

Sixth Regular Meeting
June 14, 2011

The Sixth Regular Meeting of 2011 was called to order by the Chair at 6:00 P.M. Eight Legislative members were present, Legislator Monell being absent.

Chair Weston asked Legislator Quinlan to have a moment of prayer. "Father in Heaven we know that Thou canst see the hidden things in every heart. If our intentions are good, help us to make them live in good deeds. If what we intend or desire makes us uncomfortable in Thy presence, take it from us, and give us the spirit we ought to have, that we may do what we ought to do."

Legislator Quinlan led all Legislators and those in attendance in the Pledge of Allegiance. "

There were 13 people in attendance.

Chair Weston asked for unanimous motion and carrying of the following two recognition resolutions:

Legislator Roberts read and presented the following Recognition Resolution to Robert Manzer.

There was a unanimous motion for the adoption of the following resolution, seconded unanimously.

REFERRED TO:

PUBLIC WORKS

RESOLUTION NO. 127-11

*RESOLUTION RECOGNIZING
ROBERT MANZERS' 38 YEARS
OF DEDICATED SERVICE TO
TIOGA COUNTY*

WHEREAS: Robert Manzer was appointed to the position of Temporary Laborer April 2, 1973 – June 24, 1973 and was hired as Permanent Laborer June 25, 1973 – July 31, 1976; he was promoted to Motor Equipment Operator August 1, 1976 – January 3, 1999, and was promoted to Automotive Stock Clerk January 4, 1999 and has remained in this position for the remainder of his career; and

WHEREAS: Robert Manzer has been extremely dedicated and loyal in the performance of his duties and responsibilities during the past 38 years to the Department of Public works. He has earned the respect of his colleagues and peers throughout Tioga County; and

WHEREAS: Mr. Manzer will retire on June 27, 2011; therefore be it

RESOLVED: That the Tioga County Legislature, on its own behalf, as well as on behalf of the citizens of Tioga County, express sincere gratitude to Robert Manzer for his 38 years of dedicated and loyal service to the residents of Tioga County; and be it further

RESOLVED: That this resolution be spread upon the minutes of this meeting and a certified copy be presented to this outstanding employee, Robert Manzer.

ROLL CALL VOTE

Unanimously Yes – Legislators Quinlan, Roberts, Sauerbrey, Sullivan, Hollenbeck, Huttleston, McEwen, and Weston.

No – None.

Absent – Legislator Monell.

RESOLUTION ADOPTED UNANIMOUSLY.

Gary Hammond, Deputy Commissioner of Public Works, spoke. “38 years Bobby has been with the County and with respect to my fellow County employees, I do not think that there is a more dedicated individual that works for Tioga County. Through thick or thin, day or night, rain or shine, Bob is there and everything he does, he does with a work ethic unlike any I have ever seen. Bob, you are going to be missed, there is going to be somebody that will fill your position, but I do not think you will ever be replaced. Thank you.”

Bob Manzer spoke. “It has been an honor to work here. We have had our ups and downs, and everything else. I am going to miss it. I always called it just a part-time job, but I guess it turned into a full-time job. If they ever want me, just call me, I will be there. Thank you very much.”

Legislator Huttleston read and presented the following recognition resolution to Sylvia Deats.

There was a unanimous motion for the adoption of the following resolution, seconded unanimously.

REFERRED TO HEALTH & HUMAN SERVICES COMMITTEE

RESOLUTION NO. 128-11 *RECOGNITION OF
SYLVIA M. DEATS' 17 YEARS OF
DEDICATED SERVICE TO THE TIOGA COUNTY
HEALTH DEPARTMENT*

WHEREAS: Sylvia M. Deats, was appointed to the part-time position of Account Clerk Typist on December 27, 1993 in the Tioga County Health Department; and appointed to Senior Account Clerk Typist on January 18, 1994; the position she still holds; and

WHEREAS: In January of 2010 Sylvia was honored as Public Health Team Member of the Quarter by her peers; and

WHEREAS: Sylvia M. Deats has been extremely dedicated, loyal and professional in the performance of her duties and responsibilities during the past 17 years to the Public Health Department. She has earned the respect of her colleagues and peers throughout Tioga County; and

WHEREAS: Ms. Deats will retire on June 6, 2011; therefore be it

RESOLVED: That the Tioga County Legislature, on its own behalf, as well as on behalf of the citizens of Tioga County, express sincere gratitude to Sylvia M. Deats for her over 17 years of dedicated and loyal service to the residents of Tioga County; and be it further

RESOLVED: That this resolution be spread upon the minutes of this meeting and a certified copy be presented to this outstanding employee, Sylvia M. Deats.

ROLL CALL VOTE

Unanimously Yes – Legislators Quinlan, Roberts, Sauerbrey, Sullivan, Hollenbeck, Huttleston, McEwen, and Weston.

No – None.

Absent – Legislator Monell.

RESOLUTION ADOPTED UNANIMOUSLY.

Legislator Huttleston spoke. “Anyone that has been in business or anything, your secretary always knows everything because I know all the years that I have been in business and the different secretaries I had, I would have been lost without them because they always kept me straight. They knew where everything was. They knew what to do and also they knew home row on the typewriter. It is people like Sylvia that has made this County what it is and we certainly appreciate it. You have made Hans’ job easier, you have made Denis’ job easier, and I appreciate it. Lots of luck on your retirement.”

Denis McCann, Director of Administrative Services for Public Health, spoke. “One thing about Sylvia is she came every day and did her job no matter what the circumstances were, and there were a lot of circumstances over the years. In the old 231 building she worked underneath plastic with water dripping on her. One day we found her underneath the plastic doing her work. We had to tell her she did not have to do that anymore, but that was part of her dedication. Sylvia has had the opportunity to be honored and roasted at two different luncheons. It gives you an idea about the staff that works with her, two different groups. Sylvia is one of those unassuming quiet people that tend to not get noticed in the office typically, but Sylvia you will be remembered and missed.”

Sylvia Deats spoke. “I just want to thank you for this. I have enjoyed working here. I did not enjoy the roof collapsing. I kept telling Denis the roof is leaking. Would he believe me, no. You have to have tiles fall before Denis will believe you when you tell him the roof is leaking. Just warning you.”

The list of audited bills was submitted and is summarized as follows:

<u>Code</u>	<u>Description</u>	<u>Equipment</u>	<u>Expense</u>
A1010	Legislative Board		462.75
A1165	District Attorney		4,993.38
A1170	Public Defender		1,661.48
A1172	Assigned Counsel		25,850.98
A1185	Medical Examiners/Coroners		7,510.26
A1325	Treasurer	954.36	2,795.00
A1355	Assessments		2,337.00
A1410	County Clerk		779.63
A1411	Department of Motor Vehicles		60.00
A1420	Law		1,670.18
A1430	Personnel		1,695.10
A1450	Elections		1,837.96
A1460	Records Management		243.83
A1620	Buildings	218.94	41,116.56
A1621	Buildings		22,539.82
A1680	Information Technology		22,470.18
A2490	Community College Tuition		3,193.58
A2960	Education Handicapped Children		228,181.16
A3020	Public Safety Comm E911		3,670.47
A3110	Sheriff	683.95	19,971.78
A3116	Sheriff Grant S0-00176-(054)	2,997.50	
A3140	Probation		6,851.18
A3146	Sex Offender Program		8,766.67
A3150	Jail		50,118.74
A3315	Special Traffic Programs		1,600.00
A3410	Fire	1,360.80	2,221.47
A3640	Emergency Mgmt Office		660.53
A3990	Fire-SH08-1032-E00	19,658.00	
A4010	Public Health Nursing		33,146.51
A4011	Public Health Administration	196.00	24,819.44
A4042	Rabies Control		2,566.63
A4044	Early Intervention		28,257.79
A4053	Preventive/Primary Health Svcs		923.34
A4054	Preventive Dental Services	633.93	811.20
A4064	Managed Care-Dental Svcs		15,828.04
A4070	Disease Control		7,396.15
A4090	Environmental Health		1,392.36
A4210	Alcohol & Drug Services		12,411.32
A4211	Council on Alcoholism		9,923.66

A4309	Mental Hygiene Co Admin	11,874.28
A4310	Mental Health Clinic	64,293.35
A4315	Mental Retardation	1,235.65
A4320	Crisis Intervention Services	32,309.22
A4321	Intensive Case Management	2,673.97
A5630	Bus Operations	138.29
A6010	Social Services Administration	49,499.00
A6422	Economic Development	227.06
A6510	Veteran's Service	180.48
A6610	Sealer Weights/Measures	194.08
A8020	Planning	135.17
A9060	Health Insurance	1,596.82
SOLID WASTE FUND		159,360.77
COUNTY ROAD FUND		23,484.68
SPECIAL GRANT FUND		8,343.27
CONSOLIDATED HEALTH FUND		68,614.96
CAPITAL FUND		551,052.32
LIABILITY INSURANCE FUND		272.00
WORKERS' COMP		<u>2,600.00</u>
GRAND TOTAL		\$ 1,605,524.98

Legislator McEwen made a motion to approve the minutes of May 5, 10, & 26, 2011, seconded by Legislator Roberts, and carried.

Chair Weston made the following appointment to the Nonunion Salary Committee effective 6/14/2011

Secretary to Commissioner of Social Services

Committee meeting reports are on file in the Legislative Clerk's Office and may be procured there by any interested person.

Legislator McEwen introduced Local Law Introductory No. D of 2011

County of Tioga

Local Law No. of the Year 2011.

A Local Law providing for the collection of a hotel and motel tax in Tioga County.

Be It Enacted by the Legislature of the County of Tioga as follows:

SECTION 1: TITLE

This Local Law shall be known as the “Hotel/Motel Tax Law”.

SECTION 2: PURPOSE

The purpose of this Local Law is to enhance the general economy of Tioga County, its cities, towns, and villages through promotion of tourists, activities, conventions, trade shows, special events, and other directly related and supporting activities.

SECTION 3: DEFINITIONS

HOTEL - Any facility providing lodging on an over-night basis, and shall include those facilities designated and commonly known as “bed and breakfast” and “tourist” facilities.

MOTEL - Any facility providing lodging on an over-night basis, and shall include those facilities designated and commonly known as “bed and breakfast” and “tourist” facilities.

PERMANENT RESIDENT - A person occupying any room or rooms in a hotel or motel for at least fourteen (14) consecutive days.

SECTION 4: TAX

(A) A tax in the amount of four percent (4%) of the per diem rental rate for each room occupied, is hereby assessed on all hotels and motels in Tioga County, provided, however, that such tax shall not be applicable to a permanent resident of a hotel or motel.

(B) Said tax shall be paid by the person occupying the room who shall be liable therefore to the owner of the hotel or motel room occupied or to the person entitled to be paid the rent or charge for the hotel or motel room occupied. Said tax shall be paid for and on account of the County of Tioga.

(C) Such owner or person entitled to be paid the rent or charge shall be liable for the collection and payment of the tax. Such owner or person entitled to be paid the rent or charge shall have the same right in respect to collecting the tax from the person occupying the hotel or motel room, or in respect to non-payment of the tax by the person occupying the hotel or motel room, as if the tax were a part of the rent or charge; provided, however, that the Tioga County Treasurer shall be joined as a

part in any action or proceeding brought to collect the tax by the owner or by the person entitled to be paid the rent or charge.

(D) The filing of returns and the payment of the tax shall be paid to the Tioga County Treasurer on a quarterly basis by such means and in such manner as may be directed by the Tioga County Treasurer.

SECTION 5: PENALTY AND INTEREST

There shall be a penalty for failure to file said return and pay over the tax to the Tioga County Treasurer on the date due in the amount of ten (10%) per cent of the amount of the tax due plus interest at the rate of one percent (1%) of such tax for each month of delay, excepting the first month after such return was required to be filed or such tax became due.

SECTION 6: EXEMPTION

Such tax shall not be imposed on any transaction, by or with any of the following:

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

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

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

SECTION 7: JUDICIAL REVIEW

Any final determination of the amount of any tax payable hereunder shall be reviewable for error, illegality or unconstitutionality or any other reason whatsoever by a proceeding under article seventy-eight of the civil practice law and rules if application therefore is made to the supreme court within thirty days after the giving of the notice of such final

determination, provided, however, that any such proceeding under article seventy-eight of the civil practice law and rules shall not be instituted unless:

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

(B) At the option of the petitioner such undertaking may be in a sum sufficient to cover the taxes, interests and penalties stated in such determination plus the costs and charges which may accrue against it in the prosecution of the proceeding, in which event the petitioner shall not be required to pay such taxes, interest or penalties as a condition precedent to the application.

(C) Where any tax imposed hereunder shall have been erroneously, illegally or unconstitutionally collected and application for the refund thereof duly made to the Tioga County Treasurer, and he shall have made a determination denying such refund, such determination shall be reviewable by a proceeding under article seventy-eight of the civil practice law and rules, provided, however, that such proceeding is instituted within thirty days after the giving of the notice of such denial, that a final determination of tax due was not previously made, and that an undertaking is filed with the proper fiscal officer or officers in such amount and with such sureties as a justice of the supreme court shall approve to the effect that if such proceeding be dismissed or the tax confirmed, the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding.

SECTION 8: LIMITATION OF TIME

Except in the case of a willfully false or fraudulent return with intent to evade the tax, no assessment of additional tax shall be made after the expiration of more than three years from the date of the filing of a return, provided, however, that where no return has been filed as provided by law the tax may be assessed at any time.

SECTION 9: APPLICATION OF FUNDS

All revenues resulting from the imposition of the tax under this local law shall be paid into the treasury of Tioga County and shall be credited to and deposited in the general fund of the County, thereafter to be allocated at the discretion of the County Legislature of the County of Tioga for the purposes of tourism and economic development; provided, however, that the County shall be authorized to retain up to a maximum of five percent of such revenue to defer the necessary expenses of the County in administering such tax. The revenue derived from the tax, after deducting the amount provided for administering such tax, shall be allocated to enhance the general economy of Tioga County, its cities, towns, and villages, through promotion of tourist activities, conventions, trade shows, special events, and other directly related and supporting activities.

SECTION 10: EFFECTIVE DATE

This local law shall become effective December 1, 2011 and shall remain in effect until November 30, 2014.

SECTION 11: SEVERABILITY

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

Legislator Sullivan moved for the adoption of the following resolution, seconded by Legislator McEwen.

REFERRED TO: ED&P COMMITTEE

RESOLUTION NO. 129-11 *SCHEDULE PUBLIC HEARING
LOCAL LAW INTRODUCTORY
NO. D OF 2011*

RESOLVED: That a public hearing shall be held on Local Law Introductory No. D of 2011 A Local Law providing for the collection of a hotel and motel tax in Tioga County in the Edward D. Hubbard Auditorium of the Tioga County Office Building, 56 Main Street, Owego, New York 13827 on Thursday, July 7, 2011 at 1:00 P.M. All persons desiring to present written or oral comments may do so at said time.

ROLL CALL VOTE

Yes – Legislators Quinlan, Roberts, Sauerbrey, Sullivan, Hollenbeck, Huttleston, McEwen, and Weston.

No –None.

Absent –Legislator Monell.

RESOLUTION ADOPTED.

Legislator McEwen introduced Local Law Introductory No. E of 2011

County of Tioga

Local Law No. of the Year 2011.

A Local Law maintaining the current rate of taxes on sales and uses of tangible personal property and on 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.

Be It Enacted by the Legislature of the County of Tioga as follows:

SECTION 1:

The first sentence of Section Two of Local Law No. 1 for 1968, as amended, is hereby amended to read as follows:

SECTION 2:

Imposition of sales tax.

On and after September 1, 1984, there is hereby imposed and there shall be paid a tax of three percent upon, and for the period commencing December 1, 2011, and ending November 30, 2013 there is hereby imposed and there shall be paid an additional tax of one percent upon:

SECTION 2:

Section 2-A of Local Law No. 1 of 1968, as amended, is hereby amended to read as follows:

SECTION 2-a:

Tax rate on certain energy sources and related services. (a) Notwithstanding the rate of tax set forth in Section 2 of this Local Law, on and after March 1, 1994, and through November 30, 2013, the taxes imposed on the receipts from the retail sale of fuel oil and coal used for residential purposes; the receipts from the retail sale of wood used for residential heating purposes; and the receipts from every sale, other than for resale, of propane (except when sold in containers of less than one hundred pounds), natural gas, electricity, steam and gas, electric and steam services used for residential purposes shall be paid at the rate of three percent. The provisions of this subdivision shall not apply to a sale of (i) diesel motor fuel which involves a delivery at a filling station or into a repository which is equipped with a hose or other apparatus by which such fuel can be dispensed into the fuel tank of a motor vehicle and (ii) enhanced diesel motor fuel except in the case of a sale of such enhanced diesel motor fuel used exclusively for residential purposes which is delivered into a storage tank which is not equipped with a hose or other apparatus by which such fuel can be dispensed into the fuel tank of a motor vehicle and such storage tank is attached to the heating unit burning such fuel, provided that each delivery of such fuel of over four thousand five hundred gallons shall be evidenced by a certificate signed by the purchaser stating that the product will be used exclusively for residential purposes.

(b) Notwithstanding the rate of tax set forth in section 4 of this Local Law for the purposes of clause (A) of subdivision (a) thereof, on and after March 1, 1994, and through November 30, 2013, the compensating use tax imposed by such section on the use of fuel oil and coal used for residential purposes and wood used for residential heating purposes 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, plus the cost of transportation except where such cost is separately stated in the written contract, if any, and on the bill rendered to the purchaser. The provisions of this subdivision shall not apply to a use of (i) diesel motor fuel which involves a delivery at a filling station or into a repository which is equipped with a hose or other apparatus by which such fuel can be dispensed into the fuel tank of a motor vehicle and (ii) enhanced diesel motor fuel except in the case of a use of such enhanced diesel motor fuel used exclusively for residential purposes which is delivered into a storage tank which is not equipped with a

hose or other apparatus by which such fuel can be dispensed into the fuel tank of a motor vehicle and such storage tank is attached to the heating unit burning such fuel.

(c) The rate set forth in this section shall apply to receipts from all retail sales and uses described in this section made, rendered or arising therefrom on or after March 1, 1994, and before December 1, 2013, although made or rendered under a prior contract, if a delivery or transfer of possession of such property or services is made during said period. Where such property or service is sold on a monthly, quarterly or other term basis and the bills for such property or service are based on meter readings, the amount received on each bill for such property or service for a month or quarter or other term shall be a receipt subject to the rate of tax set forth in this section, but such rate shall be applicable to all bills based on meters read on or after March 1, 1994, and before December 1, 2013, only where more than one-half of the number of days included in the month or other periods billed are days subsequent to February 28, 1994, and before December 1, 2013.

(d) Where a residence is a part of a multiple dwelling or other premises consisting of residential and non-residential units, or where a portion of a residence is used for non-dwelling purposes including the conduct of a trade or business, the same rules or regulations shall be applicable that have been established by the Commissioner of Taxation and Finance in order to allocate to such residence the portion of the sale of energy sources or services attributable to the residential portion.

(e) If the Commissioner of Taxation and Finance has prescribed a certificate to be taken by the vender of the energy sources or services specified in subdivision (a) of this section from the purchaser of such energy sources or services, such certificate shall be applicable for the purposes of this section. Where a certificate is required, unless such vendor shall have received such certificate in such form as the Commissioner of Taxation and Finance may prescribe, signed by the purchaser and setting forth his name and address, together with such other information as such commissioner may require, stating that the premises, for which such energy sources or services are purchased, is used solely as a residence or

identifying the residential portion of premises, for which such energy sources or services are purchased including instances where a multiple dwelling unit or other premises consists of residential and non-residential units or where a portion of a residence is used for non-dwelling purposes, such as the conduct of a trade or business, the provisions of this section shall not apply and the tax shall be imposed at the rate provided for in sections 2 and 4 of this Local Law. No further certificate need be furnished for any subsequent purchase for such premises if the information set forth in the certificate last furnished the vendor has not materially changed, except that in the case of exempt purchases of enhanced diesel motor fuel in amounts of over forty-five hundred gallons, a separate certificate must be furnished for each purchase.

SECTION 3:

Section Three of Local Law No. 1 of 1968, as amended, is hereby amended by adding a new subdivision (h) to read as follows:

(h) With respect to the additional tax of one percent imposed for the period commencing December 1, 2011, and ending November 30, 2013, 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, 2011, all references in said subdivision (a) to the date four months prior to the effective date shall be read as referring to August 1, 2011, and the reference in subdivision (b) to the date immediately preceding the effective date shall be read as referring to November 30, 2013. Nothing herein shall be deemed to exempt from tax at the rate in effect prior to December 1, 2011, any transaction which may not be subject to the additional tax imposed effective on that date.

SECTION 4:

Section Four of Local Law No. 1 of 1968, as amended, is hereby 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, 2011, 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) of 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, 2011, and ending November 30, 2013, the tax shall be at the rate of four percent, and on and after December 1, 2013, 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, 2011, and ending November 30, 2013, the tax shall be at the rate of four percent, and on and after December 1, 2013, 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, 2011, and ending November 30, 2013, the tax shall be at the rate of four percent, and on and after December 1, 2013, 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 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, 2011, and ending November 30, 2013, the tax shall be at the rate of four percent, and on and after December 1, 2013, 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, 2011, and ending November 30, 2013, the tax shall be at the rate of four percent, and on and after December 1, 2013, 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 5:

Subdivision (1) of Section 11 of Local Law No. 1 of 1968, as amended, is hereby amended by adding a new paragraph (C) to read as follows:

(C) With respect to the additional tax of one percent imposed for the period beginning December 1, 2011, and ending November 30, 2013, in respect to the use of property used by the purchaser in this County prior to December 1, 2011.

SECTION 6:

Subdivision (c) of Section Fourteen of Local Law No. 1 of 1968, as amended, is hereby amended to read as follows:

(c) Notwithstanding any provision of this local law or other law to the contrary, one-half of the net collections received by the County from the additional one percent rate of sales and compensating use taxes imposed, respectively, by sections two and four of this local law for the period December 1, 2011, through November 30, 2013, shall be deposited in the general fund of the County and retained for County purposes, and one-half of such net collections shall be deposited by the County in a capital reserves fund. Disbursements from such capital reserves fund shall be made solely for the purposes of capital projects and repaying any debts incurred for such capital projects in the County.

SECTION 7:

This enactment shall take effect on December 1, 2011.

Legislator McEwen moved for the adoption of the following resolution, seconded by Legislator Hollenbeck.

REFERRED TO: FINANCE COMMITTEE

RESOLUTION NO. 130-11 *SCHEDULE PUBLIC HEARING
LOCAL LAW INTRODUCTORY
NO. E OF 2011*

RESOLVED: That a public hearing shall be held on Local Law Introductory No. E of 2011 A Local Law maintaining the current rate of taxes on sales and uses of tangible personal property and on 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 the Edward D. Hubbard Auditorium of the Tioga County Office Building, 56 Main Street, Owego, New York 13827 on Thursday, July 7, 2011 at 1:05 P.M. All persons desiring to present written or oral comments may do so at said time.

ROLL CALL VOTE

Yes – Legislators Quinlan, Roberts, Sauerbrey, Sullivan, Hollenbeck, Huttleston, McEwen, and Weston.

No –None.

Absent –Legislator Monell.

RESOLUTION ADOPTED.

Legislator McEwen moved for the adoption of the following resolution, seconded by Legislator Hollenbeck.

REFERRED TO: FINANCE COMMITTEE

RESOLUTION NO. 131-11 *ERRONEOUS ASSESSMENT*
TOWN OF BARTON

WHEREAS: A Supreme Court Order has reduced the assessments for property no. 1878 and property no. 1879 assessed to American Tower Corp in the 2011 tax roll of the Town of Barton; and

WHEREAS: The taxable value of both property no. 1878 and no. 1879 has been reduced from \$400,000 to \$250,000 for 2011 tax purposes; and

WHEREAS: Property no. 1878 is in roll section 6, Special Franchise, and was paid to the County Treasurer on 5/13/11, and property no. 1879 is roll section 1 and was paid to the Town of Barton tax collector on 2/28/11; be it therefore

RESOLVED: That the County Treasurer's office issue a refund of \$3,362.32 for overpayment of the 2011 taxes on properties no. 1878 and 1879, and the refund be issued to the Office of Patrick J. Raymond, as attorney for American Tower Corporation; and be it further

RESOLVED: That the erroneous town tax of \$582.16 be charged back to the Town of Barton, and the erroneous fire tax of \$268.56 be charged back to the Barton Fire District; and be it further

RESOLVED: That the erroneous solid waste tax of \$100.80 be charged back to the Solid Waste Fund; and be it further

RESOLVED: That the erroneous county tax of \$2,410.80 be charged to the proper account in the records of the County Treasurer

ROLL CALL VOTE

Yes – Legislators Quinlan, Roberts, Sauerbrey, Sullivan, Hollenbeck, Huttleston, McEwen, and Weston.

No –None.

Absent –Legislator Monell.

RESOLUTION ADOPTED.

Legislator Huttleston moved for the adoption of the following resolution, seconded by Legislator Hollenbeck.

REFERRED TO: HEALTH & HUMAN SERVICES COMMITTEE
FINANCE COMMITTEE

RESOLUTION NO. 132-11 APPROPRIATION OF FUNDS
DEPARTMENT OF SOCIAL SERVICES

WHEREAS: Tioga County has been allocated \$36,873 in Summer Youth Employment funding; and

WHEREAS: Broome-Tioga BOCES has agreed to administer the program; and

WHEREAS: The program will allow thirty-one (31) TANF-eligible youth in Tioga County to obtain employment from July 12, 2011 through August 19, 2011; therefore be it

RESOLVED: That Tioga County accepts and allocates \$36,873 for the Summer Youth Employment program in Tioga County as follows:

From: A4610.00 Federal Aid: Administration	\$36,873
To: A6010.40.140 Contracting Services	\$36,873

ROLL CALL VOTE

Yes – Legislators Quinlan, Roberts, Sauerbrey, Sullivan, Hollenbeck, Huttleston, McEwen, and Weston.

No –None.

Absent –Legislator Monell.

RESOLUTION ADOPTED.

Legislator Sullivan moved for the adoption of the following resolution, seconded by Legislator McEwen.

REFERRED TO: INFORMATION TECHNOLOGY COMMITTEE
FINANCE COMMITTEE

RESOLUTION NO. 133-11 *ENCUMBER FUNDS FROM*
STATE AID – RECORDS
MANAGEMENT #0580-11-0856

WHEREAS: Records Management was awarded a Local Government Records Management Improvement Fund Grant (Project # 0580-11-0856) in the amount of \$10,694; and

WHEREAS: This funding was appropriated in 2010 and unspent funds remain which need to be re-appropriated in 2011; therefore be it

RESOLVED: That the remaining funds in the Local Government Records Management Improvement Fund Grant (Project #0580-11-0856) be re-appropriated in 2011 as follows:

From:	State Aid-Records Management #0580-11-0856 A3060	\$5,347.00
To:	Records Management-Contracting Services A1460.41.140	\$5,347.00

ROLL CALL VOTE

Yes – Legislators Quinlan, Roberts, Sauerbrey, Sullivan, Hollenbeck, Huttleston, McEwen, and Weston.

No –None.

Absent –Legislator Monell.

RESOLUTION ADOPTED.

Legislator Hollenbeck moved for the adoption of the following resolution, seconded by Legislator Sullivan.

REFERRED TO: PERSONNEL COMMITTEE
FINANCE COMMITTEE

RESOLUTION NO. 134-11 TRANSFER OF FUNDS
WORKERS' COMPENSATION

WHEREAS: The Tioga County Self-Insurance Plan has received notification from Safety National that an audit of the payroll figures for the period of January 1, 2010 through January 1, 2011 submitted for our workers' compensation Specific Excess Insurance has resulted in additional premium due in the amount of \$1,249.00; therefore be it

RESOLVED: That the following sums be transferred:

From: Workers' Compensation Account S1720.40 (101)	\$1,249.00
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To: Workers' Compensation Account S1722.40 (270)	\$1,249.00
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ROLL CALL VOTE

Yes – Legislators Quinlan, Roberts, Sauerbrey, Sullivan, Hollenbeck, Huttleston, McEwen, and Weston.

No –None.

Absent –Legislator Monell.

RESOLUTION ADOPTED.

Legislator Huttleston moved for the adoption of the following resolution, seconded by Legislator Hollenbeck.

REFERRED TO: HEALTH & HUMAN SERVICES COMMITTEE

RESOLUTION NO. 135-11 APPROVE FUNDING
2011 YOUTH BUREAU PROGRAMS REVISED

WHEREAS: The Tioga County Legislature approves Youth Bureau program funding, which is 100% reimbursable from the New York State Office of Children and Family Services; and

WHEREAS: Resolution No. 253-10 (adopted 12/14/2010) approved 2011 Youth Bureau program funding; and

WHEREAS: The State has now reduced 2011 Youth Bureau funding allocations; and

WHEREAS: The Tioga County Youth Board has again reviewed 2011 program applications for funding, which are consistent with guidelines previously presented to the Legislative Committee and contacted programs regarding funding reductions; now therefore be it

RESOLVED: That the following programs recommended by the Tioga County Youth Board for program year 2011 be approved by the Tioga County Legislature in the reduced amounts indicated:

Youth Development and Delinquency Prevention Programs

	<u>New Amt.</u>	<u>Cut</u>
Cooperative Extension Family Resource Centers	\$10,969	(\$5,286)
Tioga County Council on Alcohol & Substance Abuse	\$ 4,347	(\$2,095)
Cooperative Extension Waverly Youth Café	\$ 3,066	(\$1,477)
Camp Ahwaga	\$ 2,205	(\$1,063)
Spencer Van Etten Building Foundations	\$ 1,484	(\$ 715)

Special Delinquency Prevention Programs

Big Brothers Big Sisters of Bradford County, Inc.	\$ 6,172	(\$2,962)
A New Hope Center	\$ 5,688	(\$2,744)
Cooperative Extension Family Resource Centers	\$ 1,625	(\$ 784)
TOTAL	\$35,556	(\$17,126)

ROLL CALL VOTE

Yes – Legislators Quinlan, Roberts, Sauerbrey, Sullivan, Hollenbeck, Huttleston, McEwen, and Weston.

No –None.

Absent –Legislator Monell.

RESOLUTION ADOPTED.

Legislator Roberts moved for the adoption of the following resolution, seconded by Legislator Sauerbrey.

REFERRED TO:

PUBLIC WORKS

RESOLUTION NO. 136-11

*AWARD CONSTRUCTION BID FOR
REHABILITATION OF HALSEY VALLEY
ROAD OVER PIPE CREEK PROJECT TO
FRAMPTON CONSTRUCTION*

WHEREAS: Tioga County has received a bond issue for the Capital Projects; and

WHEREAS: June 1, 2011 sealed bids were opened for the Rehabilitation of Halsey Valley Road Bridge over Pipe Creek in the Town of Tioga; and

WHEREAS: The bid results were as follows:

1. Frampton Construction	Pine City, NY	\$545,000.00
2. Vector Construction Corp.	Cicero, NY	\$557,206.00
3. Economy Paving Co., Inc.	Cortland, NY	\$562,857.05
4. R. DeVincentis Construction Inc.	Binghamton, NY	\$710,000.00

AND

WHEREAS: McFarland and Johnson Engineers, Binghamton, NY has reviewed the bid proposals and recommends awarding the project to the low bidder Frampton Construction, Pine City, NY, which satisfies the requirements for qualifications; therefore be it

RESOLVED: That the Tioga County Legislature award the bid for the Halsey Valley Road Bridge (BIN 3334970) over Pipe Creek in the Town of Tioga to Frampton Construction, Pine City, NY not to exceed \$545,000.00 to be paid out of the Halsey Valley Road Bridge Account H2010.10.

ROLL CALL VOTE

Yes – Legislators Quinlan, Roberts, Sauerbrey, Sullivan, Hollenbeck, Huttleston, McEwen, and Weston.

No –None.

Absent –Legislator Monell.

RESOLUTION ADOPTED.

Legislator Roberts moved for the adoption of the following resolution, seconded by Legislator Sauerbrey.

REFERRED TO: PUBLIC WORKS

RESOLUTION NO. 137-11 *APPROVE ADDITIONAL INSPECTION
SERVICES TO C & S COMPANIES FOR
THE COURT HOUSE EXTERIOR FAÇADE
PROJECT*

WHEREAS: Tioga County awarded the construction contract for the Court House Façade project on May 26, 2011; and

WHEREAS: The Tioga County Legislature requested increased construction phase site presence for this project; therefore be it

RESOLVED: That the Tioga County Legislature approve additional inspection services to be provided by C & S Companies not to exceed \$16,000 to be paid out of the Buildings Capital Construction Account H1620.20 use code 927.

ROLL CALL VOTE

Yes – Legislators Quinlan, Roberts, Sauerbrey, Sullivan, Hollenbeck, Huttleston, McEwen, and Weston.

No –None.

Absent –Legislator Monell.

RESOLUTION ADOPTED.

Legislator Hollenbeck moved for the adoption of the following resolution, seconded by Legislator Sullivan.

REFERRED TO: PERSONNEL COMMITTEE

RESOLUTION NO. 138–11 *AUTHORIZE CONTRACT WITH EBS-RMSCO, INC – MEDICARE PART D DRUG COVERAGE*

WHEREAS: Medicare-eligible beneficiaries may purchase prescription drug coverage through a Medicare Part D Plan; and

WHEREAS: An employer who provides prescription drug coverage to Medicare eligible employees, retirees, and/or their spouses must disclose to them whether or not the benefit provided is “at least as good” as the Medicare coverage, referred to as creditable coverage notice; and

WHEREAS: Plan sponsors who offer postretirement drug coverage to their qualified covered retirees may be eligible to receive a 28% tax-free subsidy of allowable drug costs for those retirees who do not elect to receive prescription benefits under a Medicare Part D Plan; and

WHEREAS: It is necessary to complete an actuarial attestation to determine that the participants in the Tioga County Consolidated Municipal Health Insurance Program (TCCMHIP) provide drug coverage which meets the actuarial equivalence test in order to determine if the retiree prescription coverage is “at least as good” as the Medicare coverage and to determine if the TCCMHIP participants are eligible to apply for the subsidy for the 2012 Plan Year, January 1, 2012 through December 31, 2012; and

WHEREAS: Creditable coverage notices must be provided to all Part D eligible participants no later than November 15, 2011 and the deadline to file for the 2012 Plan Year subsidy is October 3, 2011; and

WHEREAS: EBS-RMSCO, Inc. has performed this actuarial attestation each year since 2005 and is available to perform the actuarial attestation and necessary testing again in 2011 for the 2012 Plan Year; therefore be it

RESOLVED: That the Tioga County Legislature authorizes the Chair of the Legislature to sign a contract with EBS-RMSCO, Inc., subject to review by the County Attorney, to provide the necessary actuarial services for creditable coverage and the 28% tax-free subsidy related to Medicare Part D for the 2012 Plan Year at a cost of \$4,100 to be paid for out of the TCCMHIP Fund.

ROLL CALL VOTE

Yes – Legislators Quinlan, Roberts, Sauerbrey, Sullivan, Hollenbeck, Huttleston, McEwen, and Weston.

No –None.

Absent –Legislator Monell.

RESOLUTION ADOPTED.

Legislator Huttleston moved for the adoption of the following resolution, seconded by Legislator Hollenbeck.

REFERRED TO: HEALTH & HUMAN SERVICES COMMITTEE
PERSONNEL COMMITTEE

RESOLUTION NO. 139-11 *AUTHORIZE EXTENSION OF MEDICAL LEAVE
LESLIE GREESON
SOCIAL SERVICES*

WHEREAS: Leslie Greeson, Social Welfare Examiner, went out on medical leave on November 22, 2010, and

WHEREAS: Ms. Greeson continued and exhausted her Family Medical Leave January 1, 2011 through March 28, 2011, and

WHEREAS: In accordance with Tioga County Policy 1, Section VI, Ms. Greeson appropriately petitioned the Commissioner of Social Services for a 60-day extension of her medical leave, which was approved from March 29, 2011 through June 17, 2011; and

WHEREAS: Ms. Greeson has not yet been medically released to return to work and awaits re-evaluation by her physician for serious health issues; and

WHEREAS: In accordance with Tioga County Policy 1, Section VII, the Commissioner of Social Services recommends that Ms. Greeson's leave be approved through September 13, 2011; therefore be it

RESOLVED: That the Tioga County Legislature hereby approves Leslie Greeson's leave through September 13, 2011; and be it further

RESOLVED: That in the event Ms. Greeson is released to full duty prior to September 13, 2011, she be allowed to return to work at that time.

ROLL CALL VOTE

Yes – Legislators Quinlan, Roberts, Sauerbrey, Sullivan, Hollenbeck, Huttleston, McEwen, and Weston.

No –None.

Absent –Legislator Monell.

RESOLUTION ADOPTED.

Legislator Hollenbeck moved for the adoption of the following resolution, seconded by Legislator Sullivan.

REFERRED TO: PERSONNEL COMMITTEE

RESOLUTION NO. 140-11 *AUTHORIZE SALARY: SECRETARY TO
PERSONNEL OFFICER
PERSONNEL DEPARTMENT*

WHEREAS: The position of Secretary to the Personnel Officer has been vacant since January 1, 2011; and

WHEREAS: Having satisfied the 90-day Hiring Delay, the Personnel Officer was granted approval by the Legislature at the April 7, 2011 work session to begin interviewing when the civil service exam results became available; and

WHEREAS: The Personnel Officer has interviewed the top three interested candidates on the civil service eligible list and has identified the candidate whom she wishes to hire; therefore be it

RESOLVED: That the Legislature authorizes the Personnel Officer to fill the Secretary to the Personnel Officer position at an annual salary of \$27,000, effective on or after June 20, 2011.

ROLL CALL VOTE

Yes – Legislators Quinlan, Roberts, Sauerbrey, Sullivan, Hollenbeck, Huttleston, McEwen, and Weston.

No –None.

Absent –Legislator Monell.

RESOLUTION ADOPTED.

Legislator Huttleston moved for the adoption of the following resolution, seconded by Legislator Hollenbeck.

REFERRED TO: HEALTH & HUMAN SERVICES COMMITTEE
PERSONNEL COMMITTEE

RESOLUTION NO. 141-11 WAIVER OF 90-DAY HIRING DELAY
SOCIAL SERVICES

WHEREAS: WHEREAS there is a vacancy in the title of Senior Account Clerk Typist as a result of the previous incumbent transferring to the Public Health Department, and

WHEREAS: The Health & Human Services Committee is supportive of waiving the 90-day hiring delay in this case in light of the fact the County has realized the 90-day savings based on the fact Public Health waited 90-days to fill their vacancy; therefore be it

RESOLVED: That the Commissioner of Social Services is granted a waiver of the 90-day delay in filling the Senior Account Clerk Typist position.

ROLL CALL VOTE

Yes – Legislators Quinlan, Roberts, Sauerbrey, Sullivan, Hollenbeck, Huttleston, McEwen, and Weston.

No –None.

Absent –Legislator Monell.

RESOLUTION ADOPTED.

Legislator McEwen made a motion to have the following late-filed resolutions considered, seconded by Legislator Sauerbrey and carried.

Legislator Roberts moved for the adoption of the following resolution, seconded by Legislator Huttleston.

REFERRED TO: PUBLIC WORKS COMMITTEE

RESOLUTION NO. 142-10 *RECYCLING COLLECTION SERVICES*

WHEREAS: The contract for Recycling Collection Services with Taylor Garbage Services, Inc. expires at the end of December 2011; and

WHEREAS: The department of Solid Waste held a bid opening on May 20, 2011

WHEREAS: The bid results were as follows:

<u>Bidder Name</u>	<u>Weekly Pickup</u>	<u>Bi-weekly Pickup</u>
Taylor Garbage Services	\$ 4.32	No Bid
Broome Recycling Co. Inc.	\$ 6.51	No Bid

Prices are per household per month.

Therefore be it

RESOLVED: That the Tioga County Legislature award the Recycling Collection Services bid to the low bidder Taylor Garbage Services, Inc. with the contract date effective January 1, 2012; and be it further

RESOLVED: That the contract be for an initial 3 years with two 3 year extensions with an increase based upon the Consumer Price Index.

ROLL CALL VOTE

Yes – Legislators Quinlan, Roberts, Sauerbrey, Sullivan, Hollenbeck, Huttleston, McEwen, and Weston.

No –None.

Absent –Legislator Monell.

RESOLUTION ADOPTED.

Legislator Huttleston moved for the adoption of the following resolution, seconded by Legislator Hollenbeck.

REFERRED TO: HEALTH & HUMAN SERVICES COMMITTEE
 PERSONNEL COMMITTEE

RESOLUTION NO. 143-11 *AUTHORIZATION TO RECLASSIFY VACANT SENIOR
ACCOUNT CLERK TYPIST POSITION TO ACCOUNT
CLERK TYPIST; WAIVER OF 90 DAY DELAY AND
FILL;
HEALTH DEPARTMENT*

WHEREAS: Legislative approval is required for the reclassifying of any position within Tioga County; and

WHEREAS: Legislative approval is required for Waivers to the 90 day delay in backfilling vacant positions; and

WHEREAS: The Tioga County Health Department (TCHD) has a vacant Senior Account Clerk Typist position (CSEA Grade V) since 5/18/11 due to retirement of long term employee, Sally Fielder; and

WHEREAS: TCHD has determined after review of the tasks and processes that the position could be reclassified to that of Account Clerk Typist (CSEA Grade IV); and

WHEREAS: TCHD requests a waiver of the 90 day delay to be a 60 day delay prior to filling the position; therefore be it

RESOLVED: That the Tioga County Legislature authorizes TCHD to reclassify one vacant Senior Account Clerk Typist position (CSEA Salary Grade V) to that of one Account Clerk Typist (CSEA Salary Grade IV) effective June 15, 2011; and be it further

RESOLVED: That TCHD is granted a waiver from the 90 day hiring delay to be a 60 day delay and be allowed to fill the reclassified Account Clerk Typist position effective July 18, 2011.

ROLL CALL VOTE

Yes – Legislators Quinlan, Roberts, Sauerbrey, Sullivan, Hollenbeck, Huttleston, McEwen, and Weston.

No –None.

Absent –Legislator Monell.

RESOLUTION ADOPTED.

Legislator McEwen moved for the adoption of the following resolution, seconded by Legislator Sauerbrey.

REFERRED TO: FINANCE COMMITTEE

RESOLUTION NO. 144-11 *AUTHORIZE SALARY FOR CHIEF
ACCOUNTANT AND AUTHORIZE
APPOINTMENT OF BUDGET OFFICER
(TREASURER'S OFFICE AND LEGISLATIVE
OFFICE)*

WHEREAS: The full-time position of Chief Accountant was created by resolution #96-11 and the part-time position of Budget Officer was created by resolution #275-10; and

WHEREAS: Both positions were duly posted and advertised, then an Interview Committee appointed by the Legislature conducted interviews of select candidates; and

WHEREAS: The County Treasurer and Legislature worked collaboratively in hopes of finding one candidate capable of performing the full spectrum of duties; and

WHEREAS: The County Treasurer has selected an individual for the Chief Accountant position, and the Interview Committee recommends the same individual for the Budget Officer position; therefore be it

RESOLVED: That the County Treasurer is hereby authorized to offer the annual salary of \$51,850 to the Chief Accountant to begin working on June 20, 2011; and be it further

RESOLVED: That Charles (Chuck) Shager is hereby appointed by the Legislature to the part-time position of Budget Officer effective June 20, 2011 at an annual salary of \$15,000; and be it further

RESOLVED: That Mr. Shager is required to become a Tioga County resident within one year of his appointment, or he shall be removed from these positions.

ROLL CALL VOTE

Yes – Legislators Quinlan, Roberts, Sauerbrey, Sullivan, Hollenbeck, Huttleston, McEwen, and Weston.

No –None.

Absent –Legislator Monell.

RESOLUTION ADOPTED.

The meeting was adjourned at 6:21 P.M.