

THIRD REGULAR SESSION

Johnstown, NY

March 13, 2017

Roll Call – Quorum Present

Supervisors: Argotsinger, Blackmon, Born, Bradt, Breh, Callery, Christopher, Fagan, Greene, Groff, Handy, Howard, Kinowski, Lauria, Morris, Potter, Rice, Wilson, Young

TOTAL: Present: 19 Absent: 1 (Supervisor Waldron)

Chairman Kinowski called the meeting to order at 1:00 p.m. Following the Pledge of Allegiance to the Flag, Chairman Kinowski asked if there was anyone from the public who wished to address the Board. No one from the public came forward and Chairman Kinowski then asked for the reading of the list of reports that were on the Agenda.

REPORTS

- A. 2016 Annual Report, Fulton County Industrial Development Agency.
- B. 2015-2016 Audited Financial Statements, Fulton-Montgomery Community College.
- C. 2016 Annual Report, Fulton County Real Property Tax Services Agency.

UPDATES FROM STANDING COMMITTEES

(No report updates.)

REPORTS OF SPECIAL COMMITTEES

Inter-County Legislative Committee of the Adirondacks: Supervisor Young advised that the meeting was held on February 23 in Washington County. He further advised that the group had a tour of Washington County, and met in the Greenwich Town Hall, including, an update from NYSAC. The group finished with a tour of Phantom Labs in Greenwich, NY and had lunch at Anvil Inn in Fort Edward.

Soil and Water Conservation District: Supervisor Blackmon advised that a special meeting was held and two (2) people were interviewed for the “bookkeeping job”. Soil and Water did hire someone for the position.

CHAIRMAN’S REPORT

(No report updates.)

RESOLUTIONS (TITLES ATTACHED)

No. 109 (Resolution Authorizing the Purchase of a Roll Off Truck for Use in the Solid Waste Department and Deleting a Garage Waste Heat Project (2017 Capital Plan): Supervisor Callery advised that there was a \$3,000.00 difference in the amount listed to purchase the Roll

Off Truck. Mr. Stead, Administrative Officer, explained that there were funds in the same account that were leftover after purchase of another item earlier in the year.

No. 120 (Resolution Opposing Proposed Legislation to Raise the Age of Criminal Responsibility in New York State): Supervisor Young advised that raising the age of criminal responsibility would overburden the Family Court and Probation Departments, although some youth may turn their lives around under such a proposal. Fulton County should join with the other 48 states because this mandate should not be “put on the backs of taxpayers, which are already too thin”.

Supervisor Lauria commented that he too is against the mandate because Fulton County will have to fund this new mandate. He further commented that two-thirds of youth do not complete their education and a burden is put on other parts of the system such as Family Court and Probation. The State keeps putting mandates on counties and if the State is going to mandate this, it should come up with the funding.

Supervisor Greene advised that he was against this mandate as well. He further advised that he does not know how many states have “Youthful Offender” status like New York does. Having Youthful Offender designations can help address this age group. The County will ultimately be responsible for the program.

Supervisor Fagan advised that the Sheriff, Public Defender, District Attorney and others had a meeting and are all in support of opposing this new mandate, if unfunded.

Chairman Kinowski called for a five minute recess at 1:19 p.m.

Chairman Kinowski called the meeting back to order at 1:25 p.m.

Chairman Kinowski opened the Public Hearing to receive comments regarding proposed Local Law “A-1” of 2017, entitled, “A Local Law to Establish an Occupancy Tax in Fulton County” at 1:27 p.m.

Patricia Isabella, Fulton County: Ms. Isabella advised that she operates the “Old Jammer” in Caroga Lake and has many tourists that visit. She commented that the “bed tax” is unnecessary and Fulton County should not institute one just because “everyone else is doing it”. She further advised that Saratoga only has a one percent Occupancy Tax, although in the City of Saratoga Springs it is more. She asked that the Board look at tourism dollars being spent in Fulton County. She said it is difficult for tourists to visit Fulton County if the County adds another tax. She finished by asking the Board to reconsider the Occupancy Tax Resolution.

Dave Hockey, owner of Southern Adirondack Pines Campground: Mr. Hockey advised that he served on the Board of the Chamber of Commerce in the past and he is not opposed to the Occupancy Tax, but is concerned about it being at 4 percent. He further advised that it should start at 2 percent, which would make Fulton County more competitive. He also suggested that the County issue an Annual Report of how the Occupancy Tax money is spent and this would help keep the public informed.

Lee Hollenbeck, 731 County Highway 126: Mr. Hollenbeck explained that he is a farmer that sells a lot of hay in the summer and he cuts his own wood to heat his home in the winter. He said that he is 70 years old and is in support of the “bed tax”. He advised that the County only has two choices to raise money to cover all the state mandates: either raise sales tax or raise property taxes. He advised that not many people who live in Fulton County spend many nights at hotels, so the Occupancy Tax would not impact local residents much.

John Peck, 122 Hemlock Drive, Gloversville (Pecks Lake): Mr. Peck advised that while sitting in the back of the room today, he saw the Fulton County NY POSITIVE Sign and explained that the County is not being “positive” by instituting an Occupancy Tax. He further advised that Fulton County now has an advantage over other counties because the County does not have an Occupancy Tax. Business owners have enough reporting requirements already and do not need to have something else to keep track of. The sales tax reporting requirement and the Occupancy Tax requirement should have the same schedule. He also referenced Section 13 of the proposed Local Law A-1 that references a bond that could be imposed by the County Treasurer upon hospitality owners. He asked if this was really true. He also asked how the Occupancy Tax is going to be enforced with people who rent their private homes. He thanked the Board for listening.

Albert Peck, owner of Pecks Lake Resort Marina and Campground: Mr. Peck contended that the Board’s proposal will drive tourism out of Fulton County and that tourism is a major industry for the County. People will vacation in other counties if the tax is enacted. Saratoga County only has a 1 percent Occupancy Tax. He advised that a fairer solution would be to raise the sales tax by ½ percent because everyone would have to pay it. He asked that the Board consider what he is asking and do something different or reduce the suggested 4 percent Occupancy Tax rate.

Chairman Kinowski asked if there were any additional speakers regarding proposed Local Law “A-1”. There being no public speakers who wished to address the Board, Chairman Kinowski announced that he would also keep that public hearing open for a portion of the Board Meeting.

Chairman Kinowski then opened the Public Hearing to receive comments regarding the Eight-Year Review of the Existing Boundaries of Fulton County Agricultural District No. 1 at 1:45 p.m. There being no public speakers who wished to address the Board, Chairman Kinowski announced that he would keep the public hearing open for a portion of the Board Meeting.

Chairman Kinowski then moved the meeting forward to the remainder of the proposed Resolutions on the Agenda.

No. 129 (Resolution Requiring a PILOT Agreement for the Onyx Solar Array Farm (Parcel 138.4-1-5) in the Town of Broadalbin): Supervisor Young commented that one of the targeted industries the County is trying to attract to the Tryon Technology Park is “renewable energy” companies. He further commented that when a company decides to locate to Fulton County with a solar farm, the County will “hit them” with a tax.

Mr. Stead explained that this particular solar array project would be providing discounted energy to General Electric Corporation. Many of the upcoming solar projects will sell discounted

energy to large corporations that are outside our community. It does not provide discounted electricity to local businesses or residents.

Supervisor Fagan advised without the PILOT, such solar arrays would be exempt for 15 years and the company would not be paying taxes.

Supervisor Born cautioned that the County has to be careful in the future about what solar panel projects are approved, especially in the Hales Mills or other developable areas.

Chairman Kinowski again asked if there were any members of the public who wished to make comments regarding the Public Hearing to receive comments on proposed Local Law "A-1" of 2017, entitled, "A Local Law to Establish an Occupancy Tax in Fulton County". There being no additional interested speakers, Chairman Kinowski closed the Public Hearing at 1:55 p.m.

No. 130 (Resolution Adopting Proposed Local Law "A-1" of 2017 "A Local Law to Establish an Occupancy Tax in Fulton County": Supervisor Blackmon advised that Saratoga County does have an Occupancy Tax of 1 percent and it raises about \$900,000.00 per year. Fulton County's Occupancy Tax will likely raise between \$120,000.00 to \$150,000.00 per year. There is a "difference in economics" between the two counties.

Supervisor Lauria commented that Schenectady County is considering raising its raise its Occupancy Tax from 4 to 5 percent. The State keeps putting more mandates on counties and it is a Supervisor's job to find ways like this to pay for the mandates without raising property taxes.

Supervisor Groff advised that the County does not do enough for tourism now, so perhaps this will help.

Supervisor Handy commented that the County should do more to clean up the "eyesores" in the County.

Supervisor Greene advised that he was in favor of the Occupancy Tax, but hoped that the money collected did go for tourism promotion. Mr. Stead explained that the state law that authorized the Occupancy Tax requires that the tax money collected be segregated and used for tourism promotion and/or economic development.

Chairman Kinowski then opened the Public Hearing to receive comments regarding proposed Local Law "B" of 2017 to Transfer Certain Property to the Fulmont College Association for the Development of Student Housing at 2:00 p.m.

Mr. Stead suggested that Dr. Swanger, FMCC College President, be asked to provide a brief explanation on proposed Local Law "B" to Transfer Certain Property to the Fulmont College Association. Dr. Swanger explained that the plot of land consists of eight (8) acres. The land is going to be developed for future student housing. It is part of the Vision Plan for the Global Village which will be constructed eventually "across the street". If the Fulton County Board of Supervisors approve it, the Montgomery County Legislature would have to approve as well as SUNY.

Chairman Kinowski asked if there was anyone who would like to make a comment regarding proposed Local Law “B” of 2017. Seeing no one, Chairman Kinowski announced that he would keep that public hearing open for a portion of the Board Meeting.

Chairman Kinowski called for a five minute recess at 2:06 p.m.

Chairman Kinowski called the meeting back to order at 2:15 p.m.

Chairman Kinowski then opened the Public Hearing to receive comments regarding the Draft, Map, Plan and Report for Proposed Fulton County Water District No. 2 at 2:15 p.m. There being no public speakers who wished to address the Board, Chairman Kinowski announced that he would keep the public hearing open for a portion of the Board Meeting.

At 2:16 p.m., Chairman Kinowski again asked if there were any members of the public who wished to make comments regarding the Public Hearing to receive comments on proposed Local Law “B” of 2017 to Transfer Certain Property to the Fulmont College Association for the Development of Student Housing. There being no interested speakers, Chairman Kinowski closed the Public Hearing at 2:17 p.m.

Chairman Kinowski then again asked if there were any members of the public who wished to make comments regarding the Public Hearing to receive comments on the Eight-Year Review of the Existing Boundaries of Fulton Agricultural District No. 1. There being no interested speakers, Chairman Kinowski also closed that Public Hearing at 2:18 p.m.

PROCLAMATION

DECLARING WEEK OF APRIL 2-8, 2017 “CRIME VICTIMS’ RIGHTS WEEK IN FULTON COUNTY”

WHEREAS, Americans are the victims of more than 20 million crimes each year, affecting individuals and communities; and

WHEREAS, providing victims with knowledge of their rights and available services further strengthens their ability to recover by restoring a sense of self-empowerment; and

WHEREAS, a trauma-informed response to victims promotes healing and fosters strength in survivors; and

WHEREAS, victims who feel understood and supported are more likely to disclose their victimization, seek services, and participate in the justice process; and

WHEREAS, Crime Victims’ Rights Week provides an opportunity to recommit to ensuring that all victims of crime, especially those who are challenging to reach or serve, are afforded their rights; and

WHEREAS, Fulton County officials partner with victim service programs, criminal justice agencies, and concerned citizens throughout Fulton County and America to raise awareness of victims' rights; now, therefore be it

RESOLVED, That the Fulton County Board of Supervisors hereby proclaims April 2-8, 2017, as "CRIME VICTIMS' RIGHTS WEEK IN FULTON COUNTY".

Chairman Kinowski then asked if there were any members of the public who wished to make comments regarding the Public Hearing to receive comments on the Draft, Map, Plan and Report for Proposed Fulton County Water District No. 2. There being no interested speakers, Chairman Kinowski also closed that Public Hearing at 2:19 p.m.

Upon a motion by Supervisor Callery, seconded by Supervisor Lauria and unanimously carried, the Board adjourned at 2:20 p.m.

Certified by:

Jon R. Stead, Administrative Officer/ DATE
Clerk of the Board

Resolution No. 98

Supervisors BRADT AND ARGOTSINGER offered the following Resolution and moved its adoption:

RESOLUTION AUTHORIZING A CONTRACT WITH BELL ENGINEERING FOR DESIGN SERVICES FOR THE BARLOW ROAD BRIDGE REPLACEMENT PROJECT

WHEREAS, a New York State Department of Transportation inspection flagged the Barlow Road Bridge over the Holmes Lake Outlet with a Yellow Structural Flag indicating a need for certain repairs; and

WHEREAS, the Superintendent of Highways and Facilities recommends hiring Bell Engineering for design services for superstructure replacement on said bridge; now, therefore be it

RESOLVED, That the Chairman of the Board be and hereby is authorized to sign a contract between Fulton County and Bell Engineering of Albany, New York, to provide engineering design services for superstructure replacement of Barlow Road Bridge over Holmes Lake Outlet, in an amount not to exceed \$10,000.00; and, be it further

RESOLVED, That said contract is subject to the approval of the County Attorney; and, be it further

RESOLVED, That the County Treasurer be and hereby is directed to make the following transfer:

From: D.5010.5110-4620 EXP – Cement-Concrete-Etc.
To: D.5010.5120-4090 EXP – Professional Services
Sum: \$10,000.00

and, be it further

RESOLVED, that certified copies of this Resolution be forwarded to the County Treasurer, Superintendent of Highways & Facilities, Bell Engineering, Budget Director/County Auditor, and Administrative Officer/Clerk of the Board.

Seconded by Supervisor HOWARD and adopted by the following vote:

TOTAL: Ayes: 19 Nays: 0 Absent: 1 (Supervisor Waldron)

Resolution No. 99

Supervisors BRADT AND ARGOTSINGER offered the following Resolution and moved its adoption:

RESOLUTION AUTHORIZING A UTILITY ENERGY SERVICE CONTRACT WITH
NATIONAL GRID FOR A PROPOSED ENERGY SAVING FACILITY
IMPROVEMENTS PROJECT FOR COUNTY BUILDINGS

WHEREAS, the Mohawk Valley Economic Development District has announced the availability of 2017 Clean Energy Community (CEC) Grants for public infrastructure projects; and

WHEREAS, Resolution 31 of 2017 authorized the Superintendent of Highways and Facilities to pursue a Clean Energy Community Grant through the Mohawk Valley Economic Development District (MVEDD) for an Air Conditioning Project in the County Office Building and other Associated Energy Conservation Projects; and

WHEREAS, Resolution 333 of 2013 authorized a contract with SmartWatt Energy to Complete an Investment Grade Energy Audit for Energy Conservation Projects at County Facilities; and

WHEREAS, the Superintendent of Highways and Facilities is recommends that the County authorize a Utility Energy Service Contract (UESC) with National Grid to facilitate grant-related requirements for said proposed project; now, therefore be it

RESOLVED, That upon the recommendation of the Superintendent of Highways and Facilities and Committees on Buildings and Grounds/Highway and Finance, the Chairman of the Board be and hereby is authorized to sign a Utility Energy Service Contract with National Grid who will (subcontracting with SmartWatt Energy Incorporated); said contract subject to the approval of the County Attorney; and, be it further

RESOLVED, That this resolution and said contract shall be contingent upon there being no cost to the County of Fulton for said UESC at this time; and, be it further

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, Superintendent of Highways and Facilities, National Grid, SmartWatt Energy, Inc., Budget Director/County Auditor and Administrative Officer/Clerk of the Board.

Seconded by Supervisor YOUNG and adopted by the following vote:

TOTAL: Ayes: 19 Nays: 0 Absent: 1 (Supervisor Waldron)

Resolution No. 100

Supervisors BRADT, GREENE AND ARGOTSINGER offered the following Resolution and moved its adoption:

RESOLUTION AUTHORIZING TRANSFER OF WATERLINES SERVICING THE TRYON TECHNOLOGY PARK TO THE GLOVERSVILLE WATER DEPARTMENT

WHEREAS, as part of the 2014 Capital Plan, Fulton County constructed water transmission infrastructure to serve Tryon Technology Park as part of the Infrastructure Improvement Project Phase I; and

WHEREAS, Resolution 245 of 2015 authorized a “SMART Waters” Inter-municipal Agreement between the County of Fulton, City of Groversville Common Council, and the Groversville Board of Water Commissioners; and

WHEREAS, said 2015 “SMART Waters” Inter-municipal Agreement between Fulton County, City of Groversville and Groversville Board of Water Commissioners authorized the Groversville Water Department to take ownership of SMART Waters System infrastructure following a one (1) year warranty period; and

RESOLVED, That based upon the recommendation of the Committees on Buildings and Grounds/Highway, Economic Development and Environment, and Finance, the Chairman of the Board, be and hereby is, authorized to complete any and all documentation to transfer said waterlines to the Groversville Water Department; and, be it further

RESOLVED, That such transfer shall be completed subject to approval of the County Attorney; and, be it further

RESOLVED, That copies of this Resolution be forwarded to the County Treasurer, Planning Director, Groversville Common Council, Groversville Board of Water Commissioners, Fulton Montgomery Regional Chamber of Commerce, Fulton County Center for Regional Growth, Budget Director/County Auditor and Administrative Officer/Clerk of the Board.

Seconded by Supervisor BORN and adopted by the following vote:

TOTAL: Ayes: 19 Nays: 0 Absent: 1 (Supervisor Waldron)

Resolution No. 101

Supervisor GREENE offered the following Resolution and moved its adoption:

**RESOLUTION AUTHORIZING A CONTRACT WITH CGI COMMUNICATIONS FOR A
“NO-COST” COUNTY SHOWCASE VIDEO PROGRAM FOR FULTON COUNTY**

Whereas, through a program sponsored by the National Association of Counties, Fulton County has been offered an opportunity to participate in a project to create and publicize a series of promotional and/or community service videos; and

WHEREAS, the “County Showcase” Program will involve professional video production company CGI Communications of Rochester, NY working with County staff to produce a series of videos for publication on the County’s website and/or other outlets; and

WHEREAS, the series would entail four (4) chapters such as: Welcome, Education, Healthy Living and Homes/Real Estate, and two (2) additional videos at County choice; and

WHEREAS, the Administrative Officer, Planning Director and staff participated in a recent webinar/conference meeting with CGI regarding the potential project, and both department heads recommend pursuing this opportunity; and

WHEREAS, The NACO/CGI Video program will link commercial sponsor advertising to the County videos and advertising will be solicited and sold exclusively by CGI; and

WHEREAS, there is no cost to participate in this agreement other than staff time by the Planning Department and Board of Supervisors Office and the County website must accommodate the links necessary to view the videos as they are released; now, therefore be it

RESOLVED, That the Chairman of the Board be, and hereby is, authorized to sign a Project Agreement with CGI Communications, Inc. of Rochester, NY to complete a “County Showcase” Video Program at no cost to the County of Fulton; and, be it further

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, Planning Department, Information Services Director, CGI Communications, Budget Director/County Auditor and Administrative Officer/Clerk of the Board.

Seconded by Supervisor FAGAN and adopted by the following vote:

TOTAL: Ayes: 19 Nays: 0 Absent: 1 (Supervisor Waldron)

Resolution No. 102

Supervisors GREENE and ARGOTSINGER offered the following Resolution and moved its adoption:

RESOLUTION AWARDING BID TO R.B. ROBINSON CONTRACTING FOR THE HALES MILLS ROAD EXTENSION WATERLINE PROJECT (2017 CAPITAL PLAN)

WHEREAS, the 2017 Capital Plan identifies a SMART Waters: Hales Mills Road Extension Waterline Project; and

WHEREAS, Resolution 492 of 2016 authorized advertisement for bids for the Hales Mills Road Waterline Project and 18 bids were received; now, therefore be it

RESOLVED, That upon the recommendation of the Planning Director and Committees on Economic Development and Environment, and Finance, the net bid, in the amount of \$690,340.00, (including Alternate Bids 1-4 and 2 Service Laterals) as submitted by R.B. Robinson Contracting, Candor, New York, for the Hales Mills Road Extension Waterline Construction be and hereby is awarded as follows:

Base Bid	\$628,885.00
Alternate Bids 1-4	\$ 58,255.00
2 Service Laterals	\$ <u>3,200.00</u>
	\$690,340.00

they being the lowest responsible bidder in accordance with project specifications; and, be it further

RESOLVED, That the County Treasurer be and hereby is directed to make the following transfer:

From: A.1000.9950-9000.1000-EXP-Other-Unrestricted
To: H.8020.8397-2100.0780-EXP-SMART Waters Hales Mills
Sum: \$552,272.00

and, be it further

RESOLVED, That the County Treasurer be and hereby is directed to make the following transfer:

Revenue Account:

Increase H.8020.8397-3097.0780-REV-StatAid-SMART Waters
Hales Mills(NEW) \$138,068.00

Appropriation Account:

Increase H.8020.8397-2100-0780-EXP-SMART Waters Hales Mills \$138,068.00

Resolution No. 102 (Continued)

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, Planning Director, County Clerk, Superintendent of Highways and Facilities, All Bidders, Budget Director/County Auditor and Administrative Officer/Clerk of the Board.

Seconded by Supervisor BLACKMON and adopted by the following vote:

TOTAL: Ayes: 19 Nays: 0 Absent: 1 (Supervisor Waldron)

Resolution No. 103

Supervisors GREENE and ARGOTSINGER offered the following Resolution and moved its adoption:

RESOLUTION AUTHORIZING A CONTRACT WITH ENVIRONMENTAL DESIGN PARTNERSHIP FOR CONSTRUCTION ADMINISTRATION SERVICES FOR THE HALES MILLS ROAD EXTENSION WATERLINE CONSTRUCTION PROJECT
(2017 CAPITAL PLAN)

WHEREAS, the 2016 Capital Plan included a “SMART Waters: Design Hales Mills Road Extension Water and Sewer Lines Project” for design of a County Water District and a County Sewer District for the area in and around Hales Mills Road Extension as a “Priority Development Area” within the SMART Waters Initiative; and

WHEREAS, Resolution 491 of 2016 authorized a contract with Environmental Design Partnership to Prepare Design Plans and Specifications for the Hales Mills Road Extension Waterline Construction Project (2017 Capital Plan) at a cost not-to-exceed \$25,000.00 to be charged against H.8020.8397.2100-0780; and

WHEREAS, the 2017 Capital Plan identifies the Hales Mills Road Extension Waterline Project to commence construction of said project; now, therefore be it

RESOLVED, That the Chairman of the Board be and hereby is authorized to sign a contract between Fulton County and Environmental Design Partnership of Clifton Park, New York, to provide Construction Administration Services for the Hales Mills Road Waterline Project at a cost not to exceed \$22,500.00 based upon Environmental Design Partnership’s proposal dated March 2, 2017; and, be it further

RESOLVED, That said contract is subject to the approval of the County Attorney; and, be it further

RESOLVED, That the County Treasurer be and hereby is directed to make the following transfer:

From: A.1000.9950-9000.1000-EXP-Other-Unrestricted
To: H.8020.8397-2100.0780-EXP-SMART Waters Hales Mills
Sum: \$38,000.00

and, be it further

Resolution No. 103 (Continued)

RESOLVED, That the 2017 Adopted Budget be and hereby is amended, as follows:

Revenue Account:

Increase H.8020.8397-3097.0780-REV-SMART Waters Hales Mills (NEW) \$9,500.00

Appropriation Account:

Increase H.8020.8397-2100.0780-EXP-SMART Waters Hales Mills \$9,500.00

and, be it further

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, Planning Director, Environmental Design Partnership, Town of Johnstown, Budget Director/County Auditor and Administrative Officer/Clerk of the Board.

Seconded by Supervisor WILSON and adopted by the following vote:

TOTAL: Ayes: 19 Nays: 0 Absent: 1 (Supervisor Waldron)

Resolution No. 104

Supervisor GREENE offered the following Resolution and moved its adoption:

RESOLUTION DECLARING THE FULTON COUNTY BOARD OF SUPERVISORS LEAD AGENCY AND AUTHORIZING THE FILING OF A NEGATIVE DECLARATION UNDER SEQR RELATED TO THE CREATION OF FULTON COUNTY WATER DISTRICT NO. 2

WHEREAS, an Environmental Assessment Form (EAF) has been completed on the proposed action to create Fulton County Water District #2, and

WHEREAS, Resolution 44 of 2017 Classified the Proposed Creation of Fulton County Water District No. 2 along Hales Mills Road Extension as a Type 1 Action and proposed that the Board of Supervisors serve as Lead Agency for the SEQRA Process; and

WHEREAS, on February 14, 2017, all potential Involved Agencies were notified, in writing, of the Fulton County Board of Supervisors' desire to serve as Lead Agency and were also asked to submit comments on whether the proposed project may have any significant impacts on the environment during the required period, no comments were made regarding the potential environmental impacts; and

WHEREAS, the NYS Dept of Health replied with only procedural comments regarding the project Water District creation; now, therefore be it

RESOLVED, that the Board of Supervisors hereby declares itself as Lead Agency for the purpose of issuing a Determination of Significance under SEQR on the proposed action, and be it further

RESOLVED, that based upon its findings, the Fulton County Board of Supervisors, as Lead Agency, hereby issues a Negative Declaration under SEQR and hereby concludes the SEQRA process for the proposed creation of Fulton County Water District No. 2, and be it further

RESOLVED, that certified copies of this Resolution be forwarded to the County Treasurer, County Attorney, Planning Director, all Involved Agencies, Town of Johnstown, Gloversville Water Department, Budget Director/County Auditor and Administrative Officer/Clerk of the Board.

Seconded by Supervisor HANDY and adopted by the following vote:

TOTAL: Ayes: 19 Nays: 0 Absent: 1 (Supervisor Waldron)

Resolution No. 105

Supervisors GREENE and ARGOTSINGER offered the following Resolution and moved its adoption:

RESOLUTION AUTHORIZING A CONTRACT WITH STERLING ENVIRONMENTAL ENGINEERING, P.C. TO PREPARE A DRAFT/FINAL ENVIRONMENTAL IMPACT STATEMENT ON THE PROPOSED ANNEXATION OF LAND FROM THE TOWN OF MOHAWK INTO THE CITY OF JOHNSTOWN

WHEREAS, on November 5, 2015 annexation petitions were filed by two (2) property owners in the Town of Mohawk, Montgomery County, to have their properties annexed into the City of Johnstown, Fulton County; and

WHEREAS, on May 6, 2016, the NYSDEC Commissioner designated the Town of Mohawk as the State Environmental Quality Review Act (SEQR) Lead Agency for said annexation; and

WHEREAS, on December 8, 2016 the Town of Mohawk Town Board approved the Final Scope for the Draft Environmental Impact Statement; and

WHEREAS, it has been proposed that the County of Fulton, County of Montgomery and City of Johnstown share costs for preparation of the Environmental Impact Statement required by SEQRA; and

WHEREAS, after review of four (4) proposals received for said work, the Planning Director recommends entering into a contract with Sterling Environmental Engineering, P.C. in an amount not-to-exceed \$100,000.00 , they having submitted the best proposal for said work; now, therefore be it

RESOLVED, That the Chairman of the Board be and hereby is authorized to sign an agreement between Fulton County and Sterling Environmental Engineering, P.C. of Latham, New York, to prepare the Draft Environmental Impact Statement (DEIS) and Final Environmental Impact Statement (FEIS) for the proposed annexation of land from the Town of Mohawk, Montgomery County, into the City of Johnstown, Fulton County at a cost not to exceed \$100,000.00; and, be it further

RESOLVED, That the 2017 Capital Plan, be, and hereby is, amended to include a Jump Start Fulton County: Regional Business Park Project at a total cost of \$100,000.00; and, be it further

RESOLVED, That this Resolution be contingent upon the County of Montgomery and the City of Johnstown agreeing to provide equal shares of the expense of said contract; and, be it further

Resolution No. 105 (Continued)

RESOLVED, That the County Treasurer be and hereby is directed to make the following transfer:

From: A.1000.9950-9000.1000-EXP-Other-Unrestricted
To: H.8020.6430-2100.0875-EXP-Regional Business Park (NEW)
Sum: \$33,334.00

and, be it further

RESOLVED, That the 2017 Adopted Budget be and hereby is amended, as follows:

Revenue Account:

Increase H.8020.6430-2397.0875-REV-Montgomery Co-City Johnstown-Regional Business Park (NEW)	\$66,666.00
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Appropriation Account:

Increase H.8020.6430-2100.0875-EXP-Regional Business Park (NEW)	\$66,666.00
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RESOLVED, That said contract is subject to the approval of the County Attorney; and, be it further

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, Planning Director, Town of Mohawk, County of Montgomery, City of Johnstown, Sterling Environmental, Fulton Montgomery Chamber of Commerce, CEO Roundtable, Budget Director/County Auditor and Administrative Officer/Clerk of the Board.

Seconded by Supervisor GROFF and adopted by the following vote:

TOTAL: Ayes: 19 Nays: 0 Absent: 1 (Supervisor Waldron)

Resolution No. 106

Supervisor GREENE offered the following Resolution and moved its adoption:

RESOLUTION AUTHORIZING THE FILING OF A NEGATIVE DECLARATION UNDER
SEQR RELATED TO THE EIGHT YEAR REVIEW OF FULTON COUNTY
AGRICULTURAL DISTRICT NO. 1

WHEREAS, Resolution 363 of 2016 authorized commencement of an eight-year review of Agricultural District No. 1 in Fulton County; and

WHEREAS, in accordance with the eight-year review process required by NYS Agriculture and Markets Law, a profile and map has been prepared identifying proposed revised boundaries for the District, to be decreased from 26,262.37 acres to 26,821.97 acres in the Towns of Broadalbin, Perth, Johnstown, Mayfield, Oppenheim and Ephratah; and

WHEREAS, the Fulton County Board of Supervisors offered all municipalities in Fulton County, the Adirondack Park Agency and the NYS Department of Agriculture and Markets the opportunity to comment on the County's proposal to act as the Lead Agency for the purpose of issuing a determination of significance under SEQR for this action and, during this period, no comments were made regarding the potential environmental impacts of the renewal of Agricultural District No. 1; now, therefore be it

RESOLVED, That the Fulton County Board of Supervisors hereby assumes Lead Agency status for the purpose of issuing a determination of significance under SEQR and authorizes the filing of a Negative Declaration for this action, since there have been no significant environmental impacts identified during the SEQR review process; and, be it further

RESOLVED, That the Planning Director is hereby authorized and directed to file a Negative Declaration, as required by the SEQRA Regulations; and, be it further

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, Planning Director, Agriculture and Farmland Protection Board, NYS Department of Agriculture and Markets, NYS Department of Environmental Conservation, Administrative Officer/Clerk of the Board, and to each and every other person, institution or agency which will further the purport of this Resolution.

Seconded by Supervisor BORN and adopted by the following vote:

TOTAL: Ayes: 19 Nays: 0 Absent: 1 (Supervisor Waldron)

Resolution No. 107

Supervisor GREENE offered the following Resolution and moved its adoption:

**RESOLUTION APPOINTING CERTAIN MEMBERS TO THE FULTON COUNTY
AGRICULTURAL AND FARMLAND PROTECTION BOARD**

WHEREAS, in accordance with NYS Agriculture and Markets Law, Section 302, the Board of Supervisors has the responsibility and authority to appoint an Agricultural and Farmland Protection Board to advise it related to establishment, modification, continuation or termination of agricultural districts and related to farming and farm resources within Fulton County; and

WHEREAS, Resolution 10 of 2017 re-appointed and/or confirmed members to the Fulton County Agricultural and Farmland Protection Board; and

WHEREAS, due to there being no “Cooperative Extension Agent” resident in Fulton County, that coterminous appointment has remained vacant for several years; and

WHEREAS, the NYS Department of Agriculture and Markets has recommended the option of appointing an additional “active farmer” in lieu of the Cooperative Extension Agent until such time as said position can be filled with a resident; now, therefore be it

RESOLVED, That the following persons be, and hereby are, appointed as members of the Fulton County Agricultural and Farmland Protection Board for terms as hereinafter specified:

January 1, 2015 – December 31, 2017

Matthew Brower (Active Farmer)
Timothy Matis (Active Farmer)

Appointed
Appointed

and, be it further

RESOLVED, That in accordance with provisions of said law, the following individuals shall also serve on said Agricultural and Farmland Protection Board for terms that are coterminous with their respective offices identified herein:
and, be it further

RESOLVED, That all Board members are required to complete the Fulton County Board of Ethics’ Financial Disclosure Statement, and are further directed to sign the Fulton County Oath Book located in the Fulton County Clerk’s Office; and, be it further

Resolution No. 107 (Continued)

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, County Clerk, Planning Director, All Appointees, Fulton County Board of Ethics and Administrative Officer/Clerk of the Board.

Seconded by Supervisor BREH and adopted by the following vote:

TOTAL: Ayes: 19 Nays: 0 Absent: 1 (Supervisor Waldron)

Resolution No. 108

Supervisors GREENE and ARGOTSINGER offered the following Resolution and moved its adoption:

RESOLUTION AWARDING BID FOR DIESEL FUEL FOR USE IN THE SOLID WASTE DEPARTMENT

WHEREAS, Resolution 49 of 2017 authorized advertisement for bids for unleaded gasoline for the Fuel Depot at the Solid Waste Department and two (2) bids were received; now, therefore be it

RESOLVED, That the net bid, as submitted by Mirabito Energy Products, Binghamton, NY, for the purchase and delivery of unleaded gasoline to the Depot at the Solid Waste Department be and hereby is awarded for the period April 1, 2017 through December 31, 2017, as reviewed and recommended by the Interim Solid Waste Director, Committees on Economic Development and Environment, and Finance and Purchasing Agent; they being the lowest responsible bidder in accordance with Specification No. 2017-86-03:

Solid Waste Dept.	\$ 1.6330 Rack price
(60,000 gallons estimate)	<u>.1636</u> Margin
	\$1.7966 Per gallon

(with the stipulation that any increase or decrease in prices will be passed on at the time of delivery, based on current rack prices); and, be it further

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, Superintendent of Highways and Facilities, Interim Solid Waste Director, All Bidders, Budget Director/ County Auditor and Administrative Officer/Clerk of the Board.

Seconded by Supervisor LAURIA and adopted by the following vote:

TOTAL: Ayes: 19 Nays: 0 Absent: 1 (Supervisor Waldron)

Resolution No. 109

Supervisors GREENE and ARGOTSINGER offered the following Resolution and moved its adoption:

RESOLUTION AUTHORIZING THE PURCHASE OF A ROLL OFF TRUCK FOR USE IN THE SOLID WASTE DEPARTMENT AND DELETING A GARAGE WASTE HEAT PROJECT (2017 CAPITAL PLAN)

WHEREAS, the 2017 Capital Plan includes the purchase of a Roll Off Truck for use in the Solid Waste Department; and

WHEREAS, the Interim Solid Waste Director has requested to purchase a 2018 Mack Roll Off Truck via Onondaga County Bid Award (Specification #7823) at a cost of \$178,095.95; and

WHEREAS, the cost of the 2018 Mack Roll Off Truck exceeds the \$150,000.00 estimated cost appropriated in the 2017 Budget; and

WHEREAS, the Interim Director of Solid Waste has proposed to delay purchase of a Garage Waste Heat Project (\$25,000.00) to future years to facilitate the purchase of said Roll Off Truck; and

WHEREAS, the Committees on Economic Development and Environment, and Finance recommend proceeding with the Mack Roll Off Truck Purchase, stipulated upon identifying funds already appropriated within the 2017 Budget; now, therefore be it

RESOLVED, That the Interim Director of Solid Waste be and hereby is authorized to purchase a 2018 Mack Roll Off Truck via Onondaga County Bid Award (Specification #7823) for use in the Solid Waste Department as follows:

(1) Roll Off Truck	\$178,095.95
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and, be it further

RESOLVED, That the 2017 Capital Plan be, and hereby is, amended to delete the Garage Waste Heat project; and, be it further

RESOLVED, That the County Treasurer be and hereby is directed to make the following transfer:

From: CL.8160.8162-2010-EXP-Capital Expense
To: CL.8160.8161-2010-EXP-Capital Expense
Sum: \$28,096.00

and, be it further

Resolution No. 109 (Continued)

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, Interim Solid Waste Director, Budget Director/County Auditor and Administrative Officer/Clerk of the Board.

Seconded by Supervisor BORN and adopted by the following vote:

TOTAL: Ayes: 19 Nays: 0 Absent: 1 (Supervisor Waldron)

Resolution No. 110

Supervisors GREENE and ARGOTSINGER offered the following Resolution and moved its adoption:

RESOLUTION AUTHORIZING A CONTRACT WITH CARE ENVIRONMENTAL FOR A HOUSEHOLD HAZARDOUS WASTE COLLECTION PROGRAM IN 2017

WHEREAS, Resolution 386 of 2014 authorized a Request for Proposals for Household Hazardous Waste Collection Program at the Fulton County Department of Solid Waste and three (3) bids were received; and

WHEREAS, Resolution 48 of 2015 awarded a bid to Care Environmental for a 2015 Household Hazardous Waste Disposal Contract, with the option to renew for 2016 and 2017 under the same terms and conditions and rates; and

WHEREAS, the Interim Director of Solid Waste recommends extending said contract for the year 2017 Household Hazardous Waste Disposal Program at rates as submitted in said bid; now, therefore be it

RESOLVED, That the Chairman of the Board be, and hereby is authorized to sign a contract extension with Care Environmental of Myrtle Beach, South Carolina, for Household Hazardous Waste Collection Services for the year 2017 and, be it further

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, Deputy Director of Solid Waste, Care Environmental, All Bidders, Budget Director/County Auditor, Administrative Officer/Clerk of the Board.

Seconded by Supervisor WILSON and adopted by the following vote:

TOTAL: Ayes: 19 Nays: 0 Absent: 1 (Supervisor Waldron)

Resolution No. 111

Supervisors GREENE and ARGOTSINGER offered the following Resolution and moved its adoption:

RESOLUTION AUTHORIZING APPLICATION FOR STATE ASSISTANCE FROM THE
NYS DEPARTMENT OF ENVIRONMENTAL CONSERVATION FOR A HOUSEHOLD
HAZARDOUS WASTE ASSISTANCE PROGRAM

WHEREAS, the State of New York provides financial aid for household hazardous waste programs; and

WHEREAS, the County of Fulton, herein called the MUNICIPALITY, has examined and duly considered the applicable laws of the State of New York and the MUNICIPALITY deems it to be in the public interest and benefit to file an application under these laws; and

WHEREAS, it is necessary that a Contract by and between THE PEOPLE OF THE STATE OF NEW YORK, herein called the STATE, and the MUNICIPALITY be executed for such STATE Aid; now, therefore be it

RESOLVED ,

1. That the filing of an application in the form required by the State of New York in conformity with the applicable laws of the State of New York including all understanding and assurances contained in said application is hereby authorized.
2. That the Chairman of the Board of Supervisors is directed and authorized as the official representative of the MUNICIPALITY to act in connection with the application and to provide such additional information as may be required, to sign the resulting contract if said application is approved by the STATE.
3. That the MUNICIPALITY agrees that it will fund the entire cost of said Household Hazardous Waste Program and will be reimbursed by the State for share of such costs.
4. That two (2) Certified Copies of this Resolution be prepared and sent to the New York State Department of Environmental Conservation together with a complete application.
5. That this resolution shall take effect immediately.

and, be it further

Resolution No. 111 (Continued)

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, Interim Solid Waste Director, NYS Department of Environmental Conservation, Budget Director/County Auditor and Administrative Officer/Clerk of the Board.

Seconded by Supervisor BRADT and adopted by the following vote:

TOTAL: Ayes: 19 Nays: 0 Absent: 1 (Supervisor Waldron)

Resolution No. 112

Supervisors GREENE and ARGOTSINGER offered the following Resolution and moved its adoption:

RESOLUTION AUTHORIZING A CONTRACT WITH MONTGOMERY COUNTY FOR DISPOSAL OF ASBESTOS CONTAINING MATERIALS AT THE FULTON COUNTY LANDFILL

WHEREAS, Montgomery County officials contacted Fulton County officials in 2016 with a formal request to commence discussions regarding the County of Montgomery utilizing the Fulton County Landfill for the disposal of asbestos containing materials; and

WHEREAS, representatives of the County of Montgomery and the County of Fulton have participated in negotiations to determine if a mutually beneficial inter-municipal agreement can be reached for the disposal of asbestos containing materials resulting from projects carried out by the Montgomery County Department of Public Works Demolition Team; and

WHEREAS, the Committees on Economic Development and Environment, and Finance have reviewed the terms and conditions of a proposed inter-municipal agreement between the two counties governing the disposal of County of Montgomery's asbestos containing materials projects at the Fulton County Solid Waste Facility, 847 Mud Road, Johnstown, NY, and recommend its consideration by the full Board of Supervisors; now, therefore be it

RESOLVED, That upon the recommendation of the Committees on Economic Development and Environment, and Finance, the Chairman of the Board be and hereby is authorized to sign an Intermunicipal Agreement between the County of Fulton and the County of Montgomery for use of the Fulton County Landfill, 847 Mud Road, Johnstown, NY; said Agreement to include the following key terms and conditions:

1. It is the intent of this Agreement to provide for disposal of asbestos containing materials generated by residential projects conducted by the Department of Public Works of Montgomery County. (Asbestos waste from businesses and private demolition jobs are excluded.)
2. The contract term shall commence upon execution of the Intermunicipal Agreement and shall expire December 31, 2017.
3. Tipping Fees: Tipping Fees for County of Montgomery Asbestos containing materials during the term of this contract shall be \$86.25 per ton (In-County Asbestos Rate of \$75.00 plus 15 percent).

Resolution No. 112 (Continued)

4. All billing will be single-billing to Montgomery County.

RESOLVED, That said contract is subject to the approval of the County Attorney; and, be it further

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, Solid Waste Director, Montgomery County, Budget Director/County Auditor and Administrative Officer/Clerk of the Board.

Seconded by Supervisor YOUNG and adopted by the following vote:

TOTAL: Ayes: 19 Nays: 0 Absent: 1 (Supervisor Waldron)

Resolution No. 113

Supervisor GREENE offered the following Resolution and moved its adoption:

RESOLUTION AMENDING RESOLUTION 50 OF 2017 THAT AUTHORIZED THE SALE OF CARBON CREDITS TO ORIGIN CLIMATE, INC.

WHEREAS, Resolution 303 of 2016 authorized a contract with Environmental Capital, LLC to market Fulton County Landfill gas-to-energy plant carbon credits; and

WHEREAS, Resolution 50 of 2017 authorized a contract between the Solid Waste Department and Origin Climate, Inc. for the sale of Carbon Credits for the period of January 1, 2015 through December 31, 2016 with potential options for 2017 and 2018; and

WHEREAS, the contract submitted provides that the option to purchase Carbon Credits in 2017 and 2018 is at the Buyer's option, rather than the Seller's option as specified in Resolution 50; now, therefore be it

RESOLVED, That Resolution 50 of 2017 be, and hereby is, amended to authorize the selling of Solid Waste Department Carbon Credits earned during 2017 and 2018 "at the option of the Buyer", and, be it further

RESOLVED, That said contract amendment is contingent upon approval by the County Attorney; and, be it further

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, Solid Waste Director, Environmental Capital, Origin Climate, Inc., Miller, Mannix, Schachner and Hafner, Budget Director/County Auditor and Administrative Officer/Clerk of the Board.

Seconded by Supervisor LAURIA and adopted by the following vote:

TOTAL: Ayes: 19 Nays: 0 Absent: 1 (Supervisor Waldron)

Resolution No. 114

Supervisors GREENE AND ARGOTSINGER offered the following Resolution and moved its adoption:

RESOLUTION ESTABLISHING 2017 CAPITAL PROJECTS FOR THE PUBLIC HEALTH DEPARTMENT

WHEREAS, the 2017 Capital Plan identifies the following project for the Public Health Department:

Medical Records Server Upgrade \$20,665.00
and,

WHEREAS, it is necessary to transfer funds into the appropriate Public Health Department account; now, therefore be it

RESOLVED, That the County Treasurer be and hereby is directed to make the following transfer:

From: A.1000.9950-9000.1100-EXP-Capital Equipment Reserve
To: H.4010.4997-2100.0860-Medical Records Server/Software Upgrade (New)
Sum: \$20,665.00

and, be it further

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, Public Health Director, Information Services Director, Budget Director/County Auditor and Administrative Officer/Clerk of the Board.

Seconded by Supervisor BRADT and adopted by the following vote:

TOTAL: Ayes: 19 Nays: 0 Absent: 1 (Supervisor Waldron)

Resolution No. 115

Supervisors GREENE AND ARGOTSINGER offered the following Resolution and moved its adoption:

RESOLUTION REVISING THE IMMUNIZATION FEE SCHEDULE (PUBLIC HEALTH)

WHEREAS, Resolution 561 of 1993 set the immunization fee for vaccines administered by the Public Health Department at \$2.00 per vaccination; and

WHEREAS, Resolution 44 of 2011 increased the fee to \$7.00 per vaccine, not to exceed \$14.00 per visit; and

WHEREAS, the Public Health Director recommends revising the fee structure to account for regular inflation and in accordance with current Medicaid and Medicare guidelines; now, therefore be it

RESOLVED, That the charge for administering vaccine provided by the Fulton County Public Health Department to Fulton County residents shall be \$17.85 per vaccine, not to exceed \$25.10 per visit; and, be it further

RESOLVED, That said contract shall be subject to the approval of the County Attorney; and, be it further

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, Public Health Director, Budget Director/County Auditor and Administrative Officer/Clerk of the Board.

Seconded by Supervisor LAURIA and adopted by the following vote:

TOTAL: Ayes: 19 Nays: 0 Absent: 1 (Supervisor Waldron)

Resolution No. 116

Supervisor GREENE offered the following Resolution and moved its adoption:

**RESOLUTION AUTHORIZING A CONTRACT EXTENSION WITH FULMONT
COMMUNITY ACTION AGENCY FOR ADDITIONAL WHEELS TO WORK PROGRAM
SERVICES (100% TRANSPORTATION INITIATIVE GRANT 2016-2017)**

WHEREAS, Resolution 217 of 2013 authorized a contract with Fulmont Community Action Agency to operate a Wheels to Work Program utilizing funds from a state-sponsored Transportation Initiative Grant; and

WHEREAS, Resolution 274 of 2015 authorized an extension to the contract with Fulmont Community Action Agency for Wheels to Work Program through June 30, 2016; and

WHEREAS, the Office of Temporary Assistance and Disability (OTDA) has notified the Commissioner of Social Services that the Transportation Initiative Grant was extended through December 31, 2017 in the amount of \$19,175.00; and

WHEREAS, the Commissioner of Social Services is now requesting to enter into a contract with Fulmont Community Action Agency for additional Wheels to Work services; now, therefore be it

RESOLVED, That upon the recommendation of the Commissioner of Social Services and the Committees on Human Services, the Chairman of the Board be and hereby is authorized to sign a contract between the Department of Social Services and Fulmont Community Action Agency of Fonda, NY, to operate additional Wheels to Work services in the amount of \$19,175.00; effective retroactively from July 1, 2016 through December 31, 2017; and, be it further

RESOLVED, That this contract is contingent upon approval of the County Attorney; and, be it further

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, Social Services Commissioner, Fulmont Community Action Agency, Budget Director/County Auditor and Administrative Officer/Clerk of the Board.

Seconded by Supervisor HANDY and adopted by the following vote:

TOTAL: Ayes: 19 Nays: 0 Absent: 1 (Supervisor Waldron)

Resolution No. 117

Supervisor GREENE offered the following Resolution and moved its adoption:

**RESOLUTION AUTHORIZING MEAL EXPENSES FOR THE 2017 FOSTER PARENT
RECOGNITION DINNER (SOCIAL SERVICES DEPARTMENT)**

WHEREAS, the Department of Social Services has historically sponsored a recognition dinner for foster parents during “Foster Care Recognition Month”; and

WHEREAS, in accordance with Section 16.03 of the Purchasing and Audit Guidelines, scheduled meetings of community events that include meals require prior approval by the Board of Supervisors; now, therefore be it

RESOLVED, That the Commissioner of Social Services is hereby authorized to expend funds for the 2017 Foster Parent Recognition Dinner, at a cost not to exceed \$1,000.00, subject to said costs being in accordance with State and/or Federal agency guidelines; and, be it further

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, Social Services Commissioner, Budget Director/County Auditor and Administrative Officer/Clerk of the Board.

Seconded by Supervisor HOWARD and adopted by the following vote:

TOTAL: Ayes: 19 Nays: 0 Absent: 1 (Supervisor Waldron)

Resolution No. 118

Supervisors GREENE AND CALLERY offered the following Resolution and moved its adoption:

RESOLUTION RECLASSIFYING A SENIOR TYPIST POSITION TO TYPIST IN THE
SOCIAL SERVICES DEPARTMENT

WHEREAS, the Senior Typist in the Social Services Department retired; and

WHEREAS, the Commissioner of Social Services has reviewed positions in that Department, and in accordance with promoting efficient operation of the Department, the Commissioner is recommending that the position of Senior Typist be reclassified to Typist; and

RESOLVED, That upon the recommendation of the Commissioner of Social Services, Personnel Director, Committees on Human Services and Personnel, effective immediately, a Senior Typist position (Union Job Group A-5; start rate, \$14.48 per hour, permanent one-year rate, \$17.04 per hour) be and hereby is reclassified to Typist (Union Job Group A-2; start rate, \$13.55 per hour, permanent one-year rate, \$15.94 per hour) in the Social Services Department; and, be it further

RESOLVED, That the Commissioner of Social Services and Personnel Director do each and everything necessary to further the purport of this Resolution; and, be it further

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, Commissioner of Social Services, Personnel Director, Budget Director/County Auditor and Administrative Officer/Clerk of the Board.

Seconded by Supervisor BREH and adopted by the following vote:

TOTAL: Ayes: 19 Nays: 0 Absent: 1 (Supervisor Waldron)

Resolution No. 119

Supervisors FAGAN AND ARGOTSINGER offered the following Resolution and moved its adoption:

RESOLUTION ESTABLISHING 2017 CAPITAL PROJECTS FOR THE DISTRICT ATTORNEY'S OFFICE

WHEREAS, the 2017 Capital Plan identifies the following project for the District Attorney's Office:

New Neighborhood Plan: Surveillance and Intelligence Gathering Tools \$90,000.00
and,

WHEREAS, it is necessary to transfer funds into the appropriate District Attorney's account; now, therefore be it

RESOLVED, That the County Treasurer be and hereby is directed to make the following transfer:

From: A.1000.9950-9000-1200-EXP-Capital Improvements Reserve
To: H.1165.3097-2100.0865-EXP-Surveillance Intelligence Gathering Tools (New)
Sum: \$90,000.00

and, be it further

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, District Attorney, Budget Director/County Auditor and Administrative Officer/Clerk of the Board.

Seconded by Supervisor BORN and adopted by the following vote:

TOTAL: Ayes: 19 Nays: 0 Absent: 1 (Supervisor Waldron)

Resolution No. 120

Supervisors FAGAN AND ARGOTSINGER offered the following Resolution and moved its adoption:

RESOLUTION OPPOSING PROPOSED LEGISLATION TO RAISE THE AGE OF CRIMINAL RESPONSIBILITY IN NEW YORK STATE

WHEREAS, Governor Cuomo signed Executive Order 131 on April 9, 2014 to establish the Commission on Youth, Public Safety and Justice instructing the Commission to develop a plan to raise the age of criminal responsibility in New York State; and

WHEREAS, the Commission completed its report on December 31, 2014 recommending raising the age of criminal responsibility from age 16 to age 18; and

WHEREAS, Division of Criminal Justice Services' Statistics reveal the number of arrests among 16 and 17 year olds statewide in calendar year 2015 was 27,281 and that under the proposed change these youths will now be shifted from the criminal courts to local probation Departments for Intake and Diversion Services; and

WHEREAS, the Governor's proposal recommends that the violation level offenses of Harassment, 2nd Degree and Disorderly Conduct shall also be diverted to probation Departments for Intake and Adjustment services, thus adding substantially to the workload of Probation staff; and

WHEREAS, the Governor's proposal recommends Probation Departments provide a continuum of diversion services that range from minimal intervention for low risk youth and evidence-based services for high risk youth; and

WHEREAS, Probation Departments will not be able to absorb the influx of youth requiring Intake and Diversion services at current staffing levels and will require additional staff to perform these duties; and

WHEREAS, other County departments and agencies may be similarly affected by the increase in the age of criminal responsibility in areas that range from juvenile detention to community support services, and do not have alternative sources of income to support the cost of additional responsibilities and services; and

WHEREAS, counties cannot absorb the new financial costs associated with raising the age without 100 percent funding of the additional staff and services required by the Governor's proposal; and

Resolution No. 120 (Continued)

WHEREAS, the funding proposal stipulates that only counties that do not exceed the 2 percent tax cap and can demonstrate to the Division of Budget that funding related services is a fiscal hardship may apply for a waiver of the local share requirement of an expense otherwise incurred; now therefore be it

RESOLVED, That the Fulton County Board of Supervisors insists the State Legislature enact legislation that fully, permanently and unambiguously obligates the State to pay for 100 percent of all new costs incurred by Probation Departments and other county departments and agencies affected by raising the age of criminal responsibility; and

RESOLVED, That copies of this resolution be forwarded to Governor Andrew Cuomo, Senator James Tedisco, Assemblyman Marc Butler, Fulton Montgomery Chamber of Commerce, NYSAC, Budget Director/County Auditor and Administrative Officer/Clerk of the Board.

Seconded by Supervisor GROFF and adopted by the following vote:

TOTAL: Ayes: 19 Nays: 0 Absent: 1 (Supervisor Waldron)

Resolution No. 121

Supervisor FAGAN offered the following Resolution and moved its adoption:

RESOLUTION AUTHORIZING EXTENSION OF THE PUBLIC SAFETY MUTUAL AID AGREEMENT BETWEEN THE FULTON COUNTY SHERIFF'S DEPARTMENT AND THE MONTGOMERY COUNTY SHERIFF'S DEPARTMENT

WHEREAS, Resolution 236 of 2011 authorized a Public Safety Mutual Aid Agreement between the Fulton County Sheriff's Department and the Montgomery County Sheriff's Department effective through December 31, 2016; and

WHEREAS, the Sheriff now requests extension of said Mutual Aid Agreement for another five (5) years, which, among other things, will provide for:

- Efficient utilization of law enforcement resources and services, include public safety dispatch services;
- Efficient utilization of shared telecommunications systems of each agency for enhanced interoperability for voice and data;
- Enhanced effectiveness of response to requests to handle and resolve law enforcement intervention situations;
- Ensure an adequate number of trained and equipped law enforcement officers to handle and resolve emergency, disaster and violent situations, as well as routine law enforcement services which cannot be met with the resources of one of the parties to this agreement;
- Development of joint policies, procedures and use of training exercises or programs where skills, knowledge, procedures and expertise are shared with each other's department and personnel;
- Provide for the possibility of obtaining and maintaining shared equipment;

now, therefore be it

RESOLVED, That the Chairman of the Board be and hereby is authorized to sign a public safety mutual aid agreement between the Sheriff's Department and the Montgomery County Sheriff's Department, as attached hereto and made a part hereof, effective January 1, 2017 through December 31, 2021; said agreement subject to the approval of the County Attorney; and, be it further

RESOLVED, That this Resolution is contingent upon passage of a similar resolution by the Montgomery County Legislature; and, be it further

RESOLVED, That the Sheriff do each and every other thing necessary to further the purport of this Resolution; and, be it further

Resolution No. 121 (Continued)

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, Sheriff, Montgomery County Legislature, Montgomery County Sheriff, Fulton County Code, Administrative Officer/Clerk of the Board, and to each and every other person, institution or agency who will further the purport of this Resolution.

Seconded by Supervisor BLACKMON and adopted by the following vote:

TOTAL: Ayes: 19 Nays: 0 Absent: 1 (Supervisor Waldron)

Resolution No. 122

Supervisor FAGAN AND ARGOTSINGER offered the following Resolution and moved its adoption:

RESOLUTION AUTHORIZING A CONTRACT WITH ONEIDA COUNTY TO PROVIDE SECURITY SERVICES FOR FULTON COUNTY PRISONERS IN NEED OF SPECIAL SERVICES (2017-2019)

RESOLVED, That the Chairman of the Board be and hereby is authorized to sign a contract between the Sheriff's Department and Oneida County Sheriff's Department provide psychiatric and forensic services for Fulton County inmates at a cost of \$165.00 per day per inmate, effective January 1, 2017 through December 31, 2019; and, be it further

RESOLVED, That said contract is subject to the approval of the Fulton County Attorney and subject to compliance with Sections 504 and 508 of NYS Corrections Law; and, be it further

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, Sheriff, Correctional Facility, Oneida County Legislature, Oneida County Sheriff, NYS Commission of Corrections, Budget Director/County Auditor, Administrative Officer/Clerk of the Board and to each and every other person, institution or agency which will further the purport of this Resolution.

Seconded by Supervisor BORN and adopted by the following vote:

TOTAL: Ayes: 19 Nays: 0 Absent: 1 (Supervisor Waldron)

Resolution No. 124

Supervisor ARGOTSINGER offered the following Resolution and moved its adoption:

RESOLUTION APPROVING USER AGREEMENTS BETWEEN THE BOARD OF
ELECTIONS AND LOCAL SCHOOL DISTRICTS TO USE
COUNTY VOTING MACHINES

WHEREAS, as of January 1, 2016, area school districts must use electronic voting machines to conduct school elections to meet new State mandates for school board elections; and

WHEREAS, Resolution 155 of 2015 authorized a Pilot program with the Greater Johnstown School District for Image Cast Electronic Voting to determine best practices for any other schools that desire to contract with the County for said service; and

WHEREAS, Resolution 154 of 2016 Approved User Agreements Between the Board of Elections and Local School Districts to Use County Voting Machines during 2016; and

WHEREAS, the Board of Elections Commissioners and Committee on Finance recommend authorizing User Agreements between the Board of Elections and local school districts to use County-owned electronic voting machines; now, therefore be it

RESOLVED, That the Chairman of the Board be and hereby is authorized to sign User Agreements between the Board of Elections and local school districts for use of the County voting machines for 2017 school board elections; said agreement subject to approval by the County Attorney; and, be it further

RESOLVED, That said school districts will reimburse the Board of Elections for costs associated with preparation and use of said machines at school district polling sites; and, be it further

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, Board of Elections Commissioners, All Local School Districts, H-F-M BOCES Superintendent, Budget Director/County Auditor and Administrative Officer/Clerk of the Board.

Seconded by Supervisor POTTER and adopted by the following vote:

TOTAL: Ayes: 19 Nays: 0 Absent: 1 (Supervisor Waldron)

Resolution No. 125

Supervisor ARGOTSINGER offered the following Resolution and moved its adoption:

RESOLUTION AUTHORIZING A CONTRACT WITH JMZ ARCHITECTS TO PREPARE DESIGN PLANS AND COST ESTIMATES AS PART OF THE “CAMPUS CRITICAL MAINTENANCE PROJECTS” CAMPUS LABS & CLASSROOM RENOVATIONS (2017 CAPITAL PLAN)

WHEREAS, the 2017 Capital Plan identifies a “Campus Critical Maintenance Projects: Campus Labs and Classroom Design” Project at Fulton-Montgomery Community College; and

WHEREAS, with respect to the design of the Campus Labs and Classroom Design component, FMCC has received a cost proposal from JMZ Architects of Glens Falls, NY to prepare a Schematic Design Report, including cost estimates and phasing plans; now, therefore be it

RESOLVED, That the Chairman of the Board be and hereby is authorized to sign a contract between JMZ Architects of Glens Falls, NY to prepare a Schematic Design Report, including cost estimates and phasing plans, for the Classroom Labs & Classroom Design component of the FMCC Campus Critical Maintenance Project at a cost not to exceed \$95,500.00; and, be it further

RESOLVED, That said contract is subject to the approval of the County Attorney; and, be it further

RESOLVED, That the County Treasurer be and hereby is directed to make the following transfer:

From: A.1000.9950-9000.1000 – EXP – Other - Unrestricted
To: H.8020.2497-2100.0870 – EXP – FMCC Campus Labs & Classroom Renovations (New)
Sum: \$25,000.00

and, be it further

RESOLVED, That the 2017 Adopted Budget be and hereby is amended, as follows:

Revenue:

Increase H.8020.2497-2397.0870-REV-Montgomery Co-FMCC-Campus Labs
& Classroom Renovations (New) \$25,000.00
Increase H.8020.2497-3285.0870-REV-State Aid-FMCC-Campus Labs
& Classroom Renovations (New) \$50,000.00

Appropriation:

Increase H.8020.2497-2100.0870-EXP-FMCC Campus Labs & Classroom
Renovations (New) \$75,000.00

Resolution No. 125 (Continued)

and, be it further

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, Planning Director, Montgomery County Legislature, FMCC, Budget Director/County Auditor and Administrative Officer/Clerk of the Board.

Seconded by Supervisor BREH and adopted by the following vote:

TOTAL: Ayes: 19 Nays: 0 Absent: 1 (Supervisor Waldron)

Resolution No. 126

Supervisor ARGOTSINGER offered the following Resolution and moved its adoption:

RESOLUTION AMENDING RESOLUTION 465 OF 2016 THAT AUTHORIZED A CONTRACT WITH SCHILLER & KNAPP, CLP FOR BANKRUPTCY ATTORNEY FEES FOR 2017 (TREASURER'S OFFICE)

WHEREAS, Resolution 477 of 2016 Authorized Various 2017 Contracts for the County Treasurer's Office; and

WHEREAS, a contract for Schiller & Knapp is based upon a series of hourly unit rates rather than one simple rate as specified in said resolution; now, therefore be it

RESOLVED, That the Chairman of the Board be and hereby is authorized to sign a contract between the Treasurer's Office and Schiller & Knapp, CLP of Latham, NY for Bankruptcy Attorney Services, effective immediately through December 31, 2017, at rates as follows:

- Chapter 7 Filings –**
- Motion for Relief from Stay \$ 365.00
- Motion to Confirm Termination of Stay 365.00
- Notice of Default / Demand Letter 85.00
- General Correspondence / Case Status Updates Hourly

- Chapter 11, 12, or 13 Filings –**
- Preparation and Filing of Notice of Appearance and Proof of Claim \$ 265.00
 - *Electronic Filing of a Proof of Claim only 95.00
- Motion for Relief from Stay 395.00
- Motion to Confirm Termination of Stay 370.00
- Objection to Confirmation / Modification 395.00
- Response to Motion to Reimpose / Extend Stay 395.00
- Agreed Order Default / Certificate of Non-Compliance 220.00
- Notice of Default / Demand Letter 85.00
- General Correspondence / Case Status Updates Hourly

and, be it further

RESOLVED, That said contract is subject to the approval of the County Attorney; and, be it further

Resolution No. 126 (Continued)

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, Schiller & Knapp, CLP, Budget Director/County Auditor and Administrative Officer/Clerk of the Board.

Seconded by Supervisor CALLERY and adopted by the following vote:

TOTAL: Ayes: 19 Nays: 0 Absent: 1 (Supervisor Waldron)

Resolution No. 127

Supervisor ARGOTSINGER offered the following Resolution and moved its adoption:

RESOLUTION AMENDING RESOLUTION 465 OF 2016 THAT AUTHORIZED A
CONTRACT WITH HARRIS BEACH FOR BOND COUNSEL SERVICES FOR 2017
(TREASURER'S OFFICE)

WHEREAS, Resolution 477 of 2016 Authorized Various 2017 Contracts for the County Treasurer's Office; and

WHEREAS, a contract for Harris Beach is based upon a series of hourly unit rates, rather than a not-to-exceed lump sum as specified in said resolution; now, therefore be it

RESOLVED, That the Chairman of the Board be and hereby is authorized to sign a contract between the Treasurer's Office and Harris Beach of Pittsford, NY for Bond Counsel Services, on an as-needed basis, effective immediately through December 31, 2017, at rates as follows:

- Preparation of Bond Resolutions Only: Fixed fee of \$500.
- Bond Anticipation Notes: Not to exceed \$750 plus \$.40 per thousand dollars.
Renewal – Not to exceed \$600 plus \$.40 per thousand.
- Statutory Installment Bond: \$1,750 plus \$.80 per thousand dollars.
- Serial Bonds (competitive bid): \$3,500 plus \$.80 per thousand dollars.
- RD Loan: Not to exceed \$3,000 plus \$.75 per thousand dollars.
- EFC SRF Short-Term Loan: \$2,500 plus \$.40 per thousand dollars.
- EFC SRF Long-Term Loan: \$4,000 plus \$.80 per thousand dollars.
- Refunding Bond Issue: Usually between \$15,000 and \$35,000.
- Services Not Related to Transactions: Members \$425 - \$550; Of Counsel \$310 - \$435;
Associates \$180 - \$280; Paralegals \$105 - \$160.

and, be it further

RESOLVED, That said contract is subject to the approval of the County Attorney; and, be it further

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, Harris Beach, Budget Director/County Auditor and Administrative Officer/Clerk of the Board.

Seconded by Supervisor HOWARD and adopted by the following vote:

TOTAL: Ayes: 19 Nays: 0 Absent: 1 (Supervisor Waldron)

Resolution No. 128

Supervisor ARGOTSINGER offered the following Resolution and moved its adoption:

RESOLUTION AUTHORIZING DISPOSAL OF CERTAIN SURPLUS EQUIPMENT

WHEREAS, the Purchasing Agent recommends disposal of broken equipment in certain departments; and

WHEREAS, the County Treasurer has inspected numerous items in the County pole barn that are also in disrepair and will likely bring more revenue to the County through disposal for scrap value than through auction; now, therefore be it

RESOLVED, That the Purchasing Agent be and hereby is authorized to dispose of the following County surplus equipment, in accordance with the Fulton County Purchasing and Audit Guidelines:

Highways & Facilities:

Canon Image Runner Copier (8139)

Samson 408 Grease Pump (7801)

and, be it further

RESOLVED, That the Superintendent of Highways and Facilities, Solid Waste Director and Purchasing Agent be and hereby are directed to arrange for the disposal of the listed surplus as scrap and/or refuse, to be coordinated with the Solid Waste Department's current bulky metals contract, as necessary; and, be it further

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, Superintendent of Highways and Facilities, Solid Waste Director, Budget Director/County Auditor and Administrative Officer/Clerk of the Board.

Seconded by Supervisor BORN and adopted by the following vote:

TOTAL: Ayes: 19 Nays: 0 Absent: 1 (Supervisor Waldron)

Resolution No. 129

Supervisor ARGOTSINGER offered the following Resolution and moved its adoption:

RESOLUTION REQUIRING A PILOT AGREEMENT FOR THE ONYX SOLAR ARRAY FARM (PARCEL 138.4-1-5) IN THE TOWN OF BROADALBIN

WHEREAS, ONYX Solar is planning to purchase property near State Route 29, in the Town of Broadalbin (Parcel 138.4-1-5) to construct a 2 Megawatt Solar Farm; and

WHEREAS, ONYX Solar has proposed a Payment in Lieu of Taxes (PILOT) Agreement with the Town of Broadalbin and County of Fulton in accordance with NYS Real Property Tax Law (RPTL) Section 487; and

WHEREAS, the Finance Committee recommends a PILOT Agreement based on a pro-rated sharing of the Annual Total Tax Rate wherein the PILOT payment shall be between participating taxing jurisdictions based upon the amount of \$8,000.00 per Megawatt of capacity with a 2 percent escalator per year for 15 years, matching the tax exemption period in RPTL Section 487 for such energy projects; now, therefore be it

RESOLVED, That the annual PILOT payment shall be calculated in the amount of \$8,000.00 per Megawatt shared between the taxing jurisdictions of County of Fulton and Town of Broadalbin in proportion to each jurisdictions annual Tax Rate compared to Total Tax Rate of all jurisdictions participating in the PILOT; and, be it further

RESOLVED, That for purposed of example, pro-ration would be as follows for year 1:

<u>Tax Year</u>	<u>Jurisdiction</u>	<u>Tax Rate</u>	<u>Percent of Total Rate</u>	<u>Estimated Payment</u>
2016	School (BPCS)	N/A	-----	-----
2017	County of Fulton	\$9.20 per thousand	91.09%	\$14,574.26
2017	Tn. of Broadalbin	<u>\$0.90</u> per thousand	<u>8.91%</u>	<u>1,425.74</u>
		\$10.10	100%	\$16,000.00

and, be it further

RESOLVED, That the Chairman of the Board be and hereby is authorized to sign a contract between ONYX Solar, the Board of Supervisors and Town of Broadalbin to enact a PILOT Agreement for a 2 Megawatt Solar Array Farm (Parcel 138.4-1-5) in the Town of Broadalbin; in accordance with the terms and conditions outlined herein; and, be it further

Resolution No. 129 (Continued)

RESOLVED, That said contract is subject to the approval of the County Attorney; and, be it further

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, ONYX Solar, Town of Broadalbin Assessors, Real Property Tax Services Agency Director, Budget Director/County Auditor and Administrative Officer/Clerk of the Board.

Seconded by Supervisor LAURIA and adopted by the following vote:

TOTAL: Ayes: 504 (18) Nays: 25 (1) (Supervisor Young)
Absent: 22 (1) (Supervisor Waldron)

Resolution No. 130

Supervisor ARGOTSINGER offered the following Resolution and moved its adoption:

RESOLUTION ADOPTING LOCAL LAW “1” OF 2017 “A LOCAL LAW TO ESTABLISH AN OCCUPANCY TAX IN FULTON COUNTY”

WHEREAS, proposed Local Law “A-1” of 2017 entitled, “A LOCAL LAW TO ESTABLISH AN OCCUPANCY TAX IN FULTON COUNTY” has laid upon the desks of the Board of Supervisors for the required period; and

WHEREAS, a public hearing was held on March 13, 2017, after due posting thereof and everyone who wanted to speak was heard; now, therefore be it

RESOLVED, That Local Law “A-1”, hereinabove referenced, be and hereby is approved; and, be it further

RESOLVED, That the Clerk of the Board is directed to number said local law for appropriate recording and filing purposes; and, be it further

RESOLVED, That the Chairman of the Board of Supervisors and County Attorney be authorized and empowered to do each and every other thing necessary to further the purport of this Resolution; and, be it further

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, NYS Secretary of State, Fulton County Code Book, Fulton Montgomery Regional Chamber of Commerce, Budget Director/County Auditor, Administrative Officer/Clerk of the Board, and to each and every other person, institution or agency which will further the purport of this Resolution.

Seconded by Supervisor Born and adopted by the following vote:

TOTAL: Ayes: 19 Nays: 0 Absent: 1 (Supervisor Waldron)

**COUNTY OF FULTON
LOCAL LAW 1 OF 2017**

**A LOCAL LAW TO ENACT AN OCCUPANCY TAX AS AUTHORIZED BY ACT OF
THE NEW YORK STATE LEGISLATURE (CHAPTER 489 OF THE LAWS OF 2016)**

Be it enacted, by the Board of Supervisors of the County of Fulton, New York as follows:

Section 1. Title & Statement of Intent.

This local law shall be known as the “Fulton County Occupancy Tax Law”. The intent of this local law is to implement an occupancy tax as authorized by act of the New York State Legislature (Chapter 489 of the Laws of 2016). The revenues derived from said tax, after deducting up to 10 percent for administering the tax, shall be allocated for tourism development, economic development and other directly related and supporting activities.

Section 2. Authority.

The authority of this local law is Chapter 489 of the Laws of 2013 of New York State.

Section 3. Definitions.

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

- (a) *County* – Fulton County, New York
- (b) *Effective Date* – The date set forth in Section 29 of this law.
- (c) *Hotel or Motel* – Any facility providing lodging to the public on an overnight basis and shall include, but not limited to, those facilities designated and commonly known as bed and breakfast, inns, cottages, lodges, vacation rentals, home rentals, camp rentals, apartments, resorts, guest houses, town houses, condominiums, RV parks and tourist facilities.
- (d) *Occupancy* - The use or possession, or the right to the use or possession, of any room in a hotel or motel. The right to the use or possession includes the right of a room remarketer as described in paragraph (n) of this section.
- (e) *Occupant* -A person who, for a charge or any consideration, uses, possesses, or has the right to use or possess, any room in a hotel or motel under any lease, concession, permit, right, license, agreement, or otherwise. The right to use or possess includes the right of a room remarketer as described in paragraph (n) of this section.
- (f) *Operator* - The owner of the hotel or motel room occupied or if the owner is not operating the hotel or motel and not being paid the rent or charge for the room occupied, then any other person entitled to be paid the rent or charge for the hotel or motel room

occupied, including but not limited to the proprietor, lessee, sublessee, mortgagee in possession, licensee or any other person otherwise operating such hotel or motel. Such term shall also include a room remarketer as such room remarketer shall be deemed to operate a hotel or motel, or portion thereof, thereby conferring the same rights and obligations of a hotel or motel operator on a room remarketer.

- (g) *Permanent Resident* - Any person occupying any room or rooms in a hotel or motel for at least thirty (30) consecutive days.
- (h) *Person* - An individual, partnership, society, association, joint stock company, corporation, limited liability company, general or limited liability partnership, estate, receiver, trustee, assignee, referee, and any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and/or any combination of the foregoing.
- (i) *Rent* - The charge and/or consideration received for occupancy, including any and all service or charge or amount required to be paid as a condition for occupancy, valued in money, whether received in money or otherwise and whether received by the operator, including a room remarketer, or another person on behalf of either of them.
- (j) *Return* - Any document filed or required to be filed as herein provided.
- (k) *Room* - Any room or rooms of any kind in any part or portion of a hotel or motel, which is available for, rented or otherwise let out for the lodging of guests.
- (l) *Tax Imposition Date* - The date set forth in Section 4 of this local law.
- (m) *Treasurer* - The Fulton County Treasurer, or such other fiscal officer(s) as may be designated by the Board of Supervisors.
- (n) *Room remarketer* - A person who reserves, arranges for, conveys or furnishes occupancy, whether directly or indirectly, to an occupant for rent in an amount to be determined by the room remarketer, directly or indirectly, whether pursuant to written or other agreement, such person's ability or authority to reserve, arrange for, convey or furnish occupancy, whether directly or indirectly, and to determine the rent therefore, shall be "the rights of the room remarketer". A room remarketer is not a permanent resident with respect to a room for which such person has the rights of a room remarketer.

Section 4. Imposition of Tax.

- (a) On or after July 1, 2017, and in addition to any other tax previously authorized and imposed pursuant to Article 28 or 29 of the Tax law or any other law, there is imposed and there shall be paid a tax of four percent (4%) upon the rent for every occupancy of a room or rooms in a hotel or motel located within the County, except that such tax shall not be imposed upon a permanent resident of a hotel or motel.

- (b) When occupancy is provided, for a single consideration, with property, services, amusement charges or other items, the separate sale of which is not subject to tax under this local law, the entire consideration shall be treated as rent subject to tax under paragraph (a) of this section; provided, however, that where the amount of the rent for occupancy is stated separately from the price of such property, services, amusement charges or other items, on any sales slip, invoice, receipt, or other statement given to the occupant, and such rent is reasonable in relation to the value of such property, services, amusement charges or other items, only such separately stated rent will be subject to tax under paragraph (a) of this section.
- (c) (1) In regards to the collection of tax on occupancies by room remarketer, when occupancy is provided for a single consideration with property, services, amusement charges or any other items, whether or not such items are taxable, the rent portion of the consideration for such transaction shall be computed as follows: either the total consideration received by the room remarketer multiplied by a fraction, the numerator of which shall be the consideration payable for the occupancy by the room remarketer and the denominator of which shall be such consideration payable for the occupancy, plus the consideration payable by the remarketer for the other items being sold, or by any other method as may be authorized by the Commissioner of the New York State Department of Taxation and Finance for the tax imposed by subdivision (c) of section eleven hundred five of the Tax Law of the State of New York, or by any other method as may be authorized by the County Treasurer. If the room remarketer fails to separately state the tax on the rent so computed on a sales slip, invoice, receipt or other statement given to the occupant in the manner prescribed in subparagraph (2) of this paragraph or fails to maintain records of all prices of all components of a transaction covered by this paragraph, the entire consideration shall be treated as rent subject to tax under Section 4(a) of this local law. Nothing herein shall be construed to subject to tax or exempt from tax any service or property or amusement charge or other items otherwise subject to tax or exempt from tax pursuant to Articles 28 or 29 of the New York State Tax Law. A room remarketer's records of the consideration payable for all components of a transaction covered by this paragraph are the records required to be maintained by Section 10 of this local law.
- (c) (2) In regard to the collection of tax on occupancies by room remarketers, including a transaction described in subparagraph (1) of this paragraph, the requirements of paragraph (b) of this section shall be deemed satisfied if the remarketer gives the customer a sales slip, invoice receipt, or other statement of the price prior to the customer's completion of his or her occupancy, on which the amount of tax due under this local law is stated. The room remarketer must keep a copy of this invoice as required by Section 10 of this local law, or electronic records that accurately reflect the information that is on the invoice provided to the customer.

- (c) (3) In regards to the reporting and payment to the County Treasurer by room remarketers of tax due on occupancies, a room remarketer shall report such tax due, including transaction(s) described in subparagraph (1) of this paragraph, on the return due date for the filing period in which the occupancy ends, and at the time of filing such return to pay to the County Treasurer the total amount due.

Section 5. Transitional Provisions.

The tax imposed by this local law shall be paid upon any occupancy on and after the date set forth in Section 4 hereof, although such occupancy is pursuant to a prior contract, lease, or other arrangement. Where rent is paid weekly or other term basis, the rent shall be subject to the tax imposed by this local law to the extent that it covers any period on and after the date set form in Section 4 hereof.

Section 6. Exempt Organizations.

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

- (a) The State of New York, any public corporation (including those created pursuant to agreement or compact with another state or the Dominion of Canada), improvement district or other political subdivision of the State;
- (b) The United States of America, insofar as it is immune from taxation; and
- (c) Any corporation or association, or trust, or community chest, fund or foundation, organized and operated exclusively for religious, charitable or educational purposes, or for the prevention of cruelty to children or animals, and no part of the net earnings of which inures to the benefit of any private shareholder or individual and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation; provided, however, that nothing in this paragraph shall include an organization operated for the primary purpose of carrying on a trade or business for profit, whether or not all of its profits are payable to one or more organizations described in this paragraph.

Section 7. Territorial Limitations.

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

Section 8. Registration.

- (a) Within twenty (20) days after the effective date of this local law, or in the case of an operator commencing business after such effective date with three (3) days after such commencement or opening, every operator shall file with the Treasurer a registration application in a form prescribed by the Treasurer.
- (b) The Treasurer shall, within five (5) days after receipt of a registration application, issue without charge to the operator a certificate of authority empowering such operator to collect the tax from the occupant and a duplicate thereof, for each additional hotel or motel of such operators.
- (c) Each certificate shall state the hotel or motel or room remarketer for which it is applicable.
- (d) Each certificate of authority shall be prominently displayed by the operators who are not room remarketers in such manner that it may be seen and brought to the notice of all occupants and persons seeking occupancy.
- (e) Certificates shall not be assignable or transferable, and shall be surrendered immediately to the Treasurer upon the cessation of business at, or upon the sale or conveyance of the operator's business named in such certificate(s).

Section 9. Administration and Collection.

- (a) The tax imposed by this local law shall be administered and collected by the Treasurer, or such other employees of the County as the Treasurer may designate, by such means and in such manner as other taxes which are now collected and administered or as is otherwise provided by this local law.
- (b) The tax to be collected shall be stated and charged separately from the rent and shown separately on any record thereof, at the time when the occupancy is arranged or contracted for and charged for, and upon every evidence of occupancy or any bill or statement or charge made for said occupancy issued or delivered by the operator, and the tax shall be paid by the occupant to the operator as trustee for and on account of the County, and the operator shall be liable for the collection thereof and payment of the tax.
- (c) The operator and any officer of any corporate operator shall be personally liable for the tax collected or required to be collected under this local law, and the operator shall have the same right in respect to collecting the tax from the occupant, or in respect to nonpayment of the tax by the occupant as if the tax were part of the rent for the occupancy payable at the time such rent shall become due and owing, including all rights of eviction, dispossession, repossession and enforcement of any innkeeper's lien that he may have in the event of non-payment of rent by the occupant; provided, however, that the Treasurer shall be joined as a party in any action or proceeding brought by the operator to collect or enforce collection of the tax.

- (d) The Treasurer may, whenever he deems it necessary for the proper enforcement of this local law, provide by order that the occupant shall file returns and pay directly to the Treasurer the tax herein imposed, at such times as returns are required to be filed and payment made by the operator.
- (e) The tax imposed by this local law shall be paid upon any occupancy on and after the tax imposition date, although such occupancy is had pursuant to a contract, lease or other arrangement made prior to such date; and where rent is paid, charged, billed or falls due on either a weekly, monthly or other term basis, the rent so paid, charged, billed or falling due shall be subject to the tax herein imposed to the extent that it covers any portion of the period on and after the tax imposition date.
- (f) Where any tax has been paid hereunder upon any rent which has been ascertained to be worthless, the Treasurer may by order provide for credit and/or refund of the amount of such tax upon application therefore as provided in Section 14 of this local law.
- (g) For the purpose of the proper administration of this local law and to prevent evasion of the tax hereby imposed, it shall be presumed that all rents are subject to tax until the contrary is established, and the burden of proving that a rent for occupancy is not taxable hereunder shall be upon the operator, except that, where, by the directive pursuant to subdivision (d) of this section, an occupant is required to file returns and pay directly to the Treasurer the tax imposed, the burden of proving that a rent for occupancy if not taxable, shall be upon the occupant.
- (h) Where an occupant claims exemption(s) from the tax under the provisions of Section 6 of this local law, the rent shall be deemed taxable hereunder unless the operator shall receive from the occupant claiming such exemption.
- (1) a copy of a certificate issued by the Treasurer certifying that the organization named therein is exempt from the tax pursuant to Section 6 of this local law, together with a certificate duly executed by the exempt organization setting forth the occupant's name and certifying that
- i. the occupant is a duly authorized agent, representative or employee of the exempt organization,
 - ii. the occupant's occupancy is paid or to be paid by such exempt organization, and
 - iii. the occupant's occupancy is necessary or required in the course and furtherance of, and/or in connection with, the affairs of said exempt organization; or
- (2) a properly completed, executed and certified Exemption Certificate from taxes imposed pursuant to Articles 28 and 29 of the New York State Tax Law, such certificate to be in the form and to contain the content approved and required by the New York State Department of Taxation.

Section 10. Records to be Kept

- (a) Every operator shall keep records of every occupancy and of all rent paid, charged or due thereon and of the tax payable thereon, in such form as the Treasurer may by regulation or order require.
- (b) All records shall be available for inspection and examination at any time upon demand by the Treasurer, or the Treasurer's duly authorized agent or employee, and shall be preserved for a period of not less than three (3) years, except that the Treasurer may consent in writing to their destruction within that period or may in writing require that such records be kept and maintained for a specified period in excess of three (3) years. The County Treasurer is not required to conduct annual audits on any establishment unless deemed necessary regarding this Occupancy Tax Law.

Section 11. Returns.

- (a) After the date set forth in Section 4 of this local law, and except as provided in subdivision (b) of this section, every operator and occupant, directed by the Treasurer, shall file with the Treasurer a return of occupancy and of rents, and of the taxes payable thereon, for the same quarterly periods and on the same dates as returns for New York State Sales and Use Taxes are filed or to be filed.
- (b) Notwithstanding the provisions of paragraph (a) of this section, the Treasurer may by order require returns to be made and filed for shorter periods than those prescribed pursuant to subdivision (a) of this section, on such dates as the Treasurer may specify in such rule or order, where the Treasurer deems it necessary in order to insure the payment of the tax imposed by this local law.
- (c) All returns shall be filed with the Treasurer within twenty (20) days from the expiration of the period covered thereby as shown in the example below:

<u>Tax Period</u>	<u>Due Date</u>
January 1 through March 31	April 20
April 1 through June 30	July 20
July 1 through September 30	October 20
October 1 through December 31	January 20

- (d) The forms of returns shall be prescribed by the Treasurer and shall contain such information as the Treasurer may deem necessary for the proper administration of this local law.
- (e) The Treasurer may require amended returns to be filed within twenty (20) days after notice and to contain the information specified in the notice.

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

Section 12. Payment of Tax.

- (a) Any tax imposed by this local law shall be paid by the occupant to the operator of the hotel or motel room occupied for and on account of the County, and such operator or person entitled to be paid the rent or charge shall be liable for the collection and payment of tax to the County.
- (b) The operator of the hotel or motel room shall have the same right in respect to collecting the tax from the occupant, or in respect to non-payment of the tax by the occupant, as if the tax were a part of the rent or charge and payable at the same time as the rent or charge. In any action or proceeding brought by an owner or a person entitled to be paid the rent or charge for the purpose of collecting the rent or charge, or the tax imposed by this local law, the Treasurer shall be joined as a party.
- (c) At the time of filing a return of occupancy and of rents, each operator shall pay to the Treasurer the taxes imposed by this local law upon the rents required to be included in such return, as well as all other moneys collected by the operator acting or purporting to act under the provisions of this local law.
- (d) All taxes and other moneys required to be paid under and pursuant to this local law shall be due from the operator and paid to the Treasurer on the date limited for the filing of the return for such period, without regard to whether a return is filed or whether the return which is filed correctly shows the amount of rents and taxes due thereon.
- (e) Notwithstanding paragraphs (a) and (b) of this section, the occupant shall pay the tax imposed by this local law directly to the Treasurer if so ordered by the Treasurer, in which case the operator shall be relieved of the responsibility and no right to collect the same until so authorized by the Treasurer
- (f) Operator Collection Credit:
 - (1) A credit in the amount of five percent (5%) of all tax collected, up to \$200.00 per quarter will be allowed.
 - (2) For Operators with hotels or motels in business on the effective date of this local law, an additional "Start-up Credit" of five percent (5%) of all tax collected, up to \$200.00 per quarter will be allowed. Said "Start-up Credit" shall only be allowed during the first 12 months immediately following the effective date of this local law.

Section 13. Bonds & Security for Payment of Tax.

- (a) Where the Treasurer, in the exercise of the Treasurer's discretion, deems it necessary to protect revenues to be obtained under this local law, the Treasurer may by rule or order require any operator required to collect the tax imposed by this local law to file with the Treasurer a bond to secure the payment of any tax and/or penalties and interest due or which may become due from such operator.
- (b) Any bond so required by the Treasurer shall be issued by a surety company authorized to transact business in this state and approved by the superintendent of insurance of this state as to solvency and responsibility, in such amount as the Treasurer may fix.
- (c) In the event the Treasurer determines that an operator is to file such bond he shall give notice to such operator to that effect specifying the amount of the bond required.
- (d) The operator shall file such bond within five (5) days after the issuance of such notice, unless within such five (5) days the operator shall serve upon and deliver to the Treasurer a written request for a hearing before the Treasurer at which the necessity, propriety and amount of the bond shall be determined by the Treasurer. Any determination by the Treasurer upon such hearing shall be final and shall be complied with by the operator within five (5) days after the giving of notices thereof.
- (e) In lieu of a bond the Treasurer, in the Treasurer's sole discretion, may accept or require
 - (1) securities approved by the Treasurer in such amount as the Treasurer may prescribe, with such securities to be kept in the custody of the Treasurer, and/or
 - (2) cash in such amount as the Treasurer may prescribe, with such cash to be deposited and kept in the custody of the Treasurer.
- (f) The Treasurer shall have the right at any time without notice to the operator to apply all or any portion of the bond(s), securities and/or cash to the payment of any tax and/or interest or penalties due, and for such purpose the Treasurer may exercise all rights under the bond(s) and/or may sell the securities at public or private sale without notice to the depositors thereof.

Section 14. Determination of Tax.

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

- (c) Notice of a determination under subdivision (b) of this section shall be furnished in writing to the affected operator or occupant (if the occupant has been directed to pay the occupancy to the Treasurer).
- (d) Any determination by the Treasurer under subdivision (b) of this section shall finally and irrevocably fix the tax, unless
 - (1) within thirty (30) days after the issuance of the notice of such determination the operator or person against whom it is assessed shall apply in writing to the Treasurer for a hearing, or
 - (2) the Treasurer shall, in the Treasurer's sole discretion, reconsider and re-determine the amount of tax due.
- (e) Within fifteen (15) days after the conclusion of a hearing conducted pursuant to subdivision (d) (1) of this section, the Treasurer shall give written notice of the Treasurer's determination to the person against whom the tax is assessed.
- (f) Except in the case of a 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 (3) years from the date of the filing of a return; provided, however, that where no return has been filed as provided by this local law the tax may be assessed at any time.

Section 15. Refunds.

- (a) In the manner provided in this section the Treasurer shall refund or credit, without interest, any tax, penalty or interest erroneously, illegally or unconstitutionally collected or paid provided that written application for such refund shall be made to the Treasurer within one year from the payment thereof. Such application shall be in a form as the County Treasurer may prescribe. (Subject to the conditions and limitations provided in this section, a room remarketer shall be allowed a refund or credit against the amount of tax collected and required to be remitted under Section 4. of this local law in the amount of the tax it had previously paid to an operator or a hotel. Provided, however, that in order to qualify for a refund or credit under this section for any occupancy tax quarterly period, the room remarketer must, for that quarter, (A) be registered for occupancy tax purposes under Section 8 of this local law; (b) collect the taxes imposed by Section 4 of this local law; and furnish the certificate of authority number to the operator to whom the applicant paid the tax in its application for refund or credit if required on that form or upon request. Provided, however, that if the room remarketer requests the operator's certificate of authority number and is not provided with that number, the room remarketer may satisfy this requirement by providing the operator's name, business address, telephone number, and the address of the hotel where the occupancy took place. An application for a refund or credit under this paragraph must be filed with the County Treasurer within the time provided by subparagraph (a)(1) of this section. Where an application for credit has been properly filed, the applicant may immediately take the credit on the return due coincident with or immediately subsequent to the time the applicant files the application for credit. However, the taking of the credit on the return is deemed to be part of the application for

credit. The procedure for granting or denying the application for a credit or refund and review of these determinations shall be as provided in this section. An operator, including a room remarketer, who is paid tax by a room remarketer must upon request provide the other room remarketer with its certificate of authority number, provided that the operator's failure to do so does not change the requirement set forth in paragraph (c) herein.)

- (b) An application for refund or credit may be made only by the occupant, operator, or other person who has actually paid the tax.
- (c) An application for a refund or credit made as herein provided shall not be complete unless the same includes copies of all documentation and evidence upon which the applicant relies in support thereof, but nothing shall prohibit or prevent the Treasurer from receiving any other evidence with respect thereto.
- (d) No application for a refund or credit shall be accepted or considered unless such application has been actually received by the Treasurer within one (1) year of the payment of the tax.
- (e) The determination to deny or allow a refund or credit shall be made by the Treasurer in writing, stating the reason(s) therefore, and the Treasurer shall give notice of such determination to the applicant.
- (f) No refund shall be made to an operator who has collected and paid over such tax to the Treasurer unless and until such operator shall first establish, to the satisfaction of the Treasurer under such regulations as the Treasurer may prescribe, that such operator has repaid to the occupant(s) the amount of tax for which a refund is sought.
- (g) The Treasurer may, in the Treasurer's discretion and in lieu of the payment of any refund determined to be due, allow credit therefore on and against payments due from the applicant.

Section 16. Disposition of Revenues.

All revenues resulting from the imposition of the tax under this local law shall be paid into the Treasury of the County of Fulton and shall be credited to and deposited in the general fund of the County, thereafter to be allocated only for tourism development, economic development and other directly related and supporting activities, however, that a portion of such revenue may be specifically allocated to the expense of the County in administering such tax. The revenues derived from such tax, after deducting the amount provided for administering such tax, shall be allocated to enhance the general economy of the County of Fulton, and its city, towns and villages through the promotion of tourist activities, conventions, trade shows, special events and other directly-related and supported activities. The amount retained by Fulton County with respect to administering said tax shall not exceed ten percent (10%) of the revenues collected from the imposition of this tax.

Section 17. Reserves.

Whenever the occupant or operator has applied for a refund and has instituted a proceeding under Article 78 of the Civil Practice Law and Rules to review a determination adverse to such occupant or operator on such application for refund, the Treasurer shall set up appropriate reserves to meet any decision adverse to the County.

Section 18. Remedies Exclusive.

The remedies provided by Sections 14 and 15 of this local law shall be exclusive remedies available to any person for the review of tax liability imposed by this local law; and no determination or proposed determination of tax or determination on any application for refund or credit shall be enjoined, contested or reviewed by any action or proceeding, except by a proceeding under Article 78 of the Civil Practice Law and Rules pursuant to Section 24 of this local law.

Section 19. Proceedings to Recover Tax.

- (a) Whenever any operator or other person shall fail to collect and pay over any tax and/or to pay any tax, penalty or interest imposed by this local law as herein provided, or whenever any occupant shall fail to pay any such tax, penalty or interest, the County Attorney shall, upon the request of the County Treasurer, bring or cause to be brought an action to enforce the payment of the same on behalf of Fulton County in any court of the State of New York or of any other state or of the United States.
- (b) Notwithstanding any other provision of this section, if the Treasurer in his discretion believes that any such operator, occupant or other person is about to cease business, leave the state or remove or dissipate the assets out of which the tax or penalties might be satisfied, and that any such tax or penalty will not be paid when due, the Treasurer may declare such tax or penalty to be immediately due and payable and may issue a warrant, as provided in this section, immediately.
- (c) As an additional or alternate remedy, the Treasurer may issue a warrant, directed to the Fulton County Sheriff or to the sheriff of any other county commanding him to levy upon and sell the real and personal property of the operator, occupant or other person, including but not limited to any partner, corporate officer/director/shareholder, or member, liable for the tax, which may be found within his county for the payment of the amount thereof, with any penalties and interest, and the cost of executing the warrant, and to return such warrant to the Treasurer and to pay to the Treasurer the money collected by virtue thereof within sixty (60) days after the receipt of such warrant.
- (d) The Sheriff receiving a warrant issued under this section shall, within five (5) days after receipt of the warrant, file with the County Clerk a copy thereof, and thereupon such clerk shall enter in the judgment docket the name of the person mentioned in the warrant and the amount of the tax, penalties and interest for which the warrant is issued and the date when such copy is filed.

- (e) Upon filing a copy of the warrant as provided in paragraph (d) of this section,
1. the amount of such warrant so docketed shall become a lien upon the title to and interest in real and personal property of the person against whom the warrant is issued, provided that such lien shall not apply to personal property unless another copy of such warrant is filed in the New York State Department of State;
 2. the Sheriff shall then proceed upon the warrant, in the same manner, and with like effect, as that provided by law in respect to
 3. the Treasurer shall have the same remedies to enforce the amount due thereunder as if the County had recovered judgment therefore.
- (f) If a warrant is returned not satisfied in full, the Treasurer may from time to time issue new warrants and shall also have the same remedies to enforce the amount due thereunder as provided in this section.
- (g) Whenever an operator or other person shall make a sale, transfer, or assignment in bulk of any part or the whole of his hotel or motel or of such operator's business assets, other than in the ordinary course of business, the following provisions shall apply:
- (1) the purchaser, transferee or assignee shall at least twenty (20) days before taking possession of the subject of said sale, transfer or assignment, or paying therefore, notify the Treasurer by registered mail of the proposed sale and of the price, terms and conditions thereof and whether or not the operator has represented to or informed the purchaser, transferee or assignee that it owes any tax pursuant to this local law, and whether or not the purchaser, transferee or assignee has knowledge that such taxes are owing, and whether any such taxes are in fact owing;
 - (2) for failure to comply with the provisions of this paragraph, including but not limited to subdivision (1) above, the purchaser, transferee or assignee shall be personally liable for the payment to the County of any such taxes theretofore or thereafter determined to be due to the County from the operator, seller, transferor, or assignor, and such liability may be assessed and enforced in the same manner as the liability for tax under this local law;
 - (3) whenever the purchaser, transferee or assignee shall fail to give notice to the Treasurer as required by subdivision (1) of this paragraph, or whenever the Treasurer shall inform the purchaser, transferee or assignee that a possible claim for such tax or taxes exists, any sums of money, property or chooses in action, or other consideration, which the purchaser, transferee or assignee is required to transfer over to the seller, transferor or assignor shall be subject to a first priority right and lien for any such taxes theretofore or thereafter determined to be due from the operator, seller, transferor or assignor to the County, and the purchaser, transferee or assignee is forbidden to transfer to

the operator, seller, transferor or assignor, and shall withhold any such sums of money, property or chooses in action, or other consideration, to the extent of the amount of the County's claim;

- (4) within fifteen (15) days of receipt of the notice of the sale, transfer or assignment from the purchaser, transferee or assignee, the Treasurer shall give notice to the purchaser, transferee or assignee and to the operator, seller, transferor or assignor, of the total amount of any tax or taxes, as well as of any penalties or interest due thereon, which the Treasurer claims to be due from the operator, seller, transferor or assignor, to the County;
- (5) whenever the Treasurer shall fail to give the notice required by subdivision (4) of this paragraph, within fifteen (15) days from receipt of notice of the sale, transfer and assignment required by subdivision (1) of this paragraph, such failure shall release the purchaser, transferee or assignee from any further obligation to withhold any sums of money, property or chooses in action, or other consideration, which the purchaser, transferee or assignee is required to transfer over to the operator, seller, transferor or assignor;
- (6) upon receipt of the Treasurer's notice issued pursuant to subdivision (4) above stating the total amount of the County's claim, the purchaser, transferee or assignee may make payment of such claim to the Treasurer from any sums of money, property, or chooses in action withheld in accord with the provisions of subdivision (3) of this paragraph, and upon making such payment the purchaser, transferee or assignee shall be relieved of all liability for such amounts to the operator, seller, transferor or assignor, and such amounts paid to the Treasurer shall be deemed satisfaction of the tax liability of the operator, seller, transferor or assignee to the extent of the amount of such payment.

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

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

Section 20. General Powers of the Treasurer.

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

- (a) To make, adopt and amend rules and regulations, and to issue orders, appropriate to the carrying out of this local law and the purposes thereof;
- (b) To extend for cause shown the time of filing any return for a period not exceeding 30 days; and for cause shown, to remit or waive penalties but not interest; and to compromise disputed claims in connection with the taxes hereby imposed;
- (c) To request information from the Tax Commission of the State of New York or the Treasury Department of the United States relative to any person; and to afford information to such Tax Commission or such Treasury Department relative to any person, any other provision of this local law to the contrary notwithstanding;
- (d) To delegate his functions hereunder to any employee or employees of the County Treasurer;
- (e) To prescribe methods for determining the rents for occupancy and to determine the taxable and nontaxable rents;
- (f) To require any operator within the county to keep detailed records of the nature and type of hotel or motel maintained, nature and type of service rendered, the rooms available and rooms occupied daily, leases or occupancy contracts or arrangements, rents received, charged and accrued, the names and addresses of the occupants, whether or not any occupancy is claimed to be subject to the tax imposed by this local law, and to furnish such information upon request to the County Treasurer;
- (g) To assess, determine, revise and readjust the taxes imposed under this local law.

Section 21. Administration of Oaths and Compelling Testimony.

- (a) The Treasurer, or the Treasurer's duly designated and authorized employee(s) or agent(s), shall have power to administer oaths and take affidavits in relation to any matter or proceeding in the exercise of the Treasurer's powers and duties under this local law.
- (b) The Treasurer shall have power to subpoena and require the attendance of witnesses and the production of books, papers and documents to secure information pertinent to the performance of his duties hereunder and of the enforcement of this local law, and to examine them in relation thereto, and to issue commissions for the examination of witnesses who are out of the state or unable to attend before the Treasurer or excused from attendance.

- (c) A justice of the Supreme Court, either in court or at chambers, shall have power summarily to enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of books, papers and documents called for by the subpoena of the Treasurer under this local law.
- (d) Any person who shall refuse to testify or to produce books or records or who shall testify falsely in any material matter pending before the Treasurer under this local law shall be guilty of a misdemeanor, punishment for which shall be a fine of not more than one thousand (\$1,000) dollars or imprisonment for not more than one (1) year, or both such fine and imprisonment.
- (e) The officers who serve the summons or subpoena of the Treasurer and witnesses attending in response thereto shall be entitled to the same fees as are allowed to officers and witnesses in civil cases in courts of record, except as herein otherwise provided.
- (f) The County Sheriff, the Sheriff's duly appointed deputies, and any officer or employee of the Treasurer designated to serve process under this local law, are hereby authorized and empowered to serve any summons, subpoena, order, notice, document, instrument, or other process to enforce or carry out this local law.

Section 22. Reference to Tax.

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

Section 23. Penalties, Interest & Violations.

- (a) Any person failing to file a return or to pay or pay over any tax to the Treasurer within the time required by this local law shall be subject to
 - (1) a penalty of five percent (5%) of the amount of tax due; plus
 - (2) interest at the rate of one percent (1%) of the amount of tax due for each month of delay, except that no interest shall be charged for the first thirty (30) days immediately after the date such return was required to be filed or such tax became due.
- (b) Notwithstanding the provisions of paragraph (a) of this section, the Treasurer may, if satisfied that the delay was excusable, cancel and remit all or part of such penalty, but may not cancel or remit any portion of the interest.
- (c) All penalties and interest shall be paid and disposed of in the same manner as other revenues from this local law.
- (d) Unpaid penalties and interest may be enforced in the same manner as the tax imposed by this local law.

- (e) Officers and/or members of an owner or operator corporation, limited liability company, limited liability partnership, or partnership shall be personally liable for the tax collected or required to be collected and paid by such corporation under this local law, and shall also be personally liable for the penalties and interest herein imposed.
- (f) In addition to the penalties herein or elsewhere prescribed, any person found to have committed any of the following acts shall be guilty of a misdemeanor, punishment for which shall be a fine of not more than one thousand (\$1,000) dollars or imprisonment for not more than one (1) year, or both such fine and imprisonment:
 - (1) failing to file a return required by this local law;
 - (2) filing or causing to be filed, or making or causing to be made, or giving or causing to be given, any return, certificate, affidavit, representation, information, testimony or statement required or authorized by this local law which is willfully false;
 - (3) willfully failing to file a bond required to be filed pursuant to this local law;
 - (4) failing to file a registration certificate and such data in connection therewith as the Treasurer may by order, regulation or otherwise require;
 - (5) failing to display, or to surrender upon demand of the Treasurer, the certificate of authority as required by this local law;
 - (6) assigning or transferring such a certificate of authority;
 - (7) willfully failing to charge separately from the rent the tax herein imposed, or willfully failing to state such tax separately on any evidence of occupancy and on any bill or statement or receipt of rent issued or employed by the operator;
 - (8) willfully failing or refusing to collect any tax imposed by this local law from the occupant;
 - (9) referring or causing reference to be made to this tax in a form or manner other than that required by this local law; or
 - (10) failing to keep or maintain the records required by this local law.
- (g) The certificate of the County Treasurer to the effect that a tax has not been paid, that a return, bond or registration certificate has not been filed, or that information has not been supplied pursuant to the provisions of this local law, shall be presumptive evidence thereof.

Section 24. Judicial Review.

- (a) Any final determination of the amount of any tax payable pursuant to this local law, as well as any final determination on an application for refund or credit under section 15 of this local law, shall be reviewable for error, illegality or unconstitutionality or any other reason whatsoever by a proceeding under Article 78 of the Civil Practice Law and Rules if application therefor is made to the Supreme Court within thirty (30) days after the giving of the notice of such final determination, provided, however, that any such proceeding under Article 78 of the Civil Practice Law and Rules shall not be instituted unless:

- (1) The amount of any tax sought to be reviewed, with such interest and penalties thereon as may be provided for by local law or regulation shall be first deposited and there is filed an undertaking, issued by a surety company authorized to transact business in this state and approved by the superintendent of insurance of this state as to solvency and responsibility, in such amount as a justice of the supreme court shall approve to the effect that if such proceeding be dismissed or the tax confirmed the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding; or
 - (2) 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.
- (b) Where any tax imposed pursuant to this section shall have been erroneously, illegally or unconstitutionally collected and application for the refund thereof duly made to the proper fiscal officer or officers, and such officer or officers shall have made a determination denying such refund, such determination shall be reviewable by a proceeding under Article 78 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 25. Returns to be Kept Confidential.

- (a) Except in accordance with proper judicial order, or as otherwise provided by law,
- (1) it shall be unlawful for the Treasurer or any agent, employee or designee of the Treasurer to divulge or make known in any manner the rents or other information relating to the business of an operator contained in any return required under this local law; and
 - (2) the officers charged with the custody of such returns shall not be required to produce any of such returns or evidence of anything contained therein in any action or proceeding in any court, except on behalf of the Treasurer in an action or proceeding under the provisions of this local law, or on behalf of any party to any action or proceeding under the provisions of this local law when the returns or facts shown thereby are directly involved in such action or proceeding, provided that in either of which events the court may require the production of, and may admit in evidence, so much of said returns or of the facts shown thereby, as are pertinent to the action or proceeding and no more.

- (b) Notwithstanding the provisions of paragraph (a) of this section, nothing herein shall be construed to prohibit
- (1) the delivery to an owner/operator or such duly authorized owner's/operator's representative of a copy of any return filed in connection with this local law; or
 - (2) the publication of statistics so classified as to prevent the identification of particular returns and items thereof, or
 - (3) the inspection by the county attorney or other legal representatives of the county, or by the district attorney of any county, of the return(s) of any taxpayer who shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding has been instituted for the collection of a tax or penalty.
- (c) Returns shall be preserved by the Treasurer for not less than three (3) years or for such longer period of time as the Treasurer determines.
- (d) Any violation of paragraph (a) of this section shall be punishable by a fine not exceeding one thousand (\$1,000) dollars, or by imprisonment not exceeding one year, or both, in the discretion of the court, and if the offender be an officer or employee of the county such officer or employee shall be disciplined in accordance with the Civil Service Law and/or any applicable collective bargaining agreements.

Section 26. Notices and Limitations of Time.

- (a) Any notice authorized or required under the provisions of this local law may be given by mailing the same to the person for whom it is intended in a postpaid envelope addressed to such person at the address given in the last return filed pursuant to the provisions of this local law, or in any application made by such person, or if no return has been filed or application made then to such address as may be obtainable.
- (b) The mailing of such notice shall be presumptive evidence of the receipt of the same by the person to whom addressed.
- (c) Any period of time which is determined according to the provisions of this local law by the giving of notice shall commence to run from the date of mailing of such notice.
- (d) The provisions of the Civil Practice Law and Rules or any other law relative to limitations of time for the enforcement of a civil remedy shall not apply to any proceeding or action taken by the county to levy, appraise, assess, determine or enforce the collection of any tax or penalty provided by this local law.

Section 27. Effect of Local Law.

This local law shall remain in full force and effect for a period of three (3) years from the date of enactment by the Board of Supervisors; except that nothing shall prohibit or prevent the adoption

and enactment of subsequent local laws continuing or imposing the tax authorized hereby after the expiration of this or any other local law adopted and enacted pursuant to the provisions of Chapter 489 of the Laws of 2016.

Section 28. Separability.

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

Section 29. Effective Date.

This local law shall take effect upon filing with the Secretary of State of New York.

Resolution No. 131

Supervisor GREENE offered the following Resolution and moved its adoption:

RESOLUTION AND ORDER ESTABLISHING FULTON COUNTY
WATER DISTRICT NO. 2

WHEREAS, the Fulton County Board of Supervisors has determined that it is in the interest of the residents of Fulton County to establish public water service from the City of Gloversville to the vicinity of Hales Mills Road Extension in the Town of Johnstown; and

WHEREAS, the City of Gloversville has sufficient capacity and ability to supply water to the County in accordance with the SMART Waters Inter-municipal Agreement between the two parties; and

WHEREAS, NYS County Law Article 5-A authorizes Fulton County to establish county water districts, which districts are further authorized to purchase water for resale within the district; and

WHEREAS, Resolution 505, dated December 29, 2015, authorized the preparation of the Map, Plan and Report for proposed Fulton County Water District No. 2; and

WHEREAS, the Board of Supervisors, by Resolution, accepted the Fulton County Water District No. 2 Map, Plan And Report, dated February 13, 2017, prepared by Environmental Design Partnership, which identified the proposed improvements, the boundaries and description of the proposed district, the proposed method of financing and the estimated costs of the improvements and all other matters required by law to be stated; and

WHEREAS, pursuant to public notice, dated February 16, 2017, the Fulton County Board of Supervisors held a public hearing on March 13, 2017, on the proposed establishment of Fulton County Water District No. 2; and

WHEREAS, an Environmental Assessment Form was prepared by the Fulton County Board of Supervisors, a coordinated review has been completed and by Resolution dated March 13, 2017, authorized the issuance of a Negative Declaration pursuant to the State Environmental Quality Review Act ("SEQRA"); now therefore be it

RESOLVED, That:

- (a) the proposed water facilities are satisfactory and sufficient;
- (b) all of the property and property owners within County Water District No. 2 are benefited thereby;
- (c) all of the property and property owners benefited are included within the limits of proposed County Water District No. 2;
- (d) it is in the public interest to establish County Water District No. 2; and
- (e) the establishments of zones of assessment is not recommended;

and be it further

Resolution No. 131 (Continued)

RESOLVED, That the establishment of Fulton County Water District No. 2 as described and defined in the updated Fulton County Water District No. 2 Map, Plan and Report, dated February 13, 2017, prepared by Environmental Design Partnership, be and hereby is approved; and, be it further

RESOLVED, That the cost to the Water District for purchasing water from the City of Gloversville shall be equal to the rate charged to residential customers within the City of Gloversville, and be it further

RESOLVED, That the County Water District No. 2 shall charge water users the same rate it pays for purchasing water from the City of Gloversville, plus an additional 16.34 percent Administrative Surcharge payable to the City; and be it further

RESOLVED, That the proposed improvements, which include the construction of water lines to service properties within the District, shall be financed with capital reserves of the County of Fulton and, state grants with the maximum amount to be expended for said improvements currently estimated to be \$690,340.00 dollars; and be it further

RESOLVED, That certified copies of this Resolution be forwarded to the County Treasurer, County Clerk, Planning Director, City of Gloversville, Town of Johnstown, Gloversville Water Board, Environmental Design Partnership, Budget Director/County Auditor, Administrative Officer/Clerk of the Board and to each and every other person, institution or agency who will further the purport of this Resolution.

Seconded by Supervisor CALLERY and adopted by the following vote:

TOTAL: Ayes: 19 Nays: 0 Absent 1 (Supervisor Waldron)