

**Tompkins County Legislature
August 21, 2007**

Approved 9-4-07

Call to Order

Mr. Joseph called the meeting to order at 5:30 p.m.

Pledge of Allegiance to the Flag and Roll Call of Members

Members and guests participated in the Pledge of Allegiance to the Flag.

Present: 15 Legislators (Mr. Booth arrived at 4:42 p.m.; Mrs. McBean-Clairborne arrived at 5:52 p.m.).

Privilege of the Floor by the Public

Lauren Wein, Cornell Public Service Center, spoke of the Cornell Program “Into the Streets”, which is Cornell’s largest day of community service. This is a national organization that takes kids from campus and sends them into the community to provide volunteer service to non-profit organizations. The purpose of the program is to foster action and awareness with a goal of having kids serve for the day, build relationships with the people they are working with, and foster long-term relationships and commitment to service. Ms. Wein distributed information to all Legislators and asked that non-profit agencies or community organizations they represent that are interested complete a project request form.

Don Barber, Town of Caroline Supervisor and member of the Recreation Partnership, spoke in support of the resolution on the agenda entitled Adoption of the 2008-2012 Intermunicipal Recreation Partnership Agreement. Mr. Barber said his children have enjoyed their participation in the Recreation Partnership and he has heard testimony at Town of Caroline Board meetings about the value of the Recreation Partnership. Mr. Barber spoke of the value of having children mix with others outside of their local neighborhood. He spoke of the County being a cornerstone to the Recreation Partnership and urged continued funding. Mr. Barber asked that the County also support the Recreation Partnership accomplishing the following goals that have been established during the last three years:

1. A change in legal status to one that would allow the acceptance of donations;
2. To work with school districts, TCAT, and other transportation providers to come up with methods to transport children between the City and rural venues;
3. To allow programs in Ulysses, Groton, Lansing, Dryden, and Newfield to assimilate into the Recreation Partnership to allow a mixing of programs and an enhanced Recreation Partnership.

Dominic Frongillo, Town of Caroline Board member and Recreation Partnership Chair, spoke in support of the resolution on the agenda entitled Adoption of the 2008-2012 Intermunicipal Recreation Partnership Agreement. Mr. Frongillo said he has participated in Recreation Partnership Programs and learned first-hand how meaningful those programs are. He also said that if the Recreation Partnership was not in existence he would not have had the opportunity to participate in recreation programs. Mr. Frongillo said he would like children who reside in the Town of Caroline to have the opportunity to participate in recreation programs and to also have the experience of building social skills and making friends outside of their towns. He said this is an investment in the children and communities in Tompkins County. Mr. Frongillo stressed the importance of the County’s role as anchor to the Recreation Partnership and said if the County withdrew its support it is likely other municipalities would follow.

Catherine Valentino, Town of Ithaca Supervisor and member of the Recreation Partnership, also spoke in support of the resolution on the agenda entitled Adoption of the 2008-2012 Intermunicipal Recreation Partnership Agreement. She said the County’s support of this is crucial and stressed the value

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of providing opportunities for kids throughout the entire County. Ms. Valentino said the Partnership also has funds that are used for scholarships for children who would not be able to participate. She said children are the future and said there is tremendous value in bringing children from all parts of the County together.

Mr. Booth arrived at 4:42 p.m.

Fay Gougakis, City of Ithaca, spoke of a personal experience she had while visiting Taughannock Park to swim and said jet skis and noise continue to be a problem on Cayuga Lake, especially when the operator of a watercraft ignores a lifeguard's instructions.

Distinguished Youth Award

Mr. Proto, District No. 7 Legislator, presented the August, 2007, Distinguished Youth Award to members of the Tompkins-Seneca-Tioga BOCES Envirothon Team. This team, known as Dryden Apocalypse, was made up of students Dustin Foote, Lily Glidden, Aaron Delahunty, Jenny Fitzgerald and Katy Koken, and placed first in Tompkins County and 18th out of 53 counties in the New York State Envirothon in May. The hands-on outdoor competition tests students' knowledge in the subjects of aquatics, forestry, soils, wildlife, and a current environmental issue. The team was nominated by Seth Dennis, Education Coordinator for the Tompkins County Soil and Water Conservation District.

Mrs. McBean-Clairborne arrived at 4:52 p.m.

Privilege of the Floor by Legislators

Mr. Proto, District No. 7 Legislator, announced Senator George Winner will be holding a public presentation at the Ithaca Town Hall on September 27th at 5 p.m.

Mr. Sigler, District No. 6 Legislator, spoke of the recent death of Robert Cutting and expressed condolences on behalf of the entire Legislature to Rob's family and to the employees at Honda of Ithaca. Mr. Sigler said Rob Cutting gave a great deal to his community and will be missed by all.

Mr. Dennis, District No. 15 Legislator, also spoke the recent death of Robert Cutting. He recalled a personal experience he had with Robert Cutting and explained the generosity Mr. Cutting had exhibited during that time. Mr. Dennis said Mr. Cutting and his family are well-known for their generosity to the community.

Ms. Mackesey, District No. 1 Legislator, said she had reported at a previous meeting that the Department of Environmental Conservation had approved the expansion of the Seneca Meadows Waste Disposal Site. She spoke of the rationale used in this determination and why the truck traffic had been expressed as a great concern. There was a suggestion made that the trucks going to that facility should be required to go on the interstate highways and the Department of Transportation felt this action would be singling Seneca Meadows out and making it impossible for them to get treated fairly. They also said the need for waste disposal outweighed any of the problems that had been created. Lastly, the traffic to the facility because of the expansion will be extended approximately fourteen years. This will add a lot more trucks on the highways for a lot longer.

Ms. Robertson, District No. 13 Legislator, announced a Health Sustainability Conference will be held on September 15th and the second Statewide annual meeting of New Yorker's for Verified Voting will take place in Ithaca on September 29th and 30th. She reminded everyone that September 18th is the Primary Election Date; the last date to register to vote in the primary is August 25th.

Ms. Herrera, District No. 5 Legislator, commended City Public Works employees for their quick response to the recent storm that resulted in downed power lines and tree limbs.

Ms. Herrera said the community experienced the loss of another icon this week with the passing of Jocelyn Hart. She said Ms. Hart reached out in many official and unofficial ways; she was generous, kind, dignified, gracious, and a very witty, genuine, and thoughtful person. Ms. Herrera considered her a mentor and extended condolences to the entire family.

Ms. Herrera spoke of a community effort where partners get together to improve opportunities for individuals, particularly in under-represented group. She specifically spoke of the CDL program and stated there will be a special graduation meeting and celebration to commemorate the one-year anniversary of the program on September 5th. There are a number of community partners that participate in this program, including TCAT, Inc., Ithaca City School District, and Tompkins Community Action. Ms. Herrera said this is a highly successful collaboration and a real good example of how groups can get together to see that basic economic development needs of under-represented groups are met and that people get an opportunity to improve themselves. She encouraged Legislators and the public to attend this special meeting and celebration.

Mr. Proto, District No. 7 Legislator, extended Happy Birthday wishes to Legislator James Dennis.

Approval of Resolution(s) Under the Consent Agenda

It was MOVED by Mr. Booth, seconded by Ms. Mackesey, and unanimously adopted by voice vote, to approve the following resolution(s) under the Consent Agenda:

RESOLUTION NO. 148 - BUDGET ADJUSTMENTS – OFFICE FOR THE AGING

MOVED by Mr. Booth, seconded by Ms. Mackesey, and unanimously adopted by voice vote under the Consent Agenda.

WHEREAS, pursuant to Administrative Manual Policy 05-02, budget adjustments exceeding \$5,000 require Legislative approval, now therefore be it

RESOLVED, on recommendation of the Health and Human Services Committee, That the Director of Finance be directed to make the following budget adjustments on his books:

Office for the Aging

<u>Revenue Acct</u>	<u>Title</u>	<u>Amt</u>	<u>Approp Acct</u>	<u>Title(s)</u>
6793.43803	State Revenue	\$7,650	6793.54491	Subcontract
6793.43803	State Revenue	\$2,770	6793.551000559	Salary
6793.43803	State Revenue	\$1,080	6793.58800	Fringes

Explanation: Revenue Increase in HIICAP Program.

Office for the Aging

<u>Revenue Acct</u>	<u>Title</u>	<u>Amt</u>	<u>Approp Acct</u>	<u>Title(s)</u>
6794.42770	Other Miscellaneous Revenue	\$16,509	6794.43803	Subcontract

Explanation: Mistakenly posted to wrong account for Adults with Developmental Disabilities Program

SEQR ACTION: TYPE II-20

RESOLUTION NO. 149 - REDUCTION OF HOURS - SOCIAL SERVICES ATTORNEY

MOVED by Mr. Booth, seconded by Ms. Mackesey, and unanimously adopted by voice vote under the Consent Agenda.

WHEREAS, for reasons of fiscal economy, the Commissioner of Social Services wishes to reduce the standard work week of one position of Social Services Attorney from 40 hours per week to 35 hours per week, and

WHEREAS, this reduction in hours would be beneficial to the taxpayers of the County, now therefore be it

RESOLVED, on recommendation of the Health and Human Services and the Budget and Capital Committees, That the standard workweek for one position of Social Services Attorney, (88-233), position ID#1144, shall be reduced from 40 hours per week to 35 hours per week effective immediately.

SEQR ACTION: TYPE II-20

RESOLUTION NO. 150 - AUTHORIZING ACCEPTANCE OF A FEDERAL AVIATION ADMINISTRATION (FAA) GRANT TO COMPLETE THE TERMINAL ENTRANCE ROAD, SECURITY SYSTEM UPGRADE, OBSTRUCTION REMOVAL AND DESIGN OF THE RUNWAY SAFETY AREA IMPROVEMENTS - ITHACA TOMPKINS REGIONAL AIRPORT

MOVED by Mr. Booth, seconded by Ms. Mackesey, and unanimously adopted by voice vote under the Consent Agenda.

WHEREAS, the County has received a grant offer from the Federal Aviation Authority (FAA) in the amount of \$1,548,544 to complete the terminal entrance road, security system upgrade, obstruction removal, and design of the runway safety area improvements, and

WHEREAS, the budget for these project is as follows:

FAA Share (95.0%)	Account No. HT 5601.44592	\$1,548,544
NYSDOT Share(2.5%)	Account No. HT 5601.43592	\$ 40,751
Local Share (2.5%)	Account No. HT 5601.45031	\$ 40,751
Total		\$1,630,046

, and

WHEREAS, the Terminal Entrance Road, Security System Upgrade and Design of the Runway Safety Area projects have already been approved by the County Legislature, subject to Federal and State funding being received, and

WHEREAS, the Design and Construction of the Obstruction Removal project will be brought before the County Legislature for approval before it is allowed to go forward, now therefore be it

RESOLVED, on recommendation of the Facilities and Infrastructure Committee, That the grant offer from the FAA of \$1,548,544 be and hereby is accepted and that the County Administrator is authorized to execute the required documents,

RESOLVED, further, That the local share of \$40,751 has already been factored into the Airport's 2007 operational budget.

SEQR ACTION: TYPE II-2

RESOLUTION NO. 151 - AWARD OF BID – TERMINAL ROAD AND PARKING LOTS - ITHACA TOMPKINS REGIONAL AIRPORT

MOVED by Mr. Booth, seconded by Ms. Mackesey, and unanimously adopted by voice vote under the Consent Agenda.

WHEREAS, the Finance Department advertised and received five bids for construction of the Terminal Road and Parking Lots at the Ithaca Tompkins Regional Airport, and

WHEREAS, the lowest responsible bid of \$629,165.50 was submitted by Ruston Paving of Syracuse, New York, and

WHEREAS, the budget for this construction project is as follows:

Terminal Road

FAA Share (95.0%)	Account No. 5601.44592	\$430,568.00
NYSDOT Share (2.5%)	Account No. 5601.43592	\$ 11,330.91

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Local Share (2.5%)	Account No. HT 5601.45031	\$ 11,330.91
Total		\$453,229.82
<u>Parking Lots</u>		
NYSDOT Share (80%)	Account No. 5601.43592	\$140,748.54
Local Share (20%)	Account No. HT 5601.45031	\$ 35,187.14
Total		\$175,935.68

, and

WHEREAS, the local share \$46,518.05 has already been provided for in the Airport's 2007 budget, now therefore be it

RESOLVED, on recommendation of the Facilities & Infrastructure Committee, That subject to grants being received from the Federal Aviation Administration (FAA) and the New York State Department of Transportation (NYSDOT), the contract for \$629,165.50 be awarded to Ruston Paving of Syracuse, New York,

RESOLVED, further, That the Finance Director be authorized to borrow monies if necessary, until reimbursement is received from the FAA and NYSDOT,

RESOLVED, further, That the County Administrator be and hereby is authorized to execute a contract with Ruston Paving.

SEQR ACTION: TYPE II-2

RESOLUTION NO. 152 - AWARD OF BID – SECURITY SYSTEM UPGRADE - ITHACA TOMPKINS REGIONAL AIRPORT

MOVED by Mr. Booth, seconded by Ms. Mackesey, and unanimously adopted by voice vote under the Consent Agenda.

WHEREAS, the Finance Department advertised and received two bids for completion of a Security System Upgrade at the Ithaca Tompkins Regional Airport, and

WHEREAS, the lowest responsible bid of \$ 683,000 was submitted by Weydman Electric of Syracuse, New York, and

WHEREAS, the budget for this construction project is as follows:

FAA Share (95.0%)	Account No. 5601.44592	\$648,850.00
NYSDOT Share (2.5%)	Account No. 5601.43592	\$ 17,075.00
Local Share (2.5%)	Account No. HT 5601.45031	\$ 17,075.00
Total		\$683,000.00

, and

WHEREAS, the local share \$17,075.00 has already been provided for in the Airport's 2007 budget, now therefore be it

RESOLVED, on recommendation of the Facilities and Infrastructure Committee, That subject to grants being received from the Federal Aviation Administration (FAA) and the New York State Department of Transportation (NYSDOT), the contract for \$683,000 be awarded to Weydman Electric,

RESOLVED, further, That the Finance Director be authorized to borrow monies if necessary, until reimbursement is received from the FAA and NYSDOT,

RESOLVED, further, That the County Administrator be and hereby is authorized to execute a contract with Weydman Electric.

SEQR ACTION: TYPE II-2

RESOLUTION NO. 153 – AUTHORIZATION TO ACCEPT A GRANT FROM THE STATE ARCHIVES – RECORDS MANAGEMENT

MOVED by Mr. Booth, seconded by ms. Mackesey, and unanimously adopted by voice vote under the Consent Agenda.

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WHEREAS, the Personnel Department, Records Management Program, has been notified of a grant award from the State Archives in the amount of \$17,500, and

WHEREAS, the State Archives grant provides for the Personnel Department, Records Management Program to determine the County's existing and future inactive records storage space needs, now therefore be it

RESOLVED, on recommendation of the Personnel Committee, That the County Administrator or his designee is hereby authorized to execute all contracts related to this award,

RESOLVED, further, That the Director of Finance is authorized and directed to make the following budget adjustment:

APPROPRIATION:	A1460.54442	Professional Services	\$17,500
REVENUE:	A1460.43089	Other State Aid	\$17,500

SEQR ACTION: TYPE II-20

RESOLUTION NO. 154 - AUTHORIZING NEW YORK STATE DEPARTMENT OF TRANSPORTATION MASTER MASS TRANSPORTATION CAPITAL PROJECT SUPPLEMENTAL AGREEMENT #1 FOR 2007 - TCAT, INC.

MOVED by Mr. Booth, seconded by Ms. Mackesey, and unanimously adopted by voice vote under the Consent Agenda.

WHEREAS, the New York State Department of Transportation and Tompkins County executed a contract (No. TCA2MS, K006701) (County Resolution No. 228, 12/19/ 2006) to authorize payments to the County for the State Mass Transportation Capital Program aid, and

WHEREAS, the State Mass Transportation Capital Program includes two programs – the State Dedicated Fund Program (SDF), which provides up to 100 percent of project funding, and the Federal Transit Program Aid which provides 10 percent of funding for projects eligible for Federal Transit Administration (FTA) funding, and

WHEREAS, New York State approved the Rebuild and Renew New York Transportation Bond Act of 2005, which provides a total of \$730,000 for the purchase of hybrid-electric buses by Tompkins Consolidated Area Transit, Inc., and

WHEREAS, the New York State Department of Transportation awarded \$1,716,602 of state funds to Tompkins County, including \$993,000 in SDF Year 10 funds, \$650,000 for Years 1-3 of the 2005 Bond Act and \$73,875 in matching Federal Transit Program fund for 2006 FTA grant (NY-90-X543) (County Resolution No. 54, 4/19/2006), to Tompkins County to reimburse the expense by Tompkins Consolidated Area Transit, Inc. for capital projects previously applied for by the County as follows:

<u>Project</u>	<u>State Aid</u>
Purchase 3 40 Ft. Hybrid-Electric Transit Buses	\$ 1,557,969
Ancillary Bus Capital Equipment	\$ 54,809
Smartcard Project	\$ 30,222
Preventative Maintenance	\$ 66,800
Communications Equipment - Mobile Radios	\$ 4,000
Shop Equipment	\$ 300
Short Range Planning	\$ 2,500
Surveil/Security Equipment	\$ 100
ADP Hardware	\$ 175
Total	\$ 1,716,602

, now therefore be it

RESOLVED, on recommendation of the Planning, Development, and Environmental Quality Committee, That the Tompkins County Legislature authorizes said Mass Transportation Capital Project

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Supplemental Agreement #1, for \$1,716,602, be executed by the County with New York State Department of Transportation, on behalf of TCAT, Inc.

SEQR ACTION: TYPE II-20

RESOLUTION NO. 155 - AUTHORIZING NEW YORK STATE DEPARTMENT OF TRANSPORTATION MASTER MASS TRANSPORTATION CAPITAL PROJECT SUPPLEMENTAL AGREEMENT #2 FOR 2007 – TOMPKINS CONSOLIDATED AREA TRANSIT, INC.

MOVED by Mr. Booth, seconded by Ms. Mackesey, and unanimously adopted by voice vote under the Consent Agenda.

WHEREAS, the New York State Department of Transportation and Tompkins County executed a contract (No. TCA2MS, K006701) (Resolution No. 228, December 19, 2006) to authorize payments to the County for the State Mass Transportation Capital Program aid, and

WHEREAS, the State Mass Transportation Capital Program includes two programs – the State Dedicated Fund Program (SDF), which provides up to 100 percent of project funding, and the Federal Transit Program Aid which provides 10 percent of funding for projects eligible for Federal Transit Administration (FTA) funding, and

WHEREAS, the New York State Department of Transportation awarded \$290,441.90 of State funds to Tompkins County, including \$175,000 in SDF Year 10 funds and \$115,442 in matching Federal Transit Program fund for two FTA Sec 5309 grants (NY-03-X0372 & NY-03-0444), to Tompkins County to reimburse the expense by Tompkins Consolidated Area Transit, Inc., for capital projects previously applied for by the County as follows:

<u>Project</u>	<u>State Aid</u>
City Center Project	\$ 175,000
Construct Pass Shelters – City Center Project	\$ 15,000
Rehab Pass Shelter – City Center Project	\$ 40,766
Construct Pass Shelters – City Center Project	\$ 59,676.90
Total	\$ 290,441.90

, now therefore be it

RESOLVED, on recommendation of the Planning, Development, and Environmental Quality Committee, That the Tompkins County Legislature authorizes said Mass Transportation Capital Project Supplemental Agreement #2, for \$290,441.90, be executed by the County with New York State Department of Transportation, on behalf of TCAT, Inc.

SEQR ACTION: TYPE II-20

RESOLUTION NO. 156 - SPONSORING TOMPKINS CONSOLIDATED AREA TRANSIT, INC. (TCAT) FOR NEW YORK STATE TRANSIT OPERATING ASSISTANCE PROGRAM

MOVED by Mr. Booth, seconded by Ms. Mackesey, and unanimously adopted by voice vote under the Consent Agenda.

WHEREAS, Section 119-r of the General Municipal Law authorizes a county to enter into agreements with private bus operators to provide public transportation operations, and

WHEREAS, Tompkins County desires to sponsor Tompkins Consolidated Area Transit, Inc. (TCAT), to receive New York State Transit Operating Assistance Program, pursuant to Section 18-b of

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the Transportation Law and Section 182-a of the laws of 1981 of the State of New York, to provide public transportation services for public benefit, and

WHEREAS, Tompkins County applies quarterly for state transit operating assistance for TCAT, Inc., passes through state aid to TCAT, Inc., and administers the program consistent with state regulations, now therefore be it

RESOLVED, on the recommendation of the Planning, Development, and Environmental Quality Committee, That the Tompkins County Legislature agrees to sponsor and execute an agreement with Tompkins Consolidated Area Transit, Inc., to receive State Transit Operating Assistance funds under Section 18-b of the Transportation Law and Section 182-a of the Laws of 1981 of the State of New York.

RESOLVED, further, That the required local match to the state aid will be designated from local financial assistance paid by Tompkins County, City of Ithaca and Cornell University to TCAT, Inc.

RESOLVED, further, That County sponsorship of TCAT, Inc., is retroactive to January 1, 2005.
SEQR ACTION: TYPE II-20

RESOLUTION NO. 157 - AWARD OF TOURISM CAPITAL GRANTS FROM ROOM OCCUPANCY TAX FUND

MOVED by Mr. Booth, seconded by Ms. Mackesey, and unanimously adopted by voice vote under the Consent Agenda.

WHEREAS, the Tompkins County Tourism Program includes Tourism Capital grants and Tompkins County Area Development (TCAD) administers the Tourism Capital Grants Process, which includes designing the application process, reviewing and analyzing the feasibility and economic impact of tourism projects, and providing oversight for tourism projects, and

WHEREAS, funding exists within the Room Tax Occupancy budget for Tourism Capital Grants, and

WHEREAS, TCAD reviewed the following project with the Strategic Tourism Planning Board (STPB), and the STPB anticipates that the following project will encourage the development of tourism products and attractions in order to improve community assets, to increase the tourism business in the County, and to increase the income from the Room Occupancy tax, and the following grant award has been reviewed and recommended by the STPB, now therefore be it

RESOLVED, on recommendation of the Planning, Development, and Environmental Quality Committee, That the County Administrator or his designee is authorized to sign all documents related to this project:

Entity		Project	
Finger Lakes Wine Center		Center's location development	
2007	2008	2009	TOTAL
\$50,000	\$60,000	\$50,000	\$160,000

SEQR ACTION: TYPE II-20

Presentation of Resolution(s) from the Health and Human Services Committee

RESOLUTION NO. 158 – AUTHORIZATION TO ENTER INTO A FIVE-YEAR LEASE AGREEMENT FOR THE TOMPKINS COUNTY HUMAN RIGHTS COMMISSION IN ITHACA, NEW YORK

MOVED by Mr. Shinagawa, seconded by Ms. Herrera. Mr. Proto said the Health and Human Services Committee was assured by Shawn Martel-Moore, Director of Human Rights, that there is an early termination clause contained in the agreement. A voice vote resulted as follows: Ayes – 14, Noes – 1 (Legislator Randall). RESOLUTIONADOPTED.

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WHEREAS, the Lease Agreement presently covering the offices in which the Tompkins County Human Rights Commission transacts business, located at 120 West State Street, in the City of Ithaca, County of Tompkins, State of New York, shall expire on August 30, 2007, and

WHEREAS, this location provides convenient access to the public, and

WHEREAS, the Human Rights Commissioner has negotiated a five-year extension with no increase in rent and an early termination clause, now therefore be it

RESOLVED, on recommendation of the Health and Human Services and the Facilities and Infrastructure Committees, That the County Administrator, or his designee, is hereby authorized to finalize negotiations and sign a lease agreement with the landlord, Novarr-Mackesey Property Management, for the period of September 1, 2007, through August 31, 2012.

SEQR ACTION: TYPE II-20

Report from a Municipal Official

J.R. Clairborne, Common Council member and representative to the Recreation Partnership, reiterated the importance of continued funding to the Partnership from its current partners. Mr. Clairborne said one way to know about a community is in the way it treats its children. He said the Recreation Partnership provides a myriad of intellectual and recreational opportunities for the County's youth and without the County's support the program would be lacking. He said a partnership requires the support of all of its partners to honor its promise; in this case it is to provide programs to all youth in Tompkins County. Mr. Clairborne said the City of Ithaca has adopted a resolution and committed to continued support and asked that Tompkins County do the same.

Presentation of Resolution(s) from the Health and Human Services Committee

RESOLUTION NO. 159 - ADOPTION OF THE 2008-2012 INTERMUNICIPAL RECREATION PARTNERSHIP AGREEMENT

MOVED by Mr. Shinagawa, seconded by Mr. Booth.

It was MOVED by Mr. Koplinka-Loehr, seconded by Mr. Herrera, to amend the resolution by the addition of the following language:

“RESOLVED, further, That after December 31, 2011, the County contribution shall decrease by twenty percent of the 2011 total each subsequent year,

“RESOLVED, further, That the County urges development of a mechanism for increasing private donations and that increased effort be committed to establish and strengthen coordination with school districts and existing municipal recreation youth programs,”

Mr. Koplinka-Loehr said he does not believe anyone is questioning the value or importance of the Recreation Partnership as a partnership, but these amendments speak to the role and mission of County government. He said when the Recreation Partnership first started there was a long-standing tradition that recreation programs fall under the purview of local municipalities and the Department of Youth Services does not get into the delivery of youth recreation programs. Mr. Koplinka-Loehr said the County became involved in this as part of an assistance program to give some strength to a very fledgling partnership. He said the County did this for several years but asked when this would come to an end because he does not believe it is the County's mission to become involved in local recreation programs. He was told that the County was still needed as an anchor; the proposed amendments to the resolution provide an additional four years of support but also identify a way for the County to decrease its contribution so that these programs can ultimately fall under local government purview.

Ms. Herrera said she is glad Mr. Koplinka-Loehr has offered this amendment because she has expressed concern recently over the stability factor that she thinks has been lacking in some of the

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resolutions that have come before Legislature. She said she thinks government should do no less and if stability has been an ongoing issue, the steps outlined in the amendment presents a plan for the future rather than to fund it permanently.

Ms. Kiefer said she has learned a lot about the Recreation Partnership and opposes the proposal to decrease the County's support. It was MOVED by Ms. Kiefer to delete the first Resolved in the amendment. Her suggested wording for the second Resolved was accepted as friendly and is reflected the original amendment above. MOTION FAILED DUE TO LACK OF A SECOND.

Mr. Joseph said he will oppose the amendment because he does not agree with the premise it was based on in that this was a temporary action and something that isn't the County's business. He said it is true that when the Recreation Partnership was first started that it was said that temporary assistance was being requested in the first year. Subsequent to that a request for permanent funding was made and the County signed on to a permanent partnership. He said he thinks youth services are a perfectly legitimate function for the County to be involved in. Although not a lot of County dollars go to youth services, he thinks this is one piece where a commitment was made and the County should continue to be a partner.

Mr. Proto agreed with Mr. Joseph's statement and said he thinks this is one intermunicipal organization that works well, although each year is a challenge. Mr. Proto said he has served as one of two County Legislators on the Recreation Partnership and assured Legislators that there is already an effort underway to address the items outlined in Mr. Koplinka-Loehr's second Resolved. He spoke of the great value there is in helping kids get along and having an enjoyable childhood. Mr. Proto also stated it is important for the County to show its support for this Countywide organization.

Mr. Booth said he thinks this would be a legitimate item for the County to look at if it were in the process of deciding to reduce funding in numerous areas to prevent a significant increase in taxes. Under those circumstances he may be able to remove the County's participation in the Recreation Partnership; however, that is not what the present situation is. Mr. Booth said he thinks any analysis would suggest that any amount the County contributes is not financially necessarily for the Recreation Partnership to continue, but is the glue that holds the Partnership together. He thinks the Partnership has been successful and is something worth continuing and is one of the very few successful intermunicipal efforts.

Ms. Robertson said she has repeatedly heard from municipal officials that the County's role in the Recreation Partnership is critical. In addition, she thinks providing youth services is an important County service, and without these programs many kids would likely be in trouble and then they would become the responsibility of the County, at a much higher cost.

A voice vote on the amendment resulted as follows: Ayes – 4 (Legislators Hattery, Herrera, Koplinka-Loehr, and Sigler); Noes – 11. AMENDMENT FAILED.

Mr. Shinagawa noted that when the County invests this \$54,000 the Recreation Partnership receives an investment of \$163,000 from the municipalities.

Mrs. McBean-Clairborne asked if the County is still providing staff support and was told it is. Mr. Proto said while the County does provide staff support, the City also provides a fair amount of staff support to the Partnership.

Mr. Booth said there is a number that is not a part of these calculations – the amount the City of Ithaca pays to support the facilities that the Recreation Partnership depends upon.

Ms. Robertson noted the Town of Ithaca also contributes more than \$100,000 to the City of Ithaca to support the facilities. This is above and beyond their membership fee.

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Mr. Koplinka-Loehr raised questions with regard to process and said the process wasn't as nimble as it could have been to have allowed Legislators time to make changes to the final agreement. Mr. Shinagawa disagreed. He stated although having to see this agreement through several other municipal boards has resulted in being withdrawn from committee meetings there has been sufficient time to review the present agreement given the circumstances.

A voice vote resulted as follows: Ayes – 12, Noes – 3 (Legislators Herrera, Koplinka-Loehr, and Sigler). RESOLUTION ADOPTED.

WHEREAS, the County of Tompkins is currently a member of the Intermunicipal Recreation Partnership, and

WHEREAS, the Recreation Partnership has been an excellent model of intermunicipal collaboration that enables the Towns of Caroline, Danby, Dryden, Enfield, Groton, Ithaca, Newfield, and Ulysses, the Village of Lansing, the City of Ithaca, and Tompkins County to jointly plan, finance, and share a more diverse set of high-quality recreation programs than any single municipality could offer on its own to over 2,500 youth/year, and

WHEREAS, the current Intermunicipal Recreation Partnership Agreement will end December 31, 2007, and

WHEREAS, the Recreation Partnership Board, comprised of representatives from participating municipalities wishing to continue this innovative partnership, has reviewed the current agreement and voted on August 13, 2007, to adopt the attached, updated Agreement for the period January 1, 2008, through December 31, 2012, and

WHEREAS, municipalities in the Recreation Partnership value Tompkins County's commitment to building collaborative intermunicipal solutions to meeting needs of youth, and Tompkins County's contribution is essential in enabling smaller municipalities to participate affordably, and

WHEREAS, the Agreement must be approved by the elected board of each participating municipality to take effect, now therefore be it

RESOLVED, on recommendation of Health and Human Services Committee, That the 2008 - 2012 Intermunicipal Recreation Partnership Agreement is approved,

RESOLVED, further, That the Chairman of the Legislature be, and hereby is, authorized to sign the Intermunicipal Recreation Partnership Agreement on behalf of the County, provided there are no substantive changes subsequent to this approval,

RESOLVED, further, That in approving the Agreement, the County of Tompkins agrees to abide by its terms and conditions,

RESOLVED, further, That a copy of this resolution be sent to the Recreation Partnership Board, care of Tompkins County Youth Services Department at 320 W. State Street, Ithaca, New York 14850.

SEQR ACTON: TYPE II-20

INTERMUNICIPAL RECREATION PARTNERSHIP AGREEMENT

January 1, 2008 – December 31, 2012

As recommended by the Recreation Partnership Board on August 13, 2007

Adopted August 21, 2007
Resolution No. 159 of 2007

Pursuant to Section 119-o of the General Municipal Law, the undersigned municipalities hereby enter into this Agreement to continue an updated version of a five year renewable Recreation Partnership.

This agreement shall become effective upon execution by each and every participating municipality and shall be in force for the period beginning January 1, 2008 through December 31, 2012 and may be renewed for an additional five years by appropriate resolutions by each of the municipal partners on or before December 31, 2012, all other terms and conditions of this agreement remaining the same.

The Recreation Partnership governing board may recommend amendments to this agreement with a two thirds majority vote of the entire Recreation Partnership Board. Recommended amendments must be ratified by all participating municipalities to take effect.

Establishing a Program

The parties hereby establish an on-going program partnership for the purpose of jointly planning, financing, providing, and coordinating shared recreational services that supplement and complement those offered by localities. A governing board of partners will direct and oversee the contracted services of the Ithaca Youth Bureau's Recreation Division and other providers. The Recreation Partnership will be governed independently of any municipality. The Recreation Partnership will have no authority over any locally planned, locally funded, and locally operated programs except at the request of the sponsoring municipality. Local programs may choose to use the Recreation Partnership as a vehicle for voluntarily sharing information, equipment, publicity about programs, and/or coordinating their respective services.

Sharing Program Costs

Fees, sponsorships, grants, fundraising, and the use of volunteers are not enough to cover the cost of running Recreation Partnership programs and services. A municipal contribution from all municipal partners is necessary to balance the budget. In order to fairly distribute these costs, the Partners agree to the following cost-sharing formula.

The cost sharing formula allocates the annual net operating costs of programs into four equal shares. The City of Ithaca agrees to pay one quarter of the net operating cost, the Town of Ithaca agrees to pay one quarter, and the County agrees to pay one quarter. The smaller municipalities agree to share the remaining quarter.

The cost for each smaller municipality shall be calculated using an index that combines the previous year's assessed value of its taxable properties in the Ithaca School District and its share of program participation averaged over the past three years. This formula, which assigns the assessed value twice the weight of participation, was selected for several reasons. First, the weighting of assessed value was used as a measure of each municipality's ability to pay for services. Second, the formula recognizes that children from the Ithaca City School District have been significant users of the services and a number of municipalities have been concerned about providing equitable support to all their youth. Third, the use of Ithaca City School District properties as opposed to the municipalities' full assessment, acknowledges that towns like Dryden, Ulysses, Groton, and Newfield also invest significantly in their own local recreation programs which are used primarily by children from their own school districts. A chart outlining 2008 approved municipal contribution is attached as Appendix 1; an updated version of this chart shall be given to each partnership municipality for each of the remaining 4 years of this agreement by January 15 of each year.

To determine future contributions:

- A) The Recreation Partnership Board shall review preliminary budget projections in June and July and decide on the acceptable net program cost for the upcoming year by the end of July.
- B) During the budget development process, each Recreation Partnership Board member shall discuss the municipal payments needed with its municipality to determine if the preliminary budget adopted by the Recreation Partnership Board is feasible.
- C) The Recreation Partnership Board may allocate revenues earned in prior years through sponsorships, fundraising, and donations to support budgets in upcoming years.
- D) Each municipal board shall accept or reject their respective share of the municipal contribution by the third Tuesday of November.
- E) The Recreation Partnership Board may re-examine the basis for cost allocation and may recommend amendments to this agreement to be ratified by all partners.

Governance

Name: The governing board shall be called the Recreation Partnership Board

Membership: The Recreation Partnership Board shall have a total of 14 voting members. The partners include: Towns of Caroline, Danby, Dryden, Enfield, Groton, Ithaca, Newfield and Ulysses, the Village of Lansing, City of Ithaca and Tompkins County. Each participating municipality will have one seat on the governing board, except as provided below. The Recreation Partnership Board recommends that these seats be filled with an elected official willing and able to make policy decisions. When deemed necessary by a municipal board, an unelected lay designee who has the confidence of that municipal board may be appointed.

In addition, the City of Ithaca, the Town of Ithaca, and Tompkins County shall appoint one additional representative each to reflect their greater investment in the Partnership. These additional appointed representatives may be elected or lay members. The Recreation Partnership Board may determine if it wants to create any non-voting at-large seats to add expertise or coordinating links to other key stakeholder groups. Municipalities shall designate their representatives and an alternate for each seat by certified resolution to be maintained on file with the Tompkins County Youth Services Department.

Members will serve two-year terms at the pleasure of their municipal board.

The Recreation Partnership Board will elect its own officers: a Chair, a Vice chair, and a Treasurer.

Roles of the Recreation Partnership Board

The Recreation Partnership Board shall operate under its own by-laws that have been ratified by all municipal partners. Future amendments to the by-laws that are not inconsistent with this agreement shall be made by a majority vote of the entire Recreation Partnership Board provided that the proposed amendment has been presented for consideration of the Recreation Partnership Board at the preceding regular meeting. In addition, the proposed by laws amendment must be mailed to all members at least ten days before the meeting at which the proposed change is to be voted upon. An amended copy of the by-laws will be sent to each municipal clerk and chief elected official for their records.

The Recreation Partnership Board will develop a work plan of key policy, program, fundraising, and planning issues to be addressed annually.

The Recreation Partnership Board urges municipal boards to include the proposed costs recommended by the Recreation Partnership Board in their tentative municipal budgets.

The Recreation Partnership Board shall select providers, set program and budget priorities, approve the net operating budget for programs, set goals for generating additional and/or alternative revenues, set fees, adopt guidelines for scholarships and fiscal targets, and authorize County Youth Service Department to enter into agreements with provider(s) to implement approved actions of the Recreation Partnership Board.

The Recreation Partnership Board shall determine its own meeting schedule but it shall meet no fewer than six times a year to review progress toward goals, address policy questions and review performance data and finances to assure that provider(s) are meeting the goals and expectations of the partners.

The Recreation Partnership Board will periodically evaluate the performance of its providers and make recommendations to enable providers to improve services.

Recreation Partnership Board representatives will be required to make regular reports to their municipalities including, but not limited to, annual budget guidelines and program services.

Roles of officers

The Chair shall develop the agenda in consultation with the Tompkins County Youth Services Department staff and providers, chair the meetings, represent the Recreation Partnership Board at inter-municipal or public meetings, appoint a Finance Committee and assist as needed in contract negotiations to implement the wishes of the Recreation Partnership Board.

The Vice Chair shall act in the absence of the Chair.

The Treasurer will work with the provider(s) and Tompkins County Youth Services Department staff to develop a format for regular financial reports that meet the needs of the Recreation Partnership Board. The Treasurer and the Finance Committee shall review the financial report prior to the Recreation Partnership Board meetings and present the report to the full Recreation Partnership Board, noting any significant changes in expenses or revenues. The Treasurer and Finance Committee will recommend to the Recreation Partnership Board a budget timetable and guidelines to enable providers to prepare budgets for the upcoming year.

Role of Fiscal Agent and Staff Support

The participating municipalities will make their payments to Tompkins County on a schedule agreeable to all partners. Tompkins County's fiscal officer will have custody of the funds, which will be managed as a separate program within the Tompkins County Youth Services Department budget. The County Youth Services Department makes payments to providers as authorized by the Recreation Partnership Board in approved contracts.

The Recreation Partnership Board will explore the feasibility of creating a program coordinator position to assist the Recreation Partnership Board in performing the functions the board members, providers, and county staff cannot fulfill. Any such proposal adopted by the Recreation Partnership Board needs to be ratified by all partners.

Roles of Tompkins County Youth Services Department

Staff from the Tompkins County Youth Services Department will work in close cooperation with the Recreation Division of the Ithaca Youth Bureau and other providers to provide support to the Recreation Partnership Board that includes:

- coordination of orientation of new members to the Partnership and its services;
- orientation to the roles of the Recreation Partnership Board and its members;
- assistance in developing an annual work plan of priority planning, oversight, fundraising, and evaluation issues;
- assistance in developing policy options and guidelines for the Board's action as needed to implement the work plan;
- preparation of meeting agendas in consultation with the Board chair and providers;
- preparation of minutes;
- preparation of contracts with providers as authorized by the Recreation Partnership Board;
- coordination with the providers to assure that program and financial reporting meets the needs of the Recreation Partnership Board;
- coordination with providers to assure that their program policy questions that require Recreation Partnership Board decisions are acted on in a timely way;
- authorization of payments per Recreation Partnership Board authorized contracts after audit of claims pursuant to Tompkins County procedure.
- assistance to the Recreation Partnership Board in monitoring and evaluating providers, as requested.
- staff support to Recreation Partnership Board to implement work plan.

Roles of Recreation Program Provider(s)

The provider(s) will be responsible for:

- providing the programs and services authorized by the Recreation Partnership Board in compliance with all relevant laws and safety regulations;
- providing a yearly summary of participation and periodically highlighting any trends or significant changes in program participation, customer feedback, expenses or revenues for the Recreation Partnership Board;

- providing adequate liability coverage as determined by the County and the Recreation Partnership Board for approved programs and defending, indemnifying and holding the participating municipalities harmless;
 - tracking and reporting expenses and revenues as outlined in the contract;
 - tracking participation in formats and on a schedule requested by or acceptable to the Recreation Partnership Board;
 - periodically highlighting any trends or significant changes in programming, participation, customer feedback, expenses, or revenues for the Recreation Partnership Board;
 - recommending programs or changes to improve services and/or lower costs;
 - working with the Tompkins County Youth Services Department to present any policy questions and options related to programs or financing that require Recreation Partnership Board action.

FISCAL AND ADMINISTRATIVE ACCOUNTABILITY

Role and Relationship of the City of Ithaca: As a member, the City will be responsible for one quarter of the program costs. Like other members, it will make a payment to Tompkins County for its share of the approved budget. Like Tompkins County and the Town of Ithaca, it will have two seats on the governing board. Like other members, it may ask or convene local advisory committees to recommend the kinds of recreation services they want for the residents of their own municipality.

As a provider selected to operate programs, the City of Ithaca's Youth Bureau will hire/contract staff as needed within the approved budget to provide services authorized by the Recreation Partnership Board. As a provider, the City will use its own facilities and may enter into agreements with other municipal partners or agencies to use other facilities throughout the partnership for approved programs.

As a provider, the Ithaca Youth Bureau will keep separate account of partnership funds and report in a format and on a timetable requested by the Recreation Partnership Board.

Role of Tompkins County: Tompkins County is the fiscal agent for the Partnership. The County shall invoice municipalities based on the agreed-on cost allocation and payment schedule. The County shall provide financial reports to the treasurer and Finance Committee as requested by the Recreation Partnership Board.

The County Youth Services Department will administer those funds in accordance with the wishes of the Recreation Partnership Board by creating and managing contracts with designated providers and making approved payments to providers. The providers will continue to be responsible for tracking line item expenses and program revenues and will provide this information in a format required by the Recreation Partnership Board.

Fiscal accountability

As a condition of this agreement, designated provider(s) shall maintain records of expenses and revenues as required by the Recreation Partnership Board. The providers shall prepare financial reports in a format that satisfies the governing board which includes proposed budget and year-to-date cumulative expenses and revenues. The County shall pay the Ithaca Youth Bureau 100% of the agreed-upon contract amount to provide approved programs. The County shall make the annual payments in three equal amounts by April 30th, September 30th, and January 15th. The County shall pay all other providers the agreed upon total budget for approved programs in the manner described in the provider's contract.

How Municipalities Join or Leave the Partnership

Joining: If any municipality chooses to join after January 2008, the Recreation Partnership Board will calculate the cost for a new member and the board will determine the effective date of membership. After signing this Agreement the new municipality will be invited to appoint one elected official or designee and alternate to serve as a voting member on the Recreation Partnership Board, and the size of the Recreation Partnership Board shall increase by one. For the first year, the Recreation Partnership Board will determine if the additional municipal contribution will change the already agreed-on municipal contribution for the current partners and if so by how much, subject to approval by municipal boards.

Leaving: A member municipality may elect to withdraw from the Recreation Partnership. The municipality seeking to withdraw must notify the Recreation Partnership Board in writing and commit to making its contribution for the following year. E.g., a municipality must notify the Recreation Partnership Board in writing any time in 2008 of its intention to withdraw at the end of December 2009.

If a municipality withdraws the Recreation Partnership will budget for this reduction in municipal revenues.

By entering into this agreement, each municipality pledges to honor its contractual obligations to the other members and to abide by the notification policy herein described when it desires to leave the Recreation Partnership.

In 2011, the year prior to the agreement's end, the Recreation Partnership Board will review and update the agreement. Any municipality wishing to withdraw at the end of the agreement must notify the Recreation Partnership Board of its intention by June 2011.

Participation in Programs by Residents on Non-Member Municipalities

Residents from non-member municipalities are welcome to participate on a space-available basis. Since they are not contributing through local taxes to subsidize the programs, they will be charged a fee twice the rate charged to members OR the actual unsubsidized cost, based on the prior year's calculation, whichever amount is higher.

* * * * *

Presentation: New York State Sales Tax Intercept – Tompkins County Options

Ms. Jayne provided the Legislature with information pertaining to the New York State Sales Tax Intercept:

What is the Sales Tax Intercept? If Tompkins County were to opt in for the Intercept program it would no longer have a Medicaid bill of any kind.

- Allocate sales tax revenue to pay for the Medicaid Program
- Or continue to pay the current 3% Medicaid cap

Timeline:

- Deadline – September 30, 2007 – once the County elects the option it remains in effect indefinitely.
- There is no Opt Out or In after this date.

Factors to Consider:

In 2006, Tompkins County's

- Social Services Medicaid expenditure cap was \$10,227,683
- Sales Tax Intercept calculation would be \$10,100,175 (based on: Medicaid factor is .0083 of; SFY 2006-2007 Tax Base \$1,216,888,500)
- Tompkins County's sales tax average annual growth from 1996-2006 is 4%
- NYS Annual Medicaid cap is 3%

Sales Tax Intercept Analysis:

Ms. Jayne presented projections based on the Tompkins County average annual increase in sales tax from 1996-2006 of 4%. Legislators asked questions and discussed the pros and cons of the options. Mr. Squires said the State Comptroller had recommended that only three counties opt in for the Intercept; Tompkins was not one of them.

Recommendation:

The Finance Director's opinion is that Tompkins County should not accept the offer. The Budget and Capital Committee recommended to not accept the Sales Tax Intercept Offer. Mr. Sigler noted accepting this would affect our control and transparency. Mr. Proto noted over the decades New York State has tried to take part of our sales tax, but in Tompkins County we are very reliant on sales tax and need to preserve our sales tax. Mr. Joseph said if any Legislator wants the County to take this step, they can still bring it forward; September 30 is the deadline.

Chair's Report and Appointment(s)

Mr. Joseph reported that at the last meeting he asked Legislators to return a survey of what topics should be taken up with department heads in a series of meetings that will be held. Some of the responses that came out on the top of the list included: program evaluation outside of the budget process, the role and expectations of the County Administrator, function of program committees, and setting goals and priorities. Several Legislators also placed additional items on the list and it is important to recognize that people didn't have a chance to vote on those items. He said there will likely be another poll with those items included before the next meeting with department heads. Mr. Joseph said that the role and expectations of the County Administrator seems to be a timely topic to be taken up because of the process taking place of hiring a new County Administrator. Mr. Joseph said department heads have already had a facilitated meeting on that topic as part of the Administrator search process and suggested Legislators do the same and then meet with department heads. He announced the following schedule: 5:30 p.m., September 11 - facilitated meeting with Legislators; October 11 – meeting with department heads.

Report from the County Administrator

Mr. Whicher reported departments have submitted budgets. He also reported the conversion to a fully relational database system that all departments and agencies are using. He noted that now, within one week, he is able to tell where the County stands with its budget and said this is a substantial improvement over the previous practice. Mr. Whicher said he will be able to present the Legislature with the budget at the two percent level requested; however, it will not be pretty and there will be some difficult decisions that will need to be made.

Mr. Whicher reported he received the contract from the Department of State for the Council of Government's SMSI Healthcare Consolidation grant. The request for qualifications came in yesterday and there have been four responses. The Steering Committee will be meeting in two weeks to select one or two of these responders to interview.

Ms. Robertson asked who is serving on the Steering Committee. Mr. Whicher said he will provide this information to her.

Mr. Proto asked, because this involves all of the municipalities, will the Legislature, at some point know how many municipalities offer health insurance to retirees. Mr. Whicher responded yes.

There were a few questions posed with regard to Mr. Whicher's budget at a two percent level and whether it would be recommended by Mr. Whicher. Mr. Joseph said Mr. Whicher is doing what he was asked to do and said asking him to present a two percent budget and asking him to present a budget he recommends are two different requests. Although not likely, it is conceivable that a budget could meet both of those criteria.

Ms. Kiefer asked to have presentations from the Finance and Information Technology Services departments.

August 21, 2007

Report from the County Attorney

Mr. Wood reported his longest-running case, which originated in 2000, has concluded – Tracy vs. Freshwater. The case involved a fugitive from justice on a federal drug warrant who was injured in an altercation with a Sheriff's Deputy and then sued the County. Mr. Wood said the 47-page opinion concluded the officer did nothing wrong. Mr. Wood said this case involved 196 documents and 67 motions filed by the plaintiff and he is pleased to have it finally resolved.

Mr. Wood reported in July, 1999, a young man who was at the Glove House while in the custody of the County Department of Social Services, alleges he was abused while in custody. Mr. Wood said the case was recently dismissed against the Glove House and the County.

After extensive discovery, the plaintiff in a case dating to May, 2005, withdrew his claim in which he stated he was injured during a fall at the Recycling and Solid Waste Center.

Mr. Hattery asked for a status report with regard to the case involving Bolton Point and its challenge to the County's method of water system fees. Mr. Wood said an appeal has been filed and he is waiting for a brief in response to be filed by the plaintiff. Once that is filed, a court date will be scheduled.

Report from the Finance Director

Mr. Squires reported a meeting was held yesterday with deferred compensation providers. An award will be made by resolution and will be based on a recommendation from Brooke Kominos, Benefits Manager; Steve Whicher, County Administrator; and himself.

He also reported he will be meeting with bond counsel next week because of additional financing needs to pay for the final phases of the TC3 campus expansion.

Addition of Resolution(s) to the Agenda

There were no resolution(s) added to the agenda.

Withdrawal of Resolution(s) from the Agenda

Chair Joseph gave the appropriate committee chair permission to withdraw the following resolution(s) from the agenda:

Determination of Negative Declaration of Environmental Significance in relation to Reconstruction of Hanshaw Road, CR 109, in the towns of Ithaca and Dryden and Village of Cayuga Heights, PIN 3753.25

Authorization to Issue Design and Right-of-Way Plan Approvals for the Reconstruction of Hanshaw Road, CR 109, Towns of Ithaca and Dryden and Village of Cayuga Heights, PIN 3753.25

Report from the Public Safety Committee

Mrs. McBean-Clairborne, Chair, had no report. The next meeting will be August 24th.

Report from the Workforce Diversity and Inclusion Committee

Mrs. McBean-Clairborne, Chair, had no report.

Report and Presentation of Resolution(s) from the Health and Human Services Committee

Mr. Shinagawa, Chair, reported the Committee met and discussed many of the items that have already been discussed previously in this meeting. He announced the Committee will only meet one time per month during the months of September and October while Expanded Budget and Capital Committee meetings are being held.

RESOLUTION NO. 160 - APPROPRIATION FROM CONTINGENT FUND – TERMINAL-PAY REIMBURSEMENT - HEALTH DEPARTMENT

MOVED by Mr. Shinagawa, seconded by Ms. Robertson. A short roll call vote resulted as follows: Ayes – 15, Noes – 0. RESOLUTION ADOPTED.

WHEREAS, the Health Department Senior Public Health Engineer resigned effective May 4, 2007, and

WHEREAS, the Health Department had a Senior Account Clerk Typist retire effective April 27, 2007, and

WHEREAS, the Fiscal Policy of Tompkins County allows for terminal-pay reimbursement from the Contingent Fund, now therefore be it

RESOLVED, on recommendation of the Health and Human Services and Budget and Capital Committees, That the Director of Finance is hereby authorized and directed to make the following budget appropriation:

FROM:	A1990.54440	Contingent Fund	\$28,798
TO:	A4090.51000240	Senior Public Health Engineer	\$17,625
	A4090.58800	Fringes	\$ 6,874
	A4016.51000529	Senior Account Clerk Typist	\$ 3,093
	A4016.58800	Fringes	\$ 1,206

SEQR ACTION: TYPE II-20

Report from the Health Department Building Committee

Mr. Proto, Chair, reported the Committee has not met as a result of the action taken at the last meeting of this Legislature. He said they are currently working with staff to obtain necessary information that will be needed in September. Ed Marx, Commissioner of Planning and Public Works, reported staff is working with the Cornell real estate department on bringing back information on that proposal because additional action by this Legislature will be necessary. Mr. Proto said another meeting has not been scheduled at this time. Ms. Herrera asked if there was any information available on the tour of the building that was requested by Legislators. Mr. Proto said he would look into this.

Report from the Facilities and Infrastructure Committee

Ms. Herrera, Chair, reported on several items. She announced the August 28th meeting will not be canceled as previously discussed. At that time the Committee will be discussing the two resolutions pertaining to Hanshaw Road that were withdrawn from the agenda this evening.

She said an update was given with regard to mitigation of damage to the Library solar panels as a result of thrown objects. She was informed that no information or discussions have taken place since June; however staff has been asked to be in touch with the City with the hope there is a response to the County's pleas for a cooperative solution to this problem.

Ms. Herrera provided an update on the following capital projects as reported at recent Committee meetings:

August 21, 2007

- Halseyville Road – Paving will begin on Thursday and the road should be open by August 1st.
- Spring Street Extension – The existing bridge has been removed and concrete will be poured on Wednesday, July 25, 2007.
- Banks Road Bridge – A meeting has occurred with the State Emergency Management Office and Federal Emergency Management Agency who have expressed a desire to replace the entire bridge. A design report should be completed within the next few weeks for a new bridge. The agencies felt it would be better to replace the bridge than repair a section now and have to come back in the near future to do more repair work.
- Harford-Slaterville Bridge – At the time the estimated cost of the bridge repair was being undertaken a meeting was being planned between Tioga County and Tompkins County to review estimates. Both counties will share in the cost of the construction that will open a full two-lanes for the bridge.
- Ringwood Road – There will be a construction meeting in August regarding the work on the bridge. At this time the pre-cast concrete unit has been delivered for the project.
- Warren Road – There will not be any improvements to the United States Post Office entrance as had been suggested because the New York State Department of Transportation objected to the work.
- Weatherby Road – The old, insufficient pavement has been milled out and the repaving is complete. Following this, a surface treatment was done to seal the road; this work was done at the contractor's (Countour) expense. It is believed the problem with the pavement was due to inclement and unseasonably cold weather combined with insufficient compaction; upon discovery, the contractor did not hesitate to resolve the issue.

The Committee has heard from Robert Nicholas, Airport Manager, on the Transportation Safety Administration contract amendments and how it resulted in a shortfall of \$80,000 would affect the airlines if they were required to make up for the shortfall. Senator Schumer's office is still working on the matter, but it doesn't look like there is going to be much relief.

At the August 14 meeting the Committee discussed the presentation provided by ECC Technologies and the possibility of grant funding for the study to look at what infrastructure exists in the County and then to develop a plan to move forward based on the recommendations. She said there are so many possibilities and options that are involved and the Committee will continue to talk about this.

Report and Presentation of Resolution(s) from the Personnel Committee

Mr. Dennis, Chair, reported on August 10 the County received a Declaration of Impasse with the Road Patrol. At 3 p.m. tomorrow there will be an informational meeting on health insurance for retirees; all Legislators are encouraged to attend. He said as these meetings move forward he will make sure retirees know when this topic will be discussed. Mr. Dennis reported the County Administrator Search Committee will be meeting in the near future. He said he is working with the Personnel Commissioner on preparing an advertisement of the position. Ms. Kiefer said she has been anxiously waiting to hear whether she will be a member of the Search Committee. She spoke with regard to advertising for the position and stated she thinks it is important for the Search Committee to review the advertisement before it is published because there may be particular areas or skills the County would like to place emphasis on. Other members of the Legislature agreed with Ms. Kiefer's comments and following a brief discussion, Mr. Dennis and Mr. Whicher agreed to meet to discuss different process steps.

RESOLUTION NO. 161 – AUTHORIZATION OF PAYMENT FOR THE DEVELOPMENT OF THE TOMPKINS COUNTY DIVERSITY LOGO

MOVED by Mr. Dennis, seconded by Mrs. McBean-Clairborne.

Mr. Proto said while Legislators appreciate the contribution that has been made, he thinks this constitutes a gift and thinks a letter of appreciation would be more appropriate. He said there are several individuals on advisory boards who perform volunteer services and thinks this would not set a good precedent.

Mr. Stevenson agreed with Mr. Proto's comments. In addition, he opposed the language contained in the first Whereas that states "at no cost to the County", and said that is in conflict with the action of the resolution because it makes a provision for payment to the individual.

A roll call vote resulted as follows: Ayes – 10 (Legislators Dennis, Herrera, Joseph, Kiefer, Koplinka-Loehr, Mackesey, McBean-Clairborne, Robertson, Shinagawa, Sigler) Noes – 5 (Legislator Booth, Hattery, Proto, Randall, and Stevenson). RESOLUTION ADOPTED.

WHEREAS, Ann Stephenson provided professional service in the design and layout of the Tompkins County Diversity Logo at no cost to the County, and

WHEREAS, the time Ms. Stephenson put into the design and redesign of the diversity logo as requested by the Workforce Diversity and Inclusion Committee was significantly more than originally anticipated, and

WHEREAS, the services represent a significant contribution to the Tompkins County Diversity program, now therefore be it

RESOLVED, on recommendation of the Personnel Committee, That in recognition of the valuable contribution made by Ann Stephenson in support of the County's diversity initiative, the Tompkins County Legislature hereby authorizes the Director of Finance to disburse \$500 from Account No. 1430.54486 in appreciation of the effort provided.

SEQR ACTION: TYPE II-20

RESOLUTION NO. 162 - RESTRUCTURING OF THE INTERNSHIP PROGRAM AND CREATION OF A LIVING WAGE FOR PROJECT ASSISTANTS

MOVED by Mr. Dennis, seconded by Mrs. McBean-Clairborne. In response to a question, Mr. Dennis said 14 Project Assistants are students. In the summer there were six positions in Workforce Development; the Human Rights Department has 35-hour positions; the Department of Social Services has five positions; Personnel has one position; and the Solid Waste Division has two positions. The position in Personnel was filled by a TC3 student and the positions in Workforce Development were filled by students; all of the other positions are not filled by students.

Mr. Hattery asked if this resolution permits flexibility for student for whom the internship is important enough in terms of gaining experience, that they would be willing to accept a salary lower than the living wage because of its contribution to their educational experience. Mr. Dennis said the purpose of this resolution is to follow the wishes of this Legislature in establishing a living wage for these positions. He said this program works for unemployed persons and is being used to widen the diversity program and prepare individuals for the Civil Service program.

Ms. Kiefer said she was informed that students are required by colleges to have health insurance so she thinks the range should start lower than the livable wage for people with health insurance. It was MOVED by Ms. Kiefer, seconded by Ms. Robertson, to amend the amount of \$11.18 contained in the fifth Whereas from \$11.18 to \$10.00 per hour. It was clarified that health insurance is not a requirement of all colleges. Ms. Robertson asked that if this amendment were to pass she would like the resolution to clarify the intent of the motion and to state that the lower wage is intended for individuals with health insurance.

Various suggestions were made to change the figures with regard to hourly rates for individuals with and without health insurance. Mr. Sigler said the Committee discussed this and decided to

recommend the proposed amount of \$11.18. He is not a proponent of the Living Wage, however, the County has committed to that. He said he opposes the amendment because he does not think it is appropriate to ask a candidate if they have health insurance and if so, who is paying for it.

It was MOVED by Mr. Booth, seconded by Mr. Proto, to Table this resolution. A voice vote resulted as follows: Ayes – 8 (Legislators Booth, Hattery, Kiefer, Mackesey, Proto, Robertson, and Randall, Stevenson); Noes – 7 (Legislators Dennis, Herrera, Joseph, Koplinka-Loehr, McBean-Clairborne, Shinagawa, and Sigler). MOTION CARRIED, RESOLUTION TABLE INDEFINITELY.

WHEREAS, the Tompkins County Legislature, by Resolution No. 125, of June 6, 2000, approved the creation of an Internship Program to give eligible internship candidates an opportunity to provide meaningful, challenging, hands-on, in-depth work experience at a rate of pay from \$7.00 to \$10.00 per hour with no fringe benefits, and Resolution No. 254, dated November 21, 2000, increased the maximum rate of pay to \$15.00 per hour, and increased the hours of all positions to 40 per week, and

WHEREAS, the Internship Program continues to be a successful cost-effective method of meeting the goal of providing meaningful, challenging, hand-on, in-depth work experience for candidates who are college students (who are not otherwise eligible for full payment through any other work-study program), high school students, or any other person who is unemployed or underemployed, and

WHEREAS, this program continues to provide another avenue to diversify the workforce and enhance and broaden the opportunities for County Departments to utilize the knowledge, skills, and abilities of eligible candidates to provide a valuable service to the taxpayer, and

WHEREAS, according to the Alternatives Federal Credit Union (AFCU), a living wage is defined as the amount of income and resources (such as health insurance) needed for an individual to meet his/her basic needs without public or private assistance, and Tompkins County is fully in support of the concept of paying a living wage to all of its employees, and

WHEREAS, according to a study done in 2006 by the AFCU, the 2007 living wage for a single individual who has no children but does have health insurance is at least \$9.83 per hour for a 40-hour workweek and that a single individual with no children or health insurance needs at least \$11.18 per hour (the \$1.35 per hour difference being what it would cost the individual to purchase insurance through Healthy New York) in order to maintain himself or herself without public or private assistance, and

WHEREAS, it would be more efficient and cost effective for individual departments to create and manage their own positions, distribute, gather and process their own timecards, and not have to perform manual budget adjustments to reconcile accounts, and

WHEREAS, it is imperative that the Commissioner of Personnel maintain control over the recruitment and placement of interns in order to ensure that the program continues to meet the goals outlined in paragraphs two and three above, now therefore be it

RESOLVED, on recommendation of the Personnel Committee, That the internship program shall continue indefinitely,

RESOLVED, further, That Project Assistant positions (76/049) shall have a standard work-week of up to 40 hours, with no benefits, and up to a maximum eighteen-month duration,

RESOLVED, further, That each department may create, upon Legislative approval, a sufficient number of Project Assistant positions (76/049) to address individual departmental needs, that these positions shall be funded from the budget of the creating department, and that the Commissioner of Personnel will maintain involvement and oversight with regard to recruitment and placement,

RESOLVED, further, That departments may offer a livable wage to Project Assistant employees anywhere from \$11.18 per hour to \$20.00 per hour, with no fringe benefits,

RESOLVED, further, That no additional funding is required.

SEQR ACTION: TYPE II-20

Report and Presentation of Resolution(s) from the Government Operations Committee

Mr. Stevenson, Chair, thanked Mr. Squires for putting the deferred compensation informational presentation together. As he is familiar with two out of the three vendors that made presentations, he was

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grateful to have an opportunity to see the vendor he didn't know anything about. The next Committee meeting will be September 14.

RESOLUTION NO. 163 – RESOLUTION IN SUPPORT OF CONTINUED USE OF LEVER VOTING MACHINES IN NEW YORK STATE

MOVED by Mr. Stevenson, seconded by Mr. Hattery. Mr. Proto referred to the following language contained in the fifth Whereas: “allows municipalities in New York State to use lever voting machines until at least one HAVA-compliant electronic voting machine is certified for use in New York State,” and said it conflicts with the Resolved language: “permit municipalities in New York State to use the lever voting machines until at least two HAVA electronic voting machines of which one is an optical scanner are certified for use in New York State”. Mr. Proto asked what the impact would be if the County is supporting two recommendations, one of which is an optical scanner. He also noted the County has not made a commitment to an optical scanner previously.

Mr. Joseph clarified that the County did not recommend an optical scanner; it recommended that an optical scanner be one of the choices.

Ms. Robertson said the intent of the fifth Whereas is to ask the State to give counties a choice.

It was clarified that the State Board of Elections will certify the machines and election commissioners for each county will select the machine.

Mr. Joseph said this was a resolution about asking for permission to continue using lever machines until a decision is made; however, the resolution weighs in on what decision we want to be made. It does not reflect the decision he would like to see made. He thinks the State should have selected one machine Statewide.

It was MOVED by Mr. Sigler, seconded by Mrs. McBean-Clairborne, to strike the following language from the Resolved: “at least two and of which one is an optical scanner are”.

Ms. Robertson said she favors an optical scanner but she doesn't have any reason to think that is what the State will choose. She said she would not support a resolution that puts Tompkins County on record as wanting to use the lever machines until New York State decides on a machine to be certified.

Ms. Herrera said she is in agreement with Ms. Robertson's comments. She also stated this resolution not only urges the certification, but the proposed additional language, although expansive, is consistent with what this Legislature has urged in the past.

The Question was called by Mr. Booth, seconded by Mrs. McBean-Clairborne. A voice vote on calling the question resulted as follows: Ayes – 11, Noes – 4 (Legislators Dennis, Herrera, Kiefer, and Robertson). THE QUESTION WAS CALLED.

A voice vote on the amendment resulted as follows: Ayes – 9 (Legislators Booth, Hattery, Koplinka-Loehr, Joseph, McBean-Clairborne, Proto, Randall, Sigler, and Shinagawa); Noes – 6 (Legislators Dennis, Herrera, Kiefer, Mackesey, Robertson, Stevenson). AMENDMENT CARRIED.

It was MOVED by Ms. Robertson, seconded by Ms. Herrera, to amend the Resolved to read: “RESOLVED, on recommendation of the Government Operations Committee, That the Tompkins County Legislature urges that language be inserted into the Voter Confidence and Increased Accessibility Act of 2007 (H.R. 811) that would permit municipalities in New York State to use the lever voting machines until New York State completes its certification process for HAVA-compliant voting machines”.

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A voice vote on the amendment resulted as follows: Ayes – 11; Noes – 4 (Legislators Dennis, Kiefer, Mackesey, and Proto). MOTION CARRIED.

A voice vote on the resolution amended resulted as follows: Ayes – 14, Noes – 1 (Legislator Dennis). RESOLUTION ADOPTED.

WHEREAS, Tompkins County and all of the other municipalities in New York State have been successfully using lever voting machines for decades, and

WHEREAS, the Help America Vote Act of 2002 (HAVA) prohibited the use of lever machines after September 1, 2006, and

WHEREAS, as of September 1, 2006, no HAVA-compliant voting machines were certified for use in New York State and a Federal Judge approved the use of lever machines in New York State for 2006 elections, and

WHEREAS, as of July 2007, HAVA-compliant electronic voting machines had not been certified for use in New York State and at this time there will not be a HAVA-compliant electronic voting machine certified for use in New York State in time for the Presidential Primary (February 5, 2008) and possibly not for the 2008 Presidential Election, and

WHEREAS, the New York State Legislature passed legislation in July of 2007 (and the bill was signed by the governor in August 2007) that effectively allows municipalities in New York State to use lever voting machines until at least one HAVA-compliant electronic voting machine is certified for use in New York State, and

WHEREAS, the current language of the proposed Voter Confidence and Increased Accessibility Act of 2007 (H.R. 811) would effectively prevent any municipality in New York State from using lever machines for any Federal election beginning in February 2008, and

WHEREAS, the only method of voting that would be available for use in New York State would be by Paper Ballot (which in Tompkins County would have to be manually counted – possibly twice), and

WHEREAS, manually counting paper ballots would likely delay the certification of the results of the election to a time well past the November 30th deadline mandated by law, and

WHEREAS, the lever machines still operate accurately and have the confidence of our voters, now therefore be it

RESOLVED, on recommendation of the Government Operations Committee, That the Tompkins County Legislature urges that language be inserted into the Voter Confidence and Increased Accessibility Act of 2007 (H.R. 811) that would permit municipalities in New York State to use the lever voting machines until New York State completes its certification process for HAVA-compliant voting machines.
SEQR ACTION: TYPE II-20

Report and Presentation of Resolution(s) from the Planning, Development and Environmental Quality Committee

Ms. Robertson, Chair, reported the Committee met on August 13 and many of the resolutions acted upon at that meeting were approved under the Consent Agenda. She said the Committee will be learning about wind energy. She announced changes to the upcoming meeting schedule. The Committee will meet on October 18 at 3:30 p.m., and November 15 at 3:30 p.m. The next meeting will be September 10.

RESOLUTION NO. 164 - AUTHORIZING 2007 FEDERAL TRANSIT ADMINISTRATION SECTION 5307 GRANT – TCAT

MOVED by Ms. Robertson, seconded by Mr. Booth, and unanimously adopted by voice vote. Mr. Proto stated the dollar amounts in this resolution are correct, details pertaining to how two items will be distributed is still being defined (Project Administration and Short-term Transit Planning).

WHEREAS, the Secretary of the United States Department of Transportation is authorized to make grants for mass transportation projects pursuant to Section 5307 of Chapter 53, Title 49 of the United States Code (formerly Section 9, Federal Transit Act of 1964), and

WHEREAS, the County of Tompkins is the designated recipient by the Governor of New York State of Federal Transit Administration (FTA) Section 5307 Urban Formula transit funds, and

WHEREAS, the County of Tompkins desires to submit a request for a grant of funds to the Federal Transit Administration, in the amount of \$1,245,902 to be used for operating assistance, capital and planning projects for 2007 as approved by the Ithaca-Tompkins County Transportation Council and included in the 2006-2008 Transportation Improvement Program as amended on May 15, 2007, and

WHEREAS, the County, as FTA grant recipient, will apply on behalf of the County and Tompkins Consolidated Area Transit (TCAT, Inc.), subrecipient, to receive and use said funds as follows:

Project	<i>FTA 5307 Funding</i>	<i>NYS DOT</i>	<i>TCAT</i>	<i>County</i>	<i>TOTAL</i>
Preventive Maintenance	\$1,101,902	\$137,738	\$137,738	-	\$1,377,378
Project Administration	35,200	4,400	-	\$4,400	44,000
Communications	20,800	2,600	2,600	-	26,000
Clean Diesel Conversion	12,800	1,600	1,600	-	16,000
Shop Equipment	10,000	1,250	1,250	-	12,500
Short Term Transit Planning	35,200	4,400	-	4,400	44,000
Operating Assistance	30,000	3,200,000	5,667,037	-	8,897,037
Total	\$1,245,902	\$3,351,988	\$5,810,225	\$8,800	\$10,416,915

, now therefore be it

RESOLVED, on recommendation of the Planning, Development, and Environmental Quality Committee, That the Tompkins County Legislature authorizes the County Contracts Coordinator to execute and file applications on behalf of the County of Tompkins with the United States Department of Transportation and the New York State Department of Transportation for the 2007 Section 5307 Grant, in the amount of \$1,245,902 and

RESOLVED, further, the County Contracts Coordinator is authorized to sign:

1. Any and all agreements between Tompkins County and the State of New York for the Project.
2. Any and all agreements between Tompkins County and Tompkins Consolidated Area Transit, Inc., and any third-party subcontractors necessary to complete the project, if applicable.

SEQR ACTION: TYPE 11-20

Report and Presentation of Resolution(s) from the Budget and Capital Committee

Mr. Koplinka-Loehr, Chair, reported the Committee heard a presentation from Julia Mattick, Director of the Workforce Investment Board, concerning funding. She reported on an interpretation of language by the IDA (Industrial Development Agency) attorney of the Public Authority and Accountability Act as it applies to how the IDA is funded. There was also discussion of the Expanded Budget Committee Calendar and he said presentations by departments are being scheduled. Mr. Koplinka-Loehr read a list of questions that will be asked of departments.

RESOLUTION NO. 165 - EXTENSION OF ONE-PERCENT SALES TAX FOR TWO YEARS - INCREASING TAXES ON SALES AND USES OF TANGIBLE PERSONAL PROPERTY AND OF CERTAIN SERVICES, AND ON OCCUPANCY OF HOTEL ROOMS AND AMUSEMENT CHARGES PURSUANT TO ARTICLE 29 OF THE TAX LAW OF THE STATE OF NEW YORK IN ORDER TO EXTEND THE EFFECTIVE DATE THROUGH NOVEMBER 30, 2009

MOVED by Mr. Koplinka-Loehr, seconded by Mr. Booth. A voice vote resulted as follows: Ayes – 11, Noes – 4 (Legislators Herrera, Proto, Randall, and Sigler). RESOLUTION ADOPTED.

Be it enacted by the Tompkins County Legislature of the County of Tompkins, on recommendation of the Budget and Capital Committee, as follows:

SECTION I. The first sentence of section two of Resolution No. 256A as enacted in nineteen hundred sixty-six, as amended, is amended to read as follows:

SECTION 2. Imposition of sales tax.

On and after March first, nineteen hundred and sixty-seven, there is hereby imposed and there shall be paid a tax of three percent upon, and for the period commencing December 1, 1992, and ending November 30, 2009, there is hereby imposed and there shall be paid an additional tax of one percent upon:

SECTION 2. Subdivision (f) of section three of Resolution No. 256A as enacted in nineteen hundred sixty-six, as amended, is amended to read as follows:

(f) With respect to the additional tax of one percent imposed for the period commencing December 1, 1992, and ending November 30, 2009, the provisions of subdivisions (a), (b), (c), (d) and (e) of this section apply, except that for the purposes of this subdivision, all references in said subdivisions (a), (b), (c) and (d) to an effective date shall be read as referring to December 1, 1992, all references in said subdivision (a) to the date four months prior to the effective date shall be read as referring to August 1, 1992, and the reference in subdivision (b) to the date immediately preceding the effective date shall be read as referring to November 30, 1992. Nothing herein shall be deemed to exempt from tax at the rate in effect prior to December 1, 1992, any transaction which may not be subject to the additional tax imposed effective on that date.

SECTION 3. Section four of Resolution No. 256A as enacted in nineteen hundred sixty-six, as amended, is amended to read as follows:

SECTION 4. Imposition of compensating use tax.

(a) Except to the extent that property or services have already been or will be subject to the sales tax under this enactment, there is hereby imposed on every person a use tax for the use within this taxing jurisdiction on and after December 1, 1992, except as otherwise exempted under this enactment, (A) of any tangible personal property purchased at retail, (B) of any tangible personal property (other than computer software used by the author or other creator) manufactured, processed or assembled by the user, (i) if items of the same kind of tangible personal property are offered for sale by him in the regular course of business or (ii), if items are used as such or incorporated into a structure, building or real property, by a contractor, subcontractor or repairman in erecting structures or buildings, or building on, or otherwise adding to, altering, improving, maintaining, servicing or repairing real property, property or land, as the terms real property, property or land are defined in the real property tax law, if items of the same kind are not offered for sale as such by such contractor, subcontractor or repairman or other user in the regular course of business, (C) of any of the services described in paragraphs (1), (7) and (8) of subdivision (c) of section two, (D) of any tangible personal property, however acquired, where not acquired for purposes of resale, upon which any of the services described under paragraphs (2), (3) and (7) of subdivision (c) of section two have been performed, (E) of any telephone answering service described in subdivision (b) section two and (F) of any computer software written or otherwise created by the user if the user offers software of a similar kind for sale as such or as a component part of other property in the regular course of business.

(b) For purposes of clause (A) of subdivision (a) of this section, for the period commencing December 1, 1992, and ending November 30, 2009, the tax shall be at the rate of four percent, and on and after December 1, 2009, the tax shall be at the rate of three percent, of the consideration given or contracted to be given for such property, or for the use of such property, including any charges for shipping or delivery as described in paragraph three of subdivision (b) of section one, but excluding any credit for tangible personal property accepted in part payment and intended for resale.

(c) For purposes of subclause (i) of clause (B) of subdivision (a) of this section, for the period commencing December 1, 1992, and ending November 30, 2009, the tax shall be at a rate of four percent, and on and after December 1, 2009, the tax shall be at the rate of three percent, of the price at which items of the same kind of tangible personal property are offered for sale by the user, and the mere storage, keeping, retention or withdrawal from storage of tangible personal property by the person who manufactured, processed or assembled such property shall not be deemed a taxable use by him.

(d) For purposes of subclause (ii) of clause (B) of subdivision (a) of this section, for the period commencing December 1, 1992, and ending November 30, 2009, the tax shall be at the rate of four percent, and on and after December 1, 2009, the tax shall be at the rate of three percent, of the consideration given or contracted to be given for the tangible personal property manufactured, processed or assembled into the tangible personal property the use of which is subject to tax, including any charges for shipping or delivery as described in paragraph three of subdivision (b) of section one.

(e) Notwithstanding the foregoing provisions of this section, for purposes of clause (B) of subdivision (a) of this section, there shall be no tax on any portion of such price which represents the value added by the user to tangible personal property which he fabricates and installs to the specifications of an addition or capital improvement to real property, property or land, as the terms real property, property or land are defined in the real property tax law, over and above the prevailing normal purchase price prior to such fabrication of such tangible personal property which a manufacturer, producer or assembler would charge an unrelated contractor who similarly fabricated and installed such tangible personal property to the specifications of an addition or capital improvement to such real property, property or land.

(f) For purposes of clauses (C), (D) and (E) of subdivision (a) of this section, for the period commencing December 1, 1992, and ending November 30, 2009, the tax shall be at the rate of four percent, and on and after December 1, 2009, the tax shall be at the rate of three percent, of the consideration given or contracted to be given for the service, including the consideration for any tangible personal property transferred in conjunction with the performance of the service and also including any charges for shipping and delivery of the property so transferred and of the tangible personal property upon which the service was performed as such charges are described in paragraph three of subdivision (b) of section one.

(g) For purposes of clause (F) of subdivision (a) of this section, for the period commencing December 1, 1992, and ending November 30, 2009, the tax shall be at the rate of four percent, and on and after December 1, 2009, the tax shall be at the rate of three percent, of the consideration given or contracted to be given for the tangible personal property which constitutes the blank medium, such as disks or tapes, used in conjunction with the software, or for the use of such property, and the mere storage, keeping, retention or withdrawal from storage of computer software described in such clause (F) by its author or other creator shall not be deemed a taxable use by such person.

SECTION 4. Subdivision (1) of section 11 of Resolution No. 256A as enacted in nineteen hundred sixty-six, as amended, is amended to read as follows:

(1)(A) In respect to the use of property used by the purchaser in this County prior to March 1, 1967.

(B) With respect to the additional tax of one percent imposed for the period commencing December 1, 1992, and ending November 30, 2009, in respect to the use of property used by the purchaser in this County prior to December 1, 1992.

SECTION 5. This enactment shall take effect on December 1, 2007.

SEQR ACTION: TYPE II-20

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Approval of Minutes of July 3, 2007

It was MOVED by Mr. Booth, seconded by Ms. Robertson, and unanimously adopted by voice vote, to approve the minutes of August 7, 2007 as corrected. MINUTES APPROVED.

Adjournment

On motion the meeting adjourned at 8:49 p.m.

Respectfully submitted by Michelle Pottorff, TC Legislature Office

August 21, 2007