

October 12, 2011

The meeting was called to order by Chairman Michael T. O'Brien.

The invocation was given by Rev. Kay.

The Attendance Roll Call disclosed all Legislators present.

MS. EDSTROM moved, seconded by Mr. Aiello that the minutes of the September 28, 2011 session be approved. Carried.

\* \* \* \* \*

**COMMUNICATIONS:**

Assembly Member Giglio: Copy of letter sent to Governor Cuomo and Commissioner Fiala as well as a press release regarding his strong objection to the elimination of vision tests for driver's license renewals. Also, letter acknowledging receipt of Act No. 441-2011.

\* \* \* \* \*

CHAIRMAN O'BRIEN announced that Jim Griffith, County Clerk, notified him that the New York State Department of Motor Vehicles has reversed their decision to eliminate vision tests.

CHAIRMAN O'BRIEN granted privilege of the floor to Madelyn Thornton, Program Coordinator, Cancer Services of Allegany and Cattaraugus Counties, regarding Breast Cancer Awareness Month and their cancer services program.

\* \* \* \* \*

CHAIRMAN O'BRIEN announced this is the time and place called for a public hearing on the Act No. 431-2011, Local Law Number 11-2011, "'A System of Weighted Voting as an Interim System of Reapportionment for County Legislators in the County of Cattaraugus' by Adjusting the Weight of the Votes of Legislators on the Basis of the 2010 Federal Decennial Census" and that anyone wishing to speak for or against this local law, may now do so.

There being no one wishing to speak, CHAIRMAN O'BRIEN declared the public hearing closed.

CHAIRMAN O'BRIEN called up **Act No. 431-2011**, Local Law Number 11-2011, "'A System of Weighted Voting as an Interim System of Reapportionment for County Legislators in the County of Cattaraugus' by Adjusting the Weight of the Votes of Legislators on the Basis of the 2010 Federal Decennial Census", and asked that it be read.

Approved by 7 members of the Finance Committee and 7 members of the County Operations Committee.

The vote on Act No. 431-2011, is as follows:

Ayes: Aiello 0.8772, Boser 1.0094, Burrell 1.0915, Edstrom 0.8772, Ellis 1.0875, Giardini 1.0094, Hebdon 1.0915, Marsh 1.0843, McClune 0.8834, McLarney 1.0632, Murphy 1.0875, Neal 1.0843, Padlo 0.8772, Snyder .08772, Sprague 1.0530, Stockman 1.0265, Teachman 0.8772, Vecchiarella 0.8834, Vickman 1.0915, Ward 1.0043, O'Brien 1.0632 - 20.9999.

Nays: none.

Act No. 431-2011, having received the majority vote of the Legislature, was declared Adopted.

\* \* \* \* \*

**ACT NO. 442-2011** by Mr. Marsh

**SALE OF TAX TITLE PROPERTY**

Pursuant to Section 215 of the County Law and Rule 40 of the Rules of Order of the Cattaraugus County Legislature.

WHEREAS, Cattaraugus County has tax title to certain property situate in Cattaraugus County, as described below, and

WHEREAS, the property was exposed to bid at public auction as required by Rule 40 of the Rules of Order of the Cattaraugus County Legislature, and

WHEREAS, the highest bid received for the property was the bid listed below, now, therefore, be it

RESOLVED, that if the tender by the high bidder of the total purchase price is not made within 30 days after the adoption hereof, then the acceptance of that individual's bid shall thereafter be void and of no further effect, as of course, and the bid deposit shall be forfeited pursuant to Rule 40.8 of the Rules of Order, and be it further

RESOLVED, that the County Treasurer be, and hereby is, authorized and directed to execute County Treasurer's Deed conveying the property to the following individual at the bid price listed:

<u>CITY OF OLEAN</u>					
<u>PARCEL</u>				<u>COUNTY</u>	<u>BID</u>
<u>NO.</u>	<u>TAX MAP NO.</u>	<u>HIGH BIDDER</u>	<u>ADDRESS</u>	<u>INVOLVEMENT</u>	<u>AMOUNT</u>
264	94.075-2-9	Jahengo LLC	4 St. Mary's Drive Allegany, NY 14706	\$58,145.95	\$56,000.00

Approved by 7 members of the Finance Committee and 7 members of the County Operations Committee.

Adopted October 12, 2011 by voice vote.

**ACT NO. 443-2011** by Mr. Snyder and Mrs. Stockman

**AUTHORIZING THE CHAIR TO EXECUTE CONTRACT WITH  
OLEAN COMMUNITY SCHOOLS FOR AFTER SCHOOL AND SUMMER PROGRAM  
FOR AT-RISK YOUTH FOR DEPARTMENT OF SOCIAL SERVICES**

Pursuant to Section 450 of the County Law.

WHEREAS, the County Department of Social Services is desirous of providing an after school and summer program for at-risk youth, and

WHEREAS, Olean Community Schools can provide the aforementioned after school and summer program for at-risk youth for an amount of \$11,000.00, to be paid on a monthly basis as invoiced, and

WHEREAS, this program is 100% federally funded, now, therefore, be it

RESOLVED, that the Chair of the Legislature be, and hereby is, authorized and directed to execute a contract, on behalf of Cattaraugus County, with Olean Community Schools, for the provision of the above-described services, for a term commencing October 15, 2011 and terminating September 30, 2012, according to the above-described terms, and be it further

RESOLVED, that upon termination of either state or federal funding for this program, then this program shall be automatically abolished, and be it further

RESOLVED, that such contract shall provide that upon the reduction of any such funding, the County, in its sole discretion, may terminate the contract on thirty (30) days written notice, and be it further

RESOLVED, that in the event of any such reduction, the department head involved shall immediately report such occurrence to the Chairman of the Committee to which the department is assigned, who shall add the matter to the agenda of the Committee's next meeting.

Approved by 7 members of the Finance Committee and 5 members of the Human Services Committee.

Adopted October 12, 2011 by voice vote. Ms. Edstrom was absent for vote.

**ACT NO. 444-2011** by Mr. Snyder and Mrs. Stockman

**AUTHORIZING THE CHAIR TO EXECUTE CONTRACT WITH  
HEALTH RESEARCH, INC. FOR PUBLIC HEALTH  
PREPAREDNESS AND RESPONSE TO BIOTERRORISM**

Pursuant to Section 301 et seq. of the Public Health Service Act and Section 450 of the County Law.

WHEREAS, Act 575-2010 authorized a contract with Health Research, Inc., in order to accept funding for the terrorism emergency response and preparedness plan, the term of which expired August 9, 2011, and

WHEREAS, Health Research, Inc., Riverview Center, 150 Broadway, Suite 560, Menands, New York 12204, has awarded an amount of \$78,641.00 to the County Health Department for the next phase of the terrorism emergency response and preparedness plan, and

WHEREAS, a contract is necessary with the Health Research, Inc., in order to accept the aforementioned funding, and

WHEREAS, this program is 100% federally funded, now, therefore, be it

RESOLVED, that the Chair of the Legislature be, and hereby is, authorized and directed to execute a contract, on behalf of Cattaraugus County, with the Health Research, Inc., for the provision of the above-described services, for a term commencing August 10, 2011 and terminating August 9, 2012, according to the above-described terms, and be it further

RESOLVED, that upon termination of either state or federal funding for this program, then this program shall be automatically abolished, and be it further

RESOLVED, that such contract shall provide that upon the reduction of any such funding, the County, in its sole discretion, may terminate the contract on thirty (30) days written notice, and be it further

RESOLVED, that in the event of any such reduction, the department head involved shall immediately report such occurrence to the Chairman of the

Committee to which the department is assigned, who shall add the matter to the agenda of the Committee's next meeting.

Approved by 7 members of the Finance Committee and 6 members of the Human Services Committee.

Adopted October 12, 2011 by voice vote.

**ACT NO. 445-2011** by Mr. Snyder and Mrs. Stockman  
*and Mr. Aiello and Ms. Vickman<sup>1</sup>*

**AUTHORIZING THE CHAIR TO EXECUTE CONTRACT WITH  
NEW YORK STATE DEPARTMENT OF HEALTH FOR ADOLESCENT TOBACCO  
USE PREVENTION ACT ENFORCEMENT PROGRAM**

Pursuant to Article 13-F of the Public Health Law and  
Section 450 of the County Law.

WHEREAS, Act 428-2010 authorized a contract with New York State Department of Health for a youth tobacco enforcement and preventive work plan to reduce the use and accessibility of tobacco to youths under 18 years of age, the term of which expires September 30, 2011, and

WHEREAS, funding is available in the amount of \$14,715.00 through the New York State Department of Health under the Center for Environmental Health, Bureau of Community Sanitation and Food Protection, Flanigan Square, 547 River Street, Room 515, Troy, New York 12180-2216, for an Adolescent Tobacco Use Prevention Act Enforcement Program for the 2011-2012 program year, and

WHEREAS, the County Department of Health is desirous of continuing the aforementioned program, and

WHEREAS, the program is 100% state funded, now, therefore, be it  
RESOLVED, that the Chair of the Legislature be, and hereby is, authorized and directed to execute a contract, on behalf of Cattaraugus County, with the New York State Department of Health for the aforementioned grant, for a term commencing October 1, 2011 and terminating March 31, 2012, according to the above-described terms, and be it further

RESOLVED, that upon termination of either state or federal funding for this program, then this program shall be automatically abolished, and be it further

RESOLVED, that such contract shall provide that upon the reduction of any such funding, the County, in its sole discretion, may terminate the contract on thirty (30) days written notice, and be it further

RESOLVED, that in the event of any such reduction, the department head involved shall immediately report such occurrence to the Chairman of the Committee to which the department is assigned, who shall add the matter to the agenda of the Committee's next meeting.

Approved by 7 members of the Finance Committee and 6 members of the Human Services Committee.

<sup>1</sup> The following Legislators requested their names be listed as additional sponsors: "Mr. Aiello and Ms. Vickman".

Adopted October 12, 2011 by voice vote.

**ACT NO. 446-2011** by Mr. Snyder and Mrs. Stockman  
and Mr. Aiello and Mr. McClune<sup>1</sup>

**AUTHORIZING COUNTY ADMINISTRATOR TO EXECUTE CONTRACT WITH  
CATTARAUGUS COMMUNITY ACTION, INC. FOR HOME ENERGY  
ASSISTANCE PROGRAM (HEAP) FUNDS ADMINISTRATION**

Pursuant to 18 NYCRR Part 393, P.L. 97-35, Section 34 of  
the Social Services Law and Act 290-2011 of the  
Cattaraugus County Legislature.

WHEREAS, Act 565-2010 authorized a contract with Cattaraugus  
Community Action, Inc., 25 Jefferson Street, Salamanca, New York 14779, for  
the provision of administrative functions for HEAP in Cattaraugus County, the  
term of which expired March 31, 2011, and

WHEREAS, HEAP is federally funded with State allocations funneled  
through the United States Department of Health and Human Services, and

WHEREAS, Cattaraugus Community Action, Inc., can perform outreach  
functions of the program for a sum not to exceed \$28,435.00, now, therefore,  
be it

RESOLVED, that the County Administrator be, and hereby is,  
authorized and directed to execute a contract, on behalf of Cattaraugus  
County, with Cattaraugus Community Action, Inc., for the provision of the  
above-described services, for a term commencing November 1, 2011 and  
terminating March 31, 2012, according to the above-described terms, and be it  
further

RESOLVED, that upon termination of either state or federal  
funding for this program, then this program shall be automatically abolished,  
and be it further

RESOLVED, that such contract shall provide that upon the  
reduction of any such funding, the County, in its sole discretion, may  
terminate the contract on thirty (30) days written notice, and be it further

RESOLVED, that in the event of any such reduction, the department  
head involved shall immediately report such occurrence to the Chairman of the  
Committee to which the department is assigned, who shall add the matter to  
the agenda of the Committee's next meeting.

Approved by 7 members of the Finance Committee and 6 members of the  
Human Services Committee.

<sup>1</sup> The following Legislators requested their names be listed as  
additional sponsors: "Mr. Aiello and Mr. McClune".

Adopted October 12, 2011 by voice vote.

**ACT NO. 447-2011** by Mr. Vecchiarella  
and Mr. Aiello, Mr. Burrell and Mr. Neal<sup>1</sup>

**AUTHORIZING THE CHAIR TO EXECUTE CONTRACT WITH  
FINGER LAKES PARALEGAL SERVICES FOR  
MANAGEMENT OF CIVIL FORFEITURES**

Pursuant to Section 450 of the County Law.

WHEREAS, the Cattaraugus County District Attorney is desirous of obtaining services to increase revenue through civil forfeitures, and

WHEREAS, the Finger Lakes Paralegal Services, 414 Fairview Avenue, Hornell, New York 14843, can assist by providing the following services for a contingency amount of 10% of the total dollars distributed from each forfeiture case at the time the funds are being distributed:

- Assist District Attorney and police staff with identifying assets subject to forfeiture,
- Prepare stipulations,
- Prepare reports for filing pursuant to statute, and
- Distribute funds,

now, therefore, be it

RESOLVED, that the Chair of the Legislature be, and hereby is, authorized and directed to execute a contract, on behalf of Cattaraugus County, with Finger Lakes Paralegal Services, for the provision of the above-described services, for a term commencing October 1, 2011 to continue in full force and effect until terminated by either party hereto, according to the above-described terms.

Approved by 7 members of the Finance Committee and 7 members of the Public Safety Committee.

<sup>1</sup> The following Legislators requested their names be listed as additional sponsors: "Mr. Aiello, Mr. Burrell and Mr. Neal".

Adopted October 12, 2011 by voice vote.

**ACT NO. 448-2011** by Mr. Marsh, Mrs. Stockman,  
Mr. Teachman and Mr. Hebdon

**AUTHORIZING BOARD OF ELECTIONS TO CHARGE BACK  
50% OF ALL EXPENSES OF VILLAGE ELECTIONS**

Pursuant to Section 361-a of the County Law,  
Sections 3-226, 4-138 and 15-104 of the Election Law,  
Help America Vote Act (HAVA) and  
the Election Reform Management Act of 2005 (ERMA).

WHEREAS, effective January 1, 2011, villages in Cattaraugus County will no longer be allowed to use the lever voting machines, and

WHEREAS, villages have had, and continue to have, the option of asking the County Board of Elections to conduct village elections, and

WHEREAS, the new HAVA-compliant optical scan voting machines purchased by the County have increased costs due to increased man hours for programming, ballot testing, test ballots, and election day ballots, and

WHEREAS, the County Board of Elections is desirous of charging back, to all villages in the County, 50% of all expenses connected with elections that the County conducts, and matters preliminary or relating thereto that were directly incurred by villages, as well as those county expenses that were specifically chargeable to villages pursuant to a provision of law, including the expenses of election inspectors and expenses relating to the ballots, test decking ballots, testing of machines, preparing machines and programming voting machines, now, therefore, be it

RESOLVED, that effective January 1, 2012, the Cattaraugus County Board of Elections shall charge back, to all villages in the County, 50% of all expenses connected with elections that the County conducts, and matters preliminary or relating thereto that were directly incurred by villages, as well as those county expenses that were specifically chargeable to villages pursuant to a provision of law, including, but not limited to, the expenses of election inspectors and expenses relating to the ballots, test decking ballots, testing of machines, preparing machines and programming voting machines.

Approved by 7 members of the Finance Committee and 6 members of the County Operations Committee.

Adopted October 12, 2011 by voice vote. Mr. Padlo voting no.

**ACT NO. 449-2011** by Mr. Burrell, Mr. Ellis, Mr. Marsh,  
Mr. McClune, Mr. Sprague and Mr. Ward  
and Mr. Aiello, Mr. Neal, Mr. O'Brien and Mr. Padlo<sup>1</sup>

**AMENDING ACTS 768-2008; ACT 769-2008; ACT 770-2008 AND ACT 771-2008  
WHICH ESTABLISHED COMPENSATION FOR 2012 FOR CERTAIN  
NON-BARGAINING UNIT POSITIONS OF EMPLOYMENT**

Pursuant to Section 205 of the County Law.

WHEREAS, Act 768-2008 established salary and compensation for certain ungraded part-time positions which provided for a three percent (3%) increase in wages effective January 1, 2012, and

WHEREAS, Act 769-2008 established a salary schedule for Grades 1-39 for part-time (Non-Bargaining Unit) employees and Grades 4-22 for seasonal employees which provided for a three percent (3%) increase in wages effective January 1, 2012, and

WHEREAS, Act 770-2008 established salary and compensation for certain substitute, part-time and temporary (Non-Bargaining Unit) employees of the Department of Nursing Homes which provided for a three percent (3%) increase in wages effective January 1, 2012, and

WHEREAS, Act 771-2008 established a salary schedule for certain hourly and salaried managerial and confidential officers and employees which provided for a three percent (3%) increase in wages effective January 1, 2012, and

WHEREAS, severe fiscal constraints have been placed on the County of Cattaraugus by the imposition of the two percent (2%) property tax cap enacted by the State of New York, and

WHEREAS, in an effort to achieve cost savings and reduction of expenses required to achieve the two percent (2%) property tax cap imposed by the State Of New York, it is necessary to withdraw the aforementioned three percent (3%) wage increase granted to certain employees, and

WHEREAS, although legislative action is unnecessary to maintain current salary levels for the County Administrator and department heads, staff and the public should be aware that such positions will receive no wage increase for the year 2012, now, therefore be it

RESOLVED, that Act 768-2008 be amended to delete the fourth RESOLVED and replace it with: "RESOLVED, that effective January 1, 2012, the following part-time positions of employment shall receive a zero percent (0%) wage adjustment:

Administrator of Assigned Counsel  
 Assistant County Attorney  
 Assistant District Attorney  
 Civil Service Commissioner (2)  
 Civil Service Commission Chairman  
 County Historian  
 Deputy Clerk to the Legislature  
 Laboratory Director (Health)  
 Jail Chaplain  
 Journal Clerk  
 Medical Director, Health Department  
 Medical Director, Department of Nursing Homes  
 Museum Curator",

and be it further

RESOLVED, that Act 769-2008 be amended to delete the fourth RESOLVED and replace it with: "RESOLVED, that effective January 1, 2012, all such part-time and seasonal employees referenced herein shall receive a zero percent (0%) wage adjustment",

and be it further

RESOLVED, that Act 770-2008 be amended to delete the fourth RESOLVED and replace it with: "RESOLVED, that effective January 1, 2012, all such non-represented, substitute, part-time and temporary employees of the Department of Nursing Homes referenced herein shall receive a zero percent (0%) wage adjustment",

and be it further

RESOLVED, that Act 771-2008 be amended to delete the fourth RESOLVED and replace it with: "RESOLVED, that effective January 1, 2012, all such management/confidential employees referenced herein shall receive a zero percent (0%) wage adjustment".

Approved by 7 members of the Finance Committee, 6 members of the County Operations Committee and 3 members of the Labor Relations Committee.

<sup>1</sup> The following Legislators requested their names be listed as additional sponsors: "Mr. Aiello, Mr. Neal, Mr. O'Brien and Mr. Padlo".

Adopted October 12, 2011 by voice vote.

**ACT NO. 450-2011** by Mr. Snyder and Mrs. Stockman

**LOCAL LAW NUMBER 12 - 2011  
 COUNTY OF CATTARAUGUS, NEW YORK**

Pursuant to Article 13F of the Public Health Law.

**A LOCAL LAW REGULATING THE SALE AND USE OF ELECTRONIC  
 CIGARETTES ("E-CIGARETTES") AND HERBAL CIGARETTES**

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

SECTION 1. Legislative Intent: The Legislature hereby finds and determines that new, unregulated high-tech smoking devices, commonly referred to as



electronic cigarettes or e-cigarettes, have recently been made available to consumers. To "smoke" e-cigarettes, users inhale vaporized liquid nicotine created by heat through an electronic ignition system. The vapors are expelled through a cartridge that usually contains a concentration of pure nicotine. The cartridge and ignition system are housed in a device created to look like a traditional cigarette, cigar or pipe. After inhaling, the user then exhales the heated vapors producing a "cloud" of undetermined substances that is virtually indistinguishable from cigarettes, cigars and pipes.

The Legislature also finds that the nicotine content in e-cigarettes can vary in doses and presents a significant risk of rapid and or continual addiction.

The Legislature also finds that it is not in the best interests of the County or its residents to permit the use of e-cigarettes in public places or to permit their sale to persons under the age of eighteen (18).

The Legislature also determines that protecting Cattaraugus County residents from an untested nicotine product like e-cigarettes represents sound public health and fiscal policy.

Therefore, the purpose of this Local Law is to prohibit the smoking of e-cigarettes, herbal cigarettes, and like products in public places where traditional forms of smoking are already disallowed and to ban the sale of such products to persons under the age of eighteen (18).

SECTION 2. Definitions: As used in this Local Law, the following terms shall have the meanings indicated:

a) "e-cigarettes" shall mean any electronic device composed of a mouthpiece, heating element, battery and electronic circuits that provides a vapor of liquids nicotine and/or other substances mixed with an organic compound (propylene glycol, diethylene glycol, etc) to the user as he or she simulates smoking. This term shall include such devices whether they are manufactured as e-cigarettes, e-cigars, e-pipes or under any other product name.

b) "liquid nicotine" shall mean any liquid product composed either in whole or in part of pure nicotine and propylene glycol and manufactured for use with e-cigarettes.

c) "person" shall mean any natural person, individual, corporation, unincorporated association, proprietorship, firm partnership, joint venture, joint stock association, or other entity or business of any kind.

d) "herbal cigarettes" (also called tobacco free cigarettes or nicotine-free cigarettes) shall mean any cigarette that either do not contain any tobacco or do contain tobacco but are composed of other herbs as well. Herbal cigarettes may include a blend of herbs with different flavors.

SECTION 3. Prohibition:

a) No person shall smoke or otherwise use e-cigarettes or herbal cigarettes in public places in Cattaraugus County where traditional forms of smoking are disallowed.

b) No person shall sell or offer for sale e-cigarettes, liquid nicotine, or herbal cigarettes within the County of Cattaraugus to persons under eighteen (18) years of age.

SECTION 4. Penalties: Any person who violates any provision of this article shall be subject to the imposition of a civil penalty by the Public Health Director of a minimum of \$300, but not to exceed \$1,000, for a first violation, and a minimum of \$500, but not to exceed \$2,000 for each subsequent violation.

SECTION 5. Reverse Preemption: This Local Law shall be null and void on the day that State-wide or federal legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this law, or in the event that a pertinent state or federal administrative agency issues and promulgates regulations preempting such action by the County of Cattaraugus. The County Legislature may determine by resolution whether or not identical or substantially similar state-wide legislation has been enacted for purposes of triggering the provisions of this section.

SECTION 6. Applicability: This law shall apply to all actions occurring on or after the effective date of this Local Law.

SECTION 7. Severability: If any clause, sentence, paragraph, subdivision, section or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law, or in its application to the person, individual, corporation, firm partnership, entity or circumstance directly involved in the controversy in which such order or judgment shall be entered.

SECTION 8. SEQRA Determination: This Legislature, being the state environmental quality review act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II Action pursuant to Section 617.5 (c) (20), (21), and/or (27) of Title VI of the New York Code of Rules and Regulations and within the meaning of Section 8-0109 (2) of the New York Environmental Conservation Law as a promulgation of regulations, rules, policies, procedures and legislative decisions in connection with continuing agency administration, management and information collection. The County Administrator is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

SECTION 9. Enforcement:

a) This local law shall be enforced by the Cattaraugus County Department of Health in accordance with the procedures set forth in the Cattaraugus County Sanitary Code.

The Cattaraugus County Public Health Director or his/her designee is authorized to serve and enforce official notices of violation hereof.

b) For purposes of enforcing the ban on the sale of any tobacco products and/or herbal cigarettes to minors, other than by a vending machine, a sale of any tobacco products and/or herbal cigarettes shall be made only to an individual who demonstrates that he/she is at least eighteen 18 years of age and has demonstrated such in accordance with the guidelines set forth hereinabove. Such identification need not be required of any individual who reasonably appears to be at least twenty five (25) years of age; provided, however, that such appearance shall not constitute a defense in any proceeding alleging the sale of any tobacco product and/or herbal cigarette to any individual under eighteen (18) years of age.

SECTION 10. Effective Date: This law shall take effect sixty days after its filing in the Office of the Secretary of State.

Referred to the Finance Committee and the Human Services Committee.

**ACT NO. 451-2011** by Mr. Snyder and Mrs. Stockman

**AUTHORIZING PUBLIC HEARING ON LOCAL LAW NUMBER 12-2011**

Pursuant to Section 10 of the Municipal Home Rule Law.

WHEREAS, there has been duly presented and introduced at a meeting of this legislature held on October 12, 2011, a proposed local law entitled "A Local Law Regulating the Sale and Use of Electronic Cigarettes ("E-Cigarettes") and Herbal Cigarettes", and

WHEREAS, no local law shall be adopted until a public hearing thereon has been had by the Cattaraugus County Legislature upon at least five days notice, now, therefore, be it

RESOLVED, that a public hearing shall be held on the proposed local law by this County Legislature on the 26<sup>th</sup> day of October, 2011, at 3:01 p.m. at the Legislature's Chambers, County Office Building, 303 Court Street, Little Valley, New York, and that at least five days notice of such hearing shall be given by the Clerk by the due posting thereof upon the bulletin board of each County Court House within the County and by publishing such notice at least once in the official newspapers of the County.

Referred to the Finance Committee and the Human Services Committee.

**ACT NO. 452-2011** by Mr. Aiello, Mr. Burrell, Ms. Edstrom, Mr. Ellis, Mr. Marsh, Mr. McLarney, Mr. Murphy, Mr. Neal, Mr. O'Brien, Mr. Snyder, Mrs. Stockman, Mr. Teachman, Mr. Vecchiarella, Ms. Vickman, Mr. Boser, Mr. Giardini, Mr. Hebdon, Mr. McClune, Mr. Padlo, Mr. Sprague and Mr. Ward

**RESOLUTION URGING MULTI-YEAR STATE TAKEOVER OF LOCAL SHARE OF MEDICAID**

Pursuant to Section 153 of the County Law.

WHEREAS, county officials across the state are presently introducing their 2012 budgets, and

WHEREAS, these budget decisions are being made under the constraints of the State's new property tax cap, and

WHEREAS, when State lawmakers enacted a property tax cap, they pledged to provide mandate relief that would enable and empower local leaders to implement that tax cap locally, and

WHEREAS, that mandate relief has not materialized, and

WHEREAS, by far, at a local statewide cost of \$7.3 billion, Medicaid is the number one mandate facing counties, and

WHEREAS, State Legislation (S.5889-B) will require state policymakers to take full fiscal responsibility for New York's largest in the nation Medicaid program, by implementing an eight (8) year gradual State takeover of county Medicaid costs, and

WHEREAS, removing county taxpayers from the financing of Medicaid is the single most important thing the State Legislature can do to lower property taxes for New Yorkers, and

WHEREAS, the State takeover of county Medicaid costs will lead to lower property taxes and enhance New York's economic competitiveness and improve economic opportunities for all New Yorkers, and

WHEREAS, state lawmakers can fund the takeover with a combination of Medicaid program reforms, state-derived savings and other spending

controls, including, applying MRT (Medicaid Redesign Team) reform savings to mandate relief and pursuing a federal Medicaid waiver to leverage state cost containment initiatives that can be applied to property tax relief and applying future revenues to lowering property taxes and by allowing federal health care reforms to cover New Yorkers, now, therefore, be it

RESOLVED, that the Cattaraugus County Legislature calls on State lawmakers to keep their promise, and sign on to legislation (S5889-B) designed to provide mandate relief for counties, in the form of an eight-year State takeover of county Medicaid costs, and be it further

RESOLVED, that the Clerk of the Legislature is hereby directed to forward a certified copy of this resolution to Governor Cuomo, Senator Young, Assembly Member Giglio, the New York State Association of Counties and the Western New York Inter-County Association.

Approved by 7 members of the Finance Committee, 6 members of the Human Services Committee and 7 members of the Senior Services Committee.

Adopted October 12, 2011 by voice vote.

**ACT NO. 453-2011** by Mr. Marsh and Mr. Padlo  
who ask immediate consideration

**AUTHORIZING THE CHAIR TO EXECUTE CONTRACT WITH  
JAMES MACK, d/b/a JIMMY MACK'S AUCTION CO. FOR  
AUCTIONEER SERVICES**

Pursuant to Section 450 of the County Law and Rule 40.3 of the Rules of Order of the Cattaraugus County Legislature.

WHEREAS, Cattaraugus County obtained title to several parcels of real property through foreclosure proceedings, and

WHEREAS, the County is desirous of selling the aforementioned parcels at public auction, and

WHEREAS, the County is also desirous of selling surplus equipment from various County departments at public auction, and

WHEREAS, the County is in need of the services of an auctioneer to conduct the auctions for the sale of the real property and the sale of the surplus equipment, and

WHEREAS, James Mack, d/b/a Jimmy Mack's Auction Co., 4530 Windmill Road, Randolph, New York 14772, has agreed to conduct the following two separate auctions for an amount of \$300.00 for each auction for a total amount of \$600.00:

Surplus Equipment Auction	October 15, 2011
Real Property Auction	October 29, 2011,

and

WHEREAS, sufficient funds are included in the 2011 budget to cover the cost of the aforementioned services, now, therefore, be it

RESOLVED, that the Chair of the Legislature be, and hereby is, authorized and directed to execute a contract, on behalf of Cattaraugus County, with James Mack, d/b/a Jimmy Mack's Auction Co., for the provision of auctioneer services, for a term commencing October 15, 2011 and terminating upon completion of the auction on October 29, 2011, according to the above-described terms.

MR. McCLUNE moved, seconded by Mr. Ellis to waive Rule 12. Carried.

Adopted October 12, 2011 by voice vote.

**ACT NO. 454-2011** by Mr. Snyder and Mrs. Stockman  
who ask immediate consideration

**AMENDING ACT 426-2011 REGARDING CONTRACT WITH  
TOWN OF YORKSHIRE FOR HEALTH DEPARTMENT WIC CLINIC SPACE**

Pursuant to Sections 215 and 450 of the County Law.

WHEREAS, Act 426-2011 authorized a contract with the Town of Yorkshire, P.O. Box 277, Delevan, New York 14042, for the utilization of space for the County Health Department WIC program in the Yorkshire/Delevan area, for an amount of \$600 per year, the term of which expires December 31, 2012, and

WHEREAS, the Town of Yorkshire has requested an increase in the rate from \$600.00 per year to \$1,200.00 per year, and

WHEREAS, Act 426-2011 should be amended to allow for the aforementioned rate increase, now, therefore, be it

RESOLVED, that Act 426-2011 be, and hereby is, amended as follows: In the 2<sup>nd</sup> Whereas, delete: "\$600" and replace with: "\$1,200.00".

MR. ELLIS moved, seconded by Mr. Marsh to waive Rule 12. Carried.

Adopted October 12, 2011 by voice vote. Mr. Aiello and Mr. Burrell voting no.

**ACT NO. 455-2011** by Mr. Vecchiarella  
and Mr. Aiello, Mr. Burrell, Ms. Edstrom, Mr. Ellis,  
Mr. Marsh, Mr. McLarney, Mr. Murphy, Mr. Neal, Mr. O'Brien,  
Mr. Snyder, Mrs. Stockman, Mr. Teachman, Ms. Vickman,  
Mr. Boser, Mr. Giardini, Mr. Hebdon, Mr. McClune,  
Mr. Padlo, Mr. Sprague and Mr. Ward<sup>1</sup>  
who asks immediate consideration

**AUTHORIZING THE CHAIR TO EXECUTE GRANT DOCUMENTS WITH  
NEW YORK STATE DEPARTMENT OF STATE FOR LOCAL ENHANCED  
WIRELESS 911 GRANT REIMBURSEMENT PROGRAM**

Pursuant to Sections 332 and 450 of the County Law.

WHEREAS, Act 561-2010 authorized the Chair to execute grant documents with the New York State Department of State for reimbursement of costs incurred for the implementation and operation of Wireless 911 services during the period April 1, 2010 through March 31, 2013, and

WHEREAS, funding in the amount of \$44,069.00 is available through the New York State Department of State for reimbursement of costs incurred for the implementation and operation of Wireless 911 services during the period April 1, 2011 through March 31, 2014, and

WHEREAS, the County should apply for the aforementioned reimbursement funds, now, therefore, be it

RESOLVED, that the Chair of the Legislature be, and hereby is, authorized and directed to execute grant documents, on behalf of Cattaraugus

County, with the New York State Department of State, in order to apply for and receive the aforementioned reimbursement funds, for a term commencing April 1, 2011 and terminating March 31, 2014, according to the above-described terms.

MR. WARD moved, seconded by Mr. Aiello to waive Rule 12. Carried.

<sup>1</sup> The following Legislators requested their names be listed as additional sponsors: "Mr. Aiello, Mr. Burrell, Ms. Edstrom, Mr. Ellis, Mr. Marsh, Mr. McLarney, Mr. Murphy, Mr. Neal, Mr. O'Brien, Mr. Snyder, Mrs. Stockman, Mr. Teachman, Ms. Vickman, Mr. Boser, Mr. Giardini, Mr. Hebdon, Mr. McClune, Mr. Padlo, Mr. Sprague and Mr. Ward".

Adopted October 12, 2011 by voice vote.

**ACT NO. 456-2011** by Mr. Aiello, Mr. Burrell, Mr. Ellis, Mr. Marsh, Mr. O'Brien, Mr. McClune, Ms. Vickman, Mr. Sprague and Mr. Ward who ask immediate consideration

**AUTHORIZING THE CHAIR TO EXECUTE CONTRACT WITH  
CENTER FOR GOVERNMENTAL RESEARCH FOR  
CONSULTANT SERVICES TO ASSIST IN EVALUATING OPTIONS FOR  
CATTARAUGUS COUNTY SKILLED NURSING FACILITIES AND  
ADJUSTING VARIOUS APPROPRIATION AND REVENUE ACCOUNTS  
(Department of Nursing Homes)**

Pursuant to Sections 363 and 366 of the County Law and  
Section 103 of the General Municipal Law.

WHEREAS, Act 224-2011 authorized the Cattaraugus County Senior Services Committee to solicit proposals for the provision of consultant services to assist in the evaluation of options for the County's skilled nursing facilities, and to help the County develop a strategy and plan of action, and

WHEREAS, the Cattaraugus County Senior Services Committee has solicited proposals from six (6) companies for the provision of the aforementioned consultant services, and

WHEREAS, the Center for Governmental Research (CGR), 1 South Washington Street, Suite 400, Rochester, New York 14614, has been recommended to provide consultant services to assist in the evaluation of options for the County's skilled nursing facilities, known as the Pines Healthcare and Rehabilitation Centers, and to help the County develop a strategy and plan of action, and for a total amount not to exceed \$98,750.00, which includes all travel and related expenses, and

WHEREAS, various appropriation and revenue accounts must be adjusted in order to cover the cost of the aforementioned services, now, therefore, be it

RESOLVED, that the Chair of the Legislature be, and hereby is, authorized and directed to execute a contract, on behalf of Cattaraugus County, with the Center for Governmental Research (CGR), for the provision of the above-described consultant services, for a term commencing November 1, 2011 and terminating July 1, 2012, according to the above-described terms, and be it further

RESOLVED, that the County Administrator is hereby directed to make the following budgetary changes:

## Increase Estimated Revenue Accounts:

EF.453.4530.0000.3489.01	Enhanced Medicaid (IGT)	\$49,375.00
EI.453.4530.0000.3489.01	Enhanced Medicaid (IGT)	\$49,375.00

## Increase Appropriation Accounts:

EF.453.4530.8350.41611	Consultant Services	\$49,375.00
EI.453.4530.8350.41611	Consultant Services	\$49,375.00.

MR. MARSH moved, seconded by Mr. Ward to waive Rule 12. Carried.

Adopted October 12, 2011 by voice vote. Mr. Snyder voting no.

MR. MURPHY moved, seconded by Mr. Hebdon to adjourn until October 26, 2011 at 3:00 p.m. Carried.

Meeting adjourned at 3:44 p.m.

Ann M. Giglio  
Journal Clerk