax herein imposed, willfully failing to state such tax separately on any evidence of occupancy and on any bill, statement or receipt of rent issued or employed by the operator, or willfully failing or refusing to collect such tax from the occupant;

(4) any operator or officer of a corporate operator who refers or causes reference to be made to this tax in a form or manner other than that required by this local law; and

(5) any operator failing to keep records required by subdivision 8 of Section 2 of this local law.

c. Any operator or officer of a corporate operator who fails to file a certificate of registration as provided under this local law shall be subject to a penalty of \$1,000 for each month of delinquency in filing such certificate. Officers of a corporate operator shall be personally liable for the tax collected or required to be collected by such corporation under this local law, and subject to the penalties hereinabove imposed.

d. The certificate of the County Administrator 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.

## 20. Returns to be Secret.

a. Except in accordance with the proper judicial order, or as otherwise provided by law, it shall be unlawful for the County Administrator or any officer or employee of the County Administrator's Office to disclose in any manner the rents or other information relating to the business of a taxpayer contained in any return required under this local law, except to such persons and at such times as necessary to carry out this local law. The officers charged with the custody of such returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the County Administrator 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. In any of these events, the Court may require the production of and may admit into evidence as much of said returns or the facts shown thereby as are pertinent to the action or proceeding, and no more. Nothing herein shall be construed to prohibit the delivery to the taxpayer or his duly authorized representative of a certified copy of any return filed in connection with his/her tax nor to prohibit the publication of statistics classified so as to prevent the identification of particular returns and the items thereof. In addition, nothing herein shall be construed to prohibit the inspection by the County Attorney or other legal representatives of the County of the return of the 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. Returns shall be preserved for three years and thereafter until the County Administrator permits them to be destroyed.

b. Any violation of subdivision a of this section shall be punishable by a fine not exceeding \$1,000 or by imprisonment not exceeding twelve (12) years, or both, in the discretion of the Court. If the offender is an officer or employee of the County, (s)he shall be dismissed from office and be incapable of holding any public office for a period of five years thereafter.

## 21. 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 by him pursuant to the provisions of this local law, or in any application made by him. If no return has been filed nor application made, then notice may be given by mailing same to such address as may be obtainable. Mailing of such notice shall be presumptive evidence of the receipt of same by the person to whom it is addressed. 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.

b. 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 action or proceeding taken by the County to levy, appraise, assess, determine, or enforce the collection of any tax or penalty provided by this local law. However, except in the case of a willfully false or fraudulent return with the 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 filing of a return; provided, however, that where no return has been filed as provided by law, the tax may be assessed and collected at any time.

c. Where a taxpayer has consented in writing, before the expiration of the period prescribed herein for the assessment of an additional tax, that such period be extended, the amount of such additional tax due may be determined at any time within the extended period. The period so extended may be further extended by subsequent consents in writing made before the expiration of the extended period.

## 22. Separability.

If any provision of this local law, or the application thereof to any person or circumstances, is held to be invalid, the remainder of this local law and the application of its

provisions to other persons or circumstances shall not be affected thereby.

#### **Section 4. Effective Date.**

This local law shall take effect January 1, 2008. A copy of this local law shall be filed in the Office of the Secretary of State as provided by the Municipal Home Rule Law. Any changes which would affect the rate of tax or the use of revenues during that time shall render the total tax null and void.

This Local law is sponsored by the Administration Committee. Seconded, Rothenberger. Local Law laid over under the rules.

Representative Relic moved to suspend the rules and act upon late Resolution Nos. 250 - 257. Seconded, Henderson. Total: 6,167; Ayes: 5,541; Absent: 626 - Fournier. Motion carried.

### **RESOLUTION NO. 250-2007**

#### **RESOLUTION – AUTHORIZING CHAIRMAN OF THE BOARD TO CONTRACT FOR CONSTRUCTION OF STORAGE BUILDING FOR EMERGENCY SERVICES DEPARTMENT**

#### **MCCARTY, HENDERSON, HODNE**

WHEREAS, bids have been requested and duly received by the Purchasing Agent for the construction of a storage building for the Otsego County Emergency Services Department; and

WHEREAS, the Purchasing Agent has made a report to the Public Works Committee of this Board and has made a recommendation to this Board that the lowest responsible bid be accepted; now, therefore, be it

RESOLVED, that the Chairman of the Board of Representatives be and hereby is authorized to contract with the following firm as set forth below, in accordance with the specifications and bid heretofore received:

ITEM: Construction of a 60' x 100' storage building  
for the Otsego County Emergency Services  
Department

VENDOR: Richard W. Wakeman, Inc.  
Box 66  
Sidney, New York 13838

COST: \$212,692.00

The funds for this expenditure are included  
in the 2007 Budget under Emergency Services  
Garage 1615.2500.

Seconded, Iversen. Roll call. Total: 6,167; Ayes: 5,086; Abstained: 455 - Relic; Absent: 626 - Fournier. Adopted.

**RESOLUTION NO. 251-2007**

**RESOLUTION - AUTHORIZING CHAIRMAN OF THE BOARD TO EXECUTE A CONTRACT WITH THE CHENANGO, DELAWARE, OTSEGO WORKFORCE INVESTMENT BOARD FOR THE PROVISION OF YOUTH SERVICES**

**HENDERSON, IVERSEN, STAYTON**

WHEREAS, the Otsego County Office of Employment and Training is willing to provide intake, assessment, and case management services to Youth to be enrolled in the Out-of-School Youth Program, in accordance with funds provided by the United States Department of Labor through the New York State Department of Labor; and

WHEREAS, the Chenango, Delaware, Otsego Workforce Investment Board has proposed a contract under which those services are to be provided; now, therefore, be it

RESOLVED, that the Chairman of the Board be and hereby is authorized to enter into an agreement with the Chenango, Delaware, Otsego Workforce Investment Board for the County of Otsego Office of Employment and Training to act as an operator of Intake, Assessment, and Case Management services for the Out-of-School Program in accordance with the provisions of the Workforce Investment Act of 1998 for the period July 1, 2007 to June 30, 2008, for an amount not to exceed \$45,000; and be it further

RESOLVED, that said Agreement shall contain such other terms and provisions as are in the best interest of the County of Otsego; and be it further

RESOLVED, that the funding for this Agreement is included in the 2007 WIA Program Budget and is 100% federal reimbursable.

Seconded, Laguna. Roll call. Total: 6,167; Ayes: 5,541; Absent: 626 - Fournier. Adopted.

**RESOLUTION NO. 252-2007**

**RESOLUTION - AUTHORIZING COMMISSIONER OF SOCIAL SERVICES TO CONTRACT WITH PLANNED PARENTHOOD OF SOUTH CENTRAL NEW YORK**

**ROTHENBERGER, LAGUNA, MCCARTY**

WHEREAS, the County has been awarded Flexible Funding for Family services funds (FFFS); and

WHEREAS, the County desires to utilize existing programming to obtain services for eligible families; and

WHEREAS, the Department desires to contract with Planned Parenthood of South Central New York for Reproductive Education; now, therefore, be it

RESOLVED, that the Commissioner is hereby authorized to enter into an agreement with Planned Parenthood of South Central New York for the term of October 1, 2007 through December 31, 2008; and that the agreement shall include the following terms:

1. In no event shall the Department of Social Services liability exceed the sum of \$27,345.

and be it further

RESOLVED, that the funding for this contract is included in the 2007 Social Services Administration Budget (6010) at line 4900 Contracted Expenses and consists of 100% Federal funds.

Seconded, Feldstein and Durkin. Roll call. Total: 6,167; Ayes: 5,541; Absent: 626 - Fournier. Adopted.

#### **RESOLUTION NO. 253-2007**

#### **RESOLUTION – AUTHORIZING COMMISSIONER OF SOCIAL SERVICES TO CONTRACT WITH OPPORTUNITIES FOR OTSEGO, INC. TO PROVIDE HOME ENERGY ASSISTANCE PROGRAM (HEAP) CERTIFICATE SERVICES FOR NON-PUBLIC ASSISTANCE HOUSEHOLDS**

#### **ROTHENBERGER, LAGUNA, MCCARTY**

WHEREAS, the Commissioner of Social Services is required to provide services to assist people in applying for benefits associated with the Home Energy Assistance Program (HEAP); and

WHEREAS, the County is required to establish eligibility for HEAP benefits through an application process; and

WHEREAS, the County is required to have an outside certifier for the program; and

WHEREAS, Opportunities for Otsego, Inc. (OFO) has indicated that their organization can provide this service for the County of Otsego; now, therefore, be it

RESOLVED, the Commissioner of Social Services is hereby authorized to contract with Opportunities for Otsego, Inc., having its principle business office located at 3 West Broadway, Oneonta, New York 13820, for the purpose of client HEAP application processing and eligibility determination; for the term September 1, 2007 through August 31, 2008; and be it further

RESOLVED, that this contract is for an amount not to exceed \$70,496 for the 2007-2008 HEAP season; and be it further

RESOLVED, that said contract shall contain such terms and provisions as are in the best interest of the County of Otsego; and be it further

RESOLVED, that the funding for this contract is included in the 2007 Social Services Administration Budget (6010) at line 4900 Contracted Expenses and is 100% Federal and State reimbursable.

Seconded, Relic and Powers. Roll call. Total: 6,167; Ayes: 5,541; Absent: 626 - Fournier. Adopted.

#### **RESOLUTION NO. 254-2007**

### **RESOLUTION – AUTHORIZING COMMISSIONER OF SOCIAL SERVICES TO CONTRACT WITH OTSEGO COUNTY OFFICE FOR THE AGING TO PROVIDE HOME ENERGY ASSISTANCE PROGRAM (HEAP) OUTREACH AND CERTIFICATION SERVICES**

#### **ROTHENBERGER, LAGUNA, MCCARTY**

WHEREAS, the Commissioner of Social Services is required to provide services to assist people in applying for benefits associated with the Home Energy Assistance Program (HEAP); and

WHEREAS, the County is required to establish eligibility for HEAP benefits through an application process; and

WHEREAS, the Otsego County Office for the Aging (OFA) has indicated that it can provide this service for persons over age 60 in the County of Otsego; now, therefore, be it

RESOLVED, that the Commissioner of Social Services is hereby authorized to contract with the Otsego County Office for the Aging, for the purpose of client HEAP application processing and eligibility determination, for the term September 1, 2007 through August 31, 2008; and be it further

RESOLVED, that the Office for the Aging shall be paid \$17.25 per application received by the Department for the 2007-2008 HEAP season; and be it further

RESOLVED, that the funding for this contract is included in the 2007 Social Services Administration Budget (6010) at line 4900 Contracted Expenses and is 100% Federal and State reimbursable.

Seconded, Relic and Henderson. Roll call. Total: 6,167; Ayes: 5,541; Absent: 626 - Fournier. Adopted.

#### **RESOLUTION NO. 255-2007**

### **RESOLUTION - AUTHORIZING COMMISSIONER OF SOCIAL SERVICES TO CONTRACT WITH OTSEGO COUNTY COMMUNITY**

## SERVICES

### ROTHENBERGER, LAGUNA, MCCARTY

WHEREAS, the County has been awarded Flexible Funding for Family services funds (FFFS); and

WHEREAS, the County desires to utilize existing programming to obtain services for eligible families; and

WHEREAS, the Department desires to contract with Otsego County Community Services for Intensive Preventive Services for Children; now, therefore, be it

RESOLVED, that the Commissioner is hereby authorized to enter into an agreement with Otsego County Community Services for the term of July 1, 2007 through December 31, 2007; and that the agreement shall include the following terms:

1. In no event shall the Department of Social Services liability exceed the sum of \$22,500.

and be it further

RESOLVED, that the funding for this contract is included in the 2007 Social Services Administration Budget (6010) at line 4900 Contracted Expenses and consists of 100% Federal funds.

Seconded, Stayton. Roll call. Total: 6,167; Ayes: 5,541; Absent: 626 - Fournier. Adopted.

### RESOLUTION NO. 256-2007

#### RESOLUTION - AUTHORIZING CHAIRMAN OF THE BOARD TO CONTRACT FOR PURCHASE OF NEW COMPUTER AIDED DISPATCH (CAD) SYSTEM

#### FOURNIER, FELDSTEIN, STAYTON, POWERS

RESOLVED, that the Chairman of this Board be and hereby is authorized to execute an agreement with MobileTec International, Inc., a Computer Aided Public Safety System company, with corporate offices located at 405 N. Reo Street, Tampa, Florida 33609, through its subsidiary SHI, 2 Riverview Drive, Somerset, New Jersey 08873, for the County's purchase of software, services and materials for a Computer Aided Dispatch System through state contract, at a total cost of \$232,820.88, to include the following terms:

<u>PRODUCT DESCRIPTION</u>	<u>COST</u>
APPLICATION SOFTWARE	\$156,412.00

IMPLEMENTATION/INSTALLATION

SERVICES	\$ 20,588.00
TRAINING	\$ 16,000.00
MAINTENANCE SUPPORT FOR YEAR 1 (2007)	\$ 0.00
<b>TOTAL COST FOR 2007</b>	<b>\$ 193,000.00</b>

PAYMENT TERMS:  
60% upon contract signing  
30% upon completed installation  
10% upon system acceptance

MAINTENANCE SUPPORT FOR YEARS 2 – 6 (2008 – 2013)	\$ 39,820.88
<b>TOTAL COST FOR 2008 – 2013</b>	<b>\$ 39,820.88</b>
<b>TOTAL PROJECT COST</b>	<b>\$ 232,820.88</b>

STATE CONTRACT #PT60852

and be it further

RESOLVED, that said agreement shall contain such other terms and provisions as are in the best interest of the County of Otsego; and be it further

RESOLVED, that the funds for this agreement are included in the 2007 Department of Health budget (4010) at line 2010 E911 Equipment and are 36% state reimbursable based on the number of calls for EMS and will be included in future budgets for maintenance support.

Seconded, Durkin. Roll call. Total: 6,167; Ayes: 5,541; Absent: 626 - Fournier. Adopted.

**RESOLUTION NO. 257-2007**

**RESOLUTION - EXTENDING AGREEMENT WITH WARD ASSOCIATES, P.C. TO INCLUDE DESIGN DEVELOPMENT PHASE AND CONSTRUCTION DOCUMENT PHASE TO CONVERT ANNEX BUILDING TO UNIFIED COURT SYSTEM SPECIFICATIONS**

**MCCARTY, HENDERSON, HODNE**

WHEREAS, an agreement was entered into between the County of Otsego and Ward Associates, P.C. dated August 8, 2007, for professional architectural design services

to convert the County owned Annex Building to New York State Unified Court System specifications at a cost of \$7,200.00; and

WHEREAS, these services, known as the Schematic Design Phase of this renovation project, have been completed; and

WHEREAS, this Board's authorization is now necessary for the Design Development Phase and the Construction Document Phase of this project; now, therefore, be it

RESOLVED, that the Chairman of this Board is hereby authorized to sign any documents that may be necessary to extend the current contract with Ward Associates, P.C. to include the following phases of renovations to the County owned Annex Building to New York State Unified Court System specifications, at the following costs:

Design Development Phase - 2% of total \*estimated construction cost or  
\$16,447.12

Construction Document Phase - 4% of total \*estimated construction cost  
or \$32,894.24

Total Cost = \$49,341.36  
(\*Estimated construction cost is \$822,356.00)

and be it further

RESOLVED, that the funds for this expenditure are included in the 2007 and 2008 County Building - Courthouse Budget (1620) at line 4200 Court Renovations - State and are 100% state reimbursable, if the project is undertaken.

Seconded, Relic. Roll call. Total: 6,167; Ayes: 5,046; Noes: 495 - Powers; Absent: 626 - Fournier. Adopted.

Representative Feldstein moved to suspend the rules and act upon late Resolution No. 258. Seconded, Powers. Total: 6,167; Ayes: 5,541; Absent: 626 - Fournier. Motion carried.

#### **RESOLUTION NO. 258-2007**

**RESOLUTION - AUTHORIZING THE CHAIRMAN OF THE BOARD OF REPRESENTATIVES TO ENTER INTO A LEASE AGREEMENT WITH VERIZON WIRELESS FOR THE INSTALLATION, OPERATION AND MAINTENANCE OF CELLULAR COMMUNICATIONS EQUIPMENT IN THE TOWER OF THE OTSEGO COUNTY COURTHOUSE AND AN EQUIPMENT SHELTER IN CONJUNCTION THEREWITH**

**MCCARTY, HENDERSON, HODNE**

RESOLVED, that the Chairman of the Otsego County Board of Representatives be and hereby is authorized to execute a Lease Agreement with Verizon Wireless for the installation, operation and maintenance of cellular communications equipment in the tower

of the Otsego County Courthouse, as well as ground space for the installation, operation and maintenance of an equipment shelter in conjunction therewith, as shown and depicted on Schedule A of the proposed Lease Agreement, for an initial term of five (5) years, with provision for the four (4) automatic renewals thereof for similar five (5) year terms; and be it further

RESOLVED, that this Resolution is made subject to approval of site and construction plans by all appropriate parties, and to the approval of the final terms, provisions and conditions of said Lease Agreement by the County Attorney.

Seconded, Powers. Representative Hodne moved to table Resolution No. 258. Seconded, Rothenberger. Total: 6,167; Ayes: 3,318; Noes: 1,893 - Henderson, Lindberg, McCarty, Schwerd; Absent: 956 - Fournier, Laguna. Motion carried. {See the September 19, 2007 County Board meeting for further action.}

Under Special Order of the Day, Jennie Gliha, Personnel Officer, distributed two different evaluation forms for the committees to use for evaluating department heads. Following discussion, the County Board agreed to use the new form with additional modifications. Mrs. Gliha said that each Parent Committee should fill out one form for each department head that it oversees. Each department head will also fill out a form for himself or herself. These forms should be filled out in September, and then both forms should be reviewed by the Parent Committee with the department head in October.

Chairman Lindberg asked the Intergovernmental Affairs Committee to review the issues raised about China at its next committee meeting for possible County Board action.

Rodney Klafehn, County Attorney, said that several state representatives have met with county representatives regarding the flooding problems at Canadarago Lake. The NYSDOH has issued a letter stating that there is a potential for a public health problem, which the county must address. The state has offered \$200,000 in funding to help with dredging the sand bar and repairing the dam. Chairman Lindberg said that a NYSDEC representative will be at the September 19, 2007 County Board meeting to discuss the problems further.

Representative Feldstein moved for an executive session to discuss contractual matters. Seconded, Iversen. Total: 6,167, Ayes: 5,541; Absent: 626 – Fournier. Motion carried.

All the general business of the Board having been transacted, the Chairman declared the meeting recessed until Wednesday, September 19, 2007 for an update on Canadarago Lake at 6:30 p.m., a public hearing regarding a Local Law amending the bed tax at 7:30 p.m. and the Board meeting to follow.