

REGULAR SESSION – MONDAY, AUGUST 8, 2016

The Yates County Legislature convened in regular session Monday, August 8, 2016 at 1:00 p.m. in the Legislative Chambers with Chairman Dennis presiding and Legislator Percy absent.

RESOLUTION NO. 278-16

Mr. Morris offered the following resolution and moved its adoption, seconded by Mr. Paddock.

DISCUSSION:

Mr. Paddock made the following comments:

“We have been without a County Administrator since early December of last year. A committee was formed to review the administrative position and determine whether the position should be continued, there after the job description and ultimately recommend candidates for formal face to face interviews. Dwindling down from 20+ qualified candidates. Bob’s appointment is the combination of these significant efforts by members of the Legislature, Management Team and other elected officials. I would like to thank all of them, the other candidates and Bob for their time and persistence in arriving at this point. I would also like to recognize the Chairman, especially, and all those that have put in extra effort to keep the county running during this interim period. I would also like to thank Bob of applying and wish him best luck as he takes on the duties of County Administrator.”

APPOINT COUNTY ADMINISTRATOR

BE IT RESOLVED, that Robert C. Lawton is appointed as County Administrator for the following effective term: September 6, 2016 through December 31, 2017; and be it further

RESOLVED, that copies of this resolution be given to the County Administrator, County Treasurer and Personnel Officer.

VOTE: Unanimous

Chairman Dennis made the following comments:

It is our great pleasure to welcome you to this seat that signifies the office of Yates County Administrator. You are only the third person to hold this title. As such, you become part of our family. I use that term because we do function with the same compassion, values and sometimes “dysfunction” as most family units do.

You will be working directly with a very talented and dedicated team of managers and elected officials. You will find them committed to Yates County and the overall success of the entire County. You have been selected and appointed by this Legislature. We are diverse in our backgrounds and experience. Like the management team, we all want Yates County to be safe, prosperous and a preferred place for businesses and families to grow.

We all look forward to working with you and profiting from your experience as we continue to move Yates County forward.

Mr. Lawton stated “I want to say to this body, I will always work for the body of the Legislature, for the institution of the Legislature, for all the departments and for all the people of Yates County. Your unanimous vote both humbles and honors me and I will work hard every day to merit that confidence. The process was outstanding and was designed with one result in mind, to find the best person to fit here and to make sure that whoever came on board had a great feeling and understanding for the Legislature and for the Department Heads and Managers who are ultimately responsible for make this county run every day. The positive energy I felt from the

members of the Legislature and from the Departments Heads that I was able to meet and visit with was probably the best sales job that this county could have every put forward. I am looking forward to a long and happy association with the folks here.”

Mike Linehan, Executive Director of the Yates County Chamber of Commerce gave a brief update on how tourism effected the county by relaying statistics from the 2015 year.

Minutes of the July meeting were approved as presented.

Chairman Dennis asked for a report of the auditing committees. The audit was approved as presented.

Airport Fund	\$ 6,752.20
Finance	\$ 28,498.85
Flint Creek	\$ 0.00
Government Operations	\$ 126,361.01
Human Services	\$ 363,777.48
Prior to Audit	\$ 41,342.63
Public Safety	\$ 59,353.37
Public Works	\$2,387,110.51

COMMITTEE REPORTS

Mr. Bronson reported he attended the ProAction Board of Directors meeting in July. A presentation was given on the Steuben County Schools working together to creating a Pathway for Kindergarten.

Mr. Paddock stated there will be a resolution to approve the Capital Plan and thanked Nonie for putting this together.

Also, Mr. Paddock asked that the County Administrator Task Force be disband, and Chairman Dennis did proceed with disbanding the Task Force.

Mr. Smith reported he attended the July 19th meeting of the Seneca Watershed Inter-Municipal Organization held its quarterly meeting at the Fayette Town Hall. A presentation was given on Agricultural Environmental Management and also the Mayor of Montour Falls gave a presentation on the new Waste Water Treatment Facility. The next meeting will be held October 18th Lodi.

Mr. Button reported cleaning of some of the north/south channels of Flint Creek has begun.

Mr. Morris reported he attended the FLEDC meeting they moved forward on the Greenidge Power Plant restart.

Mrs. Church reported she attended the Fire Advisory Committee meeting and feels these volunteers should be thanked for what they do for us.

Mr. Banach reported he attended the Airport Council meeting. The Federal funding for the T Hangar and runway has come through. Also, the fence line has been cleaned by the SWEAP. We also now have an outlet in Yates County for Hertz Rental cars which is located at the Airport.

Chairman Dennis opened the public hearing on proposed local law 2-16 entitled Renewal and Revision of Local Law 4-07 entitled a Local Law Establishing an Occupancy Tax in Yates County. There were no comments at this time and the hearing was held open until later in the meeting.

PUBLIC COMMENT

Peter Gamba addressed the Legislature regarding the reopening of the Greenidge Power Plant and urged the Legislature to table resolution 279-16 and establish a committee similar to the one established for the Marcelles Shale.

RESOLUTION NO. 279-16

Mr. Paddock offered the following resolution and moved its adoption, seconded by Mr. Gleason.
Discussion:

Mr. Paddock stated this has been moving forward for quite some time and explained the process that the owners have gone through to date.

Mr. Morris explained the owners have gone to the FLEDC and they feel it is economical.

Mr. Montgomery was not aware that there was a decision that 2 power plants would be kept open.

Mr. Button questioned if the figures are correct on the amount of fly ash.

Chairman Dennis stated that that would be something that the DEC would be monitoring and really is not germane to whether we support the resolution or not.

RESOLUTION IN SUPPORT OF THE REOPENING OF THE GREENIDGE POWER PLANT

WHEREAS, the Greenidge Power Plant in the Village of Dresden has been part of the local landscape for generations and a long source of good jobs for local residents, along with being a reliable source of revenue for local schools and governments for many years, and

WHEREAS, the recent status of Greenidge being in protective layup resulted in the loss of good jobs and much-needed tax revenues, and

WHEREAS, the new owners of the Greenidge Power Plant have agreed to restart the facility without the use of coal, and to subsequently convert its generating operations such that natural gas will be the primary fuel, and

WHEREAS, the DRAFT Title V Permit issued for Greenidge operations makes clear that the plant will never run on coal ever again; and

WHEREAS, the Greenidge facility's Draft Title V Permit, currently out for public comment, reflects the results of successfully completing the environmentally vigorous New Source Review / Prevention of Significant Deterioration (NSR/PSD) process;

WHEREAS, the restart of the Greenidge Power Plant will mean new jobs, increased economic activity in Yates County, and increased tax revenues for local schools and governments, and

WHEREAS, the new owners of the Greenidge Power Plant have agreed to implement the best technology available to protect fish and water quality in Seneca Lake; and

WHEREAS, many local business leaders, including owners of tourist-attracting wineries, have voiced overwhelming support for restarting the facility, and

NOW, THEREFORE BE IT RESOLVED, the Yates County Legislature urges the New York State Department of Environmental Conservation to finalize the Greenidge Title V Permit process, and allow for the restart as soon as feasible, and urges the Federal Environmental Protection Agency to allow the restart to proceed without delay, and be it

RESOLVED, that copies of this resolution, submitted as part of the pending public comment period, be provided to the New York State DEC, Federal Environmental Protection Agency, Senator Schumer, Senator Gillibrand, Assemblyman Palmesano, and Senator O'Mara.
VOTE: Unanimous

RESOLUTION NO. 280-16

Mr. Paddock offered the following resolution and moved its adoption, seconded by Mr. Morris.

AUTHORIZE CHAIRMAN TO SIGN GRANT DIBURSEMENT AGREEMENT AMENDMENT WITH NEW YORK STATE URBAN DEVELOPMENT ORGANIZATION D/B/A EMPIRE STATE DEVELOPMENT

WHEREAS, the Yates County Planner received a copy of the subject Agreement from Empire State Development and;

WHEREAS, there are no additional conditions to the Grant Disbursement Agreement associated with the Amendment;

NOW, THEREFORE, BE IT RESOLVED, that the Chairman of the Yates County Legislature, upon approval of the County Attorney, is authorized to sign the Grant Disbursement Agreement Amendment with New York State Urban Development Organization d/b/a Empire State Development and be it further;

RESOLVED, that a copy of this resolution be given to the Yates County Planner.
VOTE: Unanimous

RESOLUTION NO. 281-16

Mr. Paddock offered the following resolution and moved its adoption, seconded by Mr. Bronson.

AUTHORIZE CHAIRMAN TO SIGN TAX BILL PROCESSING AGREEMENT

WHEREAS, Yates County Real Property Tax Department has an agreement with ABS Inc. to provide tax bill processing services

NOW, THEREFORE, BE IT RESOLVED, that with the approval of the County Attorney, the Legislative Chairman is authorized to sign the agreement with ABS Inc. of Batavia NY for printing and inserting tax bills into envelopes for Gorham-Middlesex CSD,

RESOLVED, that a copy of this resolution be provided the County Real Property Tax Director, and the County Treasurer.

VOTE: Unanimous

RESOLUTION NO. 282-16

Mr. Paddock offered the following resolution and moved its adoption, seconded by Mr. Bronson.

2016 BUDGET TRANSFERS

BE IT RESOLVED, that the following transfers be made in the 2016 budget:

From:	To:	Amount:
A7510.51075 HIST-Historian	A1460.51581 REC-Records Mgmt. Clerk	2,924.00
D5110.54629 HWY-Stone/Gravel	D3310.54601 HWY-Appl. Traffic Lines	4,187.50
D5110.51450 HWY-Regular	D5120.51450 HWY-Regular	815.40
D5110.58100 HWY-FICA	D5120.58100 HWY-FICA	55.81

and be it further

RESOLVED, that copies of this resolution be given to the Historian, Highway Superintendent and County Treasurer/Budget Officer.

VOTE: Unanimous

RESOLUTION NO. 283-16

Mr. Paddock offered the following resolution and moved its adoption, seconded by Mr. Morris.

APPROVE THE CAPITAL IMPROVEMENT PLAN FOR FISCAL YEARS 2017-2021

WHEREAS, the Yates County Legislature initiated a Capital Improvement Planning Program in December 1999 in order to more effectively identify, prioritize, plan for and finance capital projects and equipment expenditures,

NOW, THEREFORE, BE IT RESOLVED, that the Yates County Legislature hereby approves the proposed Fiscal Year 2017-2021 Capital Improvement Plan, and be it further

RESOLVED, that copies of this resolution be given to the County Treasurer/Budget Officer and County Clerk.

VOTE: Unanimous

RESOLUTION NO. 284-16

Mr. Holgate offered the following resolution and moved its adoption, seconded by Mr. Button.

AUTHORIZE CHAIRMAN AND SHERIFF TO SIGN CONTRACT FOR BOARDING PRISONERS AT THE STEUBEN COUNTY JAIL

WHEREAS, in the management of the Yates County Jail the Sheriff may in the interest of prisoner housing availability or exigent circumstances desire to utilize Steuben County as a substitute jail,

NOW, THEREFORE, BE IT RESOLVED, that upon the approval of the County Attorney, the Chairman and Sheriff are authorized to sign the renewal agreement for said prisoner housing with Steuben County for 2016-17 at \$85 per diem in accordance with the written provision therein, and be it further,

RESOLVED, that a copy of this resolution be provided to the Sheriff
VOTE: Unanimous

RESOLUTION NO. 285-16

Mr. Holgate offered the following resolution and moved its adoption, seconded by Mr. Banach.

AUTHORIZE SHERIFF TO SIGN FIREARMS RANGE CONTRACTS

WHEREAS, from time to time in the interest of efficiency to work schedule, costs savings, type of weapon and availability having MOU's with entities proving range services may be in the best interest of everyone,

NOW, THEREFORE, BE IT RESOLVED, that upon the approval of the county attorney the Sheriff is authorized to execute MOU's for firearms range usage with the Seneca Lake Duck Hunter's Club and the Yates Sportsman Club 2016-17 at \$50 a day or at no cost, and

RESOLVED, that a copy of this resolution be provided the Sheriff.
VOTE: Unanimous

RESOLUTION NO. 286-16

Mr. Holgate offered the following resolution and moved its adoption, seconded by Mr. Bronson.

**AUTHORIZE SHERIFF TO SIGN MOU WITH
DUNDEE SCHOOL FOR 2016-17 SRO SERVICES**

WHEREAS, the Sheriff provides a deputy performing Youth related School Resource Officer tasks assigned to and for the Dundee Central School District whose services is reimbursed by the school district as agreed for 2016-17 in the amount of \$41,484.12,

NOW, THEREFORE, BE IT RESOLVED, that upon the approval of the County Attorney that the Sheriff is authorized to sign the Memorandum of Understanding with the Dundee School Superintendent for SRO services and liability insurance is waived, and

RESOLVED, that a copy of this resolution be provided the Sheriff, Treasurer/Budget Officer.
VOTE: Unanimous

RESOLUTION NO. 287-16

Mr. Holgate offered the following resolution and moved its adoption, seconded by Mr. Gleason.
DISCUSSION:

A lengthy discussion took place on this resolution with Mr. Montgomery, Mr. Morrison, Mr. Smith and Mr. Morris speaking in opposition of the resolution.

**AUTHORIZE SHERIFF TO FILL POSITION
(Deputy Sheriff)**

NOW, THEREFORE, BE IT RESOLVED, that because of a full-time Deputy Sheriff is retiring October 6, 2016 that the Sheriff is authorized to fill this position upon the aforementioned retirement, and

RESOLVED, that copies of this resolution be given to the Sheriff, Personnel Officer, and Treasurer/Budget Officer.

VOTE: Roll Call: Paddock, Bronson, Multer, Holgate, Banach, Church, Gleason, Dennis voting "Yes" Montgomery, Morrison, Morris, Button, Smith voting "No" Motion carried.

RESOLUTION NO. 288-16

Mr. Holgate offered the following resolution and moved its adoption, seconded by Mr. Gleason.

DISCUSSION:

A lengthy discussion took place on this with Mr. Morrison, Mr. Morris and Mr. Smith speaking in opposition.

CREATE TEMPORARY DEPUTY SHERIFF POSITION

WHEREAS, due to a vacancy occurring October 6, 2016, and fact that a Basic Training Academy for Police Officers begins August 15, 2016 in Elmira, NY, that in the interest of efficiency and considerable cost savings to the county a temporary position will allow the appointee enrolled in this timely academy instead of waiting till spring of 2017 to do so, and now

THEREFORE, BE IT RESOLVED, that a temporary deputy sheriff position is hereby created August 15, 2016 for a period up to sixty (60) days unless ended soon by the Sheriff for a deputy's enrollment in the basic training anticipating that the Sheriff will be able to change the status to full time when vacancy in fact occurs, and

RESOLVED, that copies of this resolution be given to the Sheriff, Personnel Officer, and Treasurer/Budget Officer.

VOTE: Roll Call: Paddock, Bronson, Multer, Holgate, Banach, Church, Gleason, Button, Dennis voting "Yes" Montgomery, Morrison, Morris, Smith voting "No" motion carried.

RESOLUTION NO. 289-16

Mr. Holgate offered the following resolution and moved its adoption, seconded by Mr. Banach.

APPOINT DEPUTY FIRE COORDINATOR (W. Allison)

RESOLVED, that William Allison be appointed as a Yates County Deputy Fire Coordinator, and be it further

RESOLVED, that a copy of this resolution be given to the Director of Emergency Management.

VOTE: Unanimous

Mr. Holgate had to leave the meeting at this time.

RESOLUTION NO. 290-16

Mr. Banach offered the following resolution and moved its adoption, seconded by Mr. Bronson.

AUTHORIZE CHAIRMAN TO SIGN CONTRACT WITH SHUTTLEWORTH ASPHALT

WHEREAS, the Supervisor of Buildings and Grounds has sought prices to seal, crack fill and stripe parking lots at the County office Building and the Courthouse, and

WHEREAS, the following prices were received:

<u>Company Name</u>	<u>Total</u>
True Seal	\$ 3,953.40
Shuttleworth Asphalt Sealing	\$ 3,890.00
Canandaigua Sealcoating	\$ 9,375.00

NOW, THEREFORE, BE IT RESOLVED, that the Chairman of the Legislature be authorized to sign an agreement with Shuttleworth Asphalt Sealing to seal, crack fill and stripe all above mentioned parking lots for the total sum of \$3,890.00.

VOTE: Unanimous

RESOLUTION NO. 291-16

Mr. Banach offered the following resolution and moved its adoption, seconded by Mr. Gleason.

AWARD GARBAGE/RECYCLING CONTRACT FOR COUNTY FACILITY

WHEREAS, Yates County has solicited Request for Proposals for the County's garbage/recyclable pick up at the following locations:

The Yates County Office Complex & Courthouse,
The Yates County Public Safety Building, and the
Yates County Highway Department, and

WHEREAS, the specifications requested a "cost per month" fee for garbage/recyclables to be picked up weekly at each location, and

WHEREAS, the following "cost per month" prices were received:

	<u>Co. Office Bldg. & Courthouse</u>	<u>Public Safety Bldg.</u>	<u>Highway</u>
K & D Disposal Inc.	\$125.00	\$125.00	\$105.00
Cardinal Disposal	No submitted price		
Casella Waste	\$122.10	\$119.23	\$122.10

WHEREAS, the lowest responsible proposal for said contract was K&D Disposal Inc.

NOW, THEREFORE BE IT RESOLVED, that the Yates County Legislature approve the award of the County garbage/recyclable contract to K&D Disposal Inc. and authorize the Chairman of the Legislature to sign said contract.

VOTE: Unanimous

RESOLUTION NO. 292-16

Mr. Banach offered the following resolution and moved its adoption, seconded by Mr. Bronson.

AUTHORIZE HIGHWAY SUPERINTENDENT TO SIGN A SHARED SERVICES AGREEMENT WITH THE NEW YORK STATE DEPARTMENT OF TRANSPORTATION

WHEREAS, there may be times during emergency situations when the Yates County Highway Department may need assistance from the New York State Department of Transportation (NYSDOT) and vice versa in the form of shared labor, materials and/or equipment, and

WHEREAS, in the absence of an emergency declaration by the Governor and/or the suspension of Highway Law, Section 55 which allows for NYSDOT to provide assistance to local municipalities, Yates County Highway Department may need such assistance and desires to enter into an Inter-Municipal Shared Services Agreement with the New York State Department of Transportation, and

WHEREAS, the Yates County Attorney has discussed the agreement with the County Highway Superintendent and has approved the agreement,

NOW, THEREFORE, BE IT RESOLVED, to authorize the Yates County Superintendent of Highways to sign a Shared Services agreement with the New York State Department of Transportation and be it further

RESOLVED, that a copy of this resolution be sent to the Yates County Highway Superintendent, and to the NYSDOT Region 6 Director of Operations.

VOTE: Unanimous

RESOLUTION NO. 293-16

Mrs. Church offered the following resolution and moved its adoption, seconded by Mr. Bronson.

RECOGNIZE YATES COUNTY DISTINGUISHED YOUTH AWARD RECIPIENT

WHEREAS, the Yates County Youth Board selected Logan Coates for recognition as a Yates County Distinguished Youth for the second quarter of 2016, acknowledging his outstanding service to his community,

NOW, THEREFORE, BE IT RESOLVED, that this Legislature take recognition of this honor bestowed upon Logan Coates by the Yates County Youth Board on August 9, 2016 in Penn Yan, NY, and thank him for his dedicated service to the community of Rushville and to the citizens of Yates County, and

RESOLVED, that a copy of this resolution be provided Logan Coates and the Youth Bureau Director.

VOTE: Unanimous

RESOLUTION NO. 294-16

Mrs. Church offered the following resolution and moved its adoption, seconded by Mr. Button.

RENEW AGREEMENT WITH DURHAM SCHOOL SERVICES FOR TRANSPORTATION SERVICES

RESOLVED, that the Chairman is authorized to sign an agreement with Durham School Services for Transportation for the transportation of developmentally delayed infants and preschoolers for the period September 1, 2016 through August 31, 2017 at the following rates:

To and from Happiness House Geneva site \$184.68 per child per day

To and from Happiness House Canandaigua \$184.68 per child per day

To and from Keuka Lake School \$39.30 per child per day

and be it further

RESOLVED, that a copy of this resolution be sent to the Public Health office and the Yates County Treasurer.

VOTE: Unanimous

RESOLUTION NO. 295-16

Mrs. Church offered the following resolution and moved its adoption, seconded by Mr. Paddock.

AMENDMENT TO RESOLUTIONS #336-13, 339-13 and 160-16

WHEREAS, Resolutions #336-13, 339-13 and 160-16 authorized signature of agreements for EMS Training

NOW, THEREFORE BE IT RESOLVED, that the rate for Victims/Patients be amended to minimum wage and, be it further

RESOLVED, that a copy of this resolution be sent to the Public Health Office, OEM and the Yates County Treasurer.

VOTE: Unanimous

RESOLUTION NO. 296-16

Mrs. Church offered the following resolution and moved its adoption, seconded by Mr. Bronson.

AMEND CONTRACT WITH DUNDEE CHILDREN’S CENTER FOR THE PROVISION OF DAY CARE SERVICES

RESOLVED, that after review by the County Attorney, the Chairman of the Legislature and the Social Services Commissioner be authorized to sign a contract amendment with Dundee Children’s Center to amend the rates to reflect the following,

<u>Family Income</u>	<u>Weekly Rate (all day care)</u>
Up to \$17,999	\$85
\$18,000-\$27,999	\$100
\$28,000-\$37,999	\$110
\$38,000-\$51,999	\$125
\$52,000 and up	\$145

All day care for 2nd child-2/3 the price of the program and additional children are \$25 per week, and be it further

RESOLVED, that copies of this resolution be forwarded to the County Department of Social Services and the Yates County Treasurer.

VOTE: Unanimous

RESOLUTION NO. 297-16

Mrs. Church offered the following resolution and moved its adoption, seconded by Mr. Button.

**AMEND RESOLUTION 267-16
(Authorize Amendment To Yates County Foster Care And Adoption Subsidy Rates)**

WHEREAS, Resolution 267-16 authorized a 2% increase in foster care and adoption subsidies and

WHEREAS, it is necessary to amend that resolution,

NOW, THEREFORE BE IT RESOLVED that the following rate scheduled be adopted, effective April 1, 2016 and continuing until further mandated MSAR rates are promulgated by New York State OCFS:

FOSTER CARE RATES

LEVEL ONE DIFFICULTY

Children 0-3	\$	14.48
Children 4-5	\$	12.93
Children 6-11	\$	14.33
Children 12-15	\$	15.74
Children 16-21	\$	15.74

ADOPTION RATES

LEVEL ONE DIFFICULTY

Children 0-3	\$	15.46
Children 4-5	\$	13.91
Children 6-11	\$	15.71
Children 12-15	\$	17.87
Children 16-21	\$	17.87

LEVEL TWO DIFFICULTY

Children 0-3	\$	22.91
Children 4-5	\$	21.37
Children 6-11	\$	21.37
Children 12-15	\$	21.37
Children 16-21	\$	21.37

LEVEL TWO DIFFICULTY

Children 0-3	\$	22.43
Children 4-5	\$	22.34
Children 6-11	\$	22.74
Children 12-15	\$	23.48
Children 16-21	\$	23.48

LEVEL THREE DIFFICULTY

Children 0-3	\$	29.72
Children 4-5	\$	28.17
Children 6-11	\$	28.17
Children 12-15	\$	28.17
Children 16-21	\$	28.17

LEVEL TWO DIFFICULTY

Children 0-3	\$	28.50
Children 4-5	\$	30.49
Children 6-11	\$	30.89
Children 12-15	\$	31.63
Children 16-21	\$	31.63

LEVEL THREE DIFFICULTY

Children 0-3	\$	30.71
Children 4-5	\$	29.16
Children 6-11	\$	29.56
Children 12-15	\$	30.30
Children 16-21	\$	30.30

VOTE: Unanimous

RESOLUTION NO. 298-16

Mrs. Church offered the following resolution and moved its adoption, seconded by Mr. Bronson.

WORKFORCE DEVELOPMENT BUDGET TRANSFER

BE IT RESOLVED, that the following transfers be made in the Yates County Workforce Development account:

FROM:	CD6293.8C	WIA Youth – Staff Fringe	\$ 256.18
To:	CD6293.1C	WIA Youth – Staff Wage	\$ 256.18

AND be it further

RESOLVED, that copies of this resolution be provided to the Workforce Development Director, and the Yates County Treasurer.

VOTE: Unanimous

RESOLUTION NO. 299-16

Mrs. Church offered the following resolution and moved its adoption, seconded by Mr. Button.

**AMEND RESOLUTION 240-16
(Adopt Workforce Development Summer Youth Employment Budget)**

WHEREAS, Resolution 267-16 allocated Summer Youth Employment Funding in the Workforce Development Budget

WHEREAS, it is necessary to amend that resolution,

NOW, THEREFORE BE IT RESOLVED, that the following amount be allocated

CD6294.1A	TANF Staff Wages	\$1,572
CD6294.8A	TANF Staff Fringe	\$394
CD6294.4A	TANF Operating	\$9,873
CD6294.11A	TANF Participant Wages	\$32,628
CD6294.81A	TANF Participant Fringe	\$3,747

CD6294.42802 (revenue)	\$48,214
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and be it further

RESOLVED, that copies of this resolution be provide to the Workforce Development Director, and the Treasurer

VOTE: Unanimous

RESOLUTION NO. 300-16

Mrs. Church offered the following resolution and moved its adoption, seconded by Mr. Button.

ENTER INTO CONTRACT WITH CHRISTOPHER CLINTON, LCSW

RESOLVED, that contingent upon the approval of the County Attorney, the Chairman of the Legislature and the Social Services Commissioner be authorized to sign a contract with Christopher Clinton for the provision of counseling services for the time frame of August 1, 2016 through December 31, 2016.

RESOLVED, that the county will waive general liability insurance due to professional liability insurance.

RESOLVED, that copies of this resolution be forwarded to the Yates County Department of Social Services and the Yates County Treasurer.

VOTE: Unanimous

RESOLUTION NO. 301-16

Mrs. Church offered the following resolution and moved its adoption, seconded by Mr. Gleason.

**ESTABLISH RATE OF PAY
(Elizabeth Bentley)**

WHEREAS, the employment procedures contained in the Yates County Administrative Guide and the CSEA contract state that a person may be hired above the beginning pay rate with Legislative approval, and

WHEREAS, it has been established that Elizabeth Bentley, Social Services Caseworker has prior work experience,

NOW, THEREFORE, BE IT RESOLVED, upon the recommendation of the Social Services Commissioner, that Elizabeth Bentley be hired at the Step 1 rate, Group XII of the CSEA contract (\$25.19) effective August 22, 2016, and be it further

RESOLVED, that a copy of this resolution be given to the Social Services Commissioner, Personnel Officer, Treasurer, CSEA Local President, and Elizabeth Bentley
VOTE: Unanimous

RESOLUTION NO. 302-16

Mr. Morris offered the following resolution and moved its adoption, seconded by Mr. Button.

**GRANT UNPAID LEAVE OF ABSENCE
(S. Wakeman)**

RESOLVED, that Building Maintenance Worker is hereby granted an unpaid leave of absence from July 28th, 2016 to July 30th, 2016, and be it further

RESOLVED, that a copy of this resolution be given to Mr. Wakeman, Building Maintenance Supervisor, Personnel Officer and the Treasurer
VOTE: Unanimous

RESOLUTION NO. 303-16

Mr. Morris offered the following resolution and moved its adoption, seconded by Mr. Multer.
DISCUSSION:

Mr. Multer questioned the wording in paragraph 4 under section IV in that it should read the same position within the same job title. It was agreed to change the wording to reflect what Mr. Multer had suggested.

Mr. Morrison questioned wording in paragraph 2 under section IV in that it reads The standing committee will preliminarily approve the vacancy request. Mr. Morrison stated he sees no provision for the standing committee to disapprove. Chairman Dennis explained that it would be understood that if the committee doesn't approve it, it doesn't happen. Mr. Morris further clarified that if you do not have a majority vote in Committee it does not get passed onto the

Legislature. The wording was changed to read, on standing committee approval the vacancy request and the vacancy review will go before the entire Legislature etc.

Mr. Smith stated he would like to bring to attention a statement in the first paragraph of the resolution” it is the goal of the Yates County Legislature to review whether positions should be refilled when they become vacant” he fails to see how the 3 month extensions or 3 month exceptions helps the legislature achieve their goal. Mr. Smith does not understand what the fundamental problem is although it appears coming before this board with a vacancy review form is too burdensome or has been in the past. Mr. Smith stated that this resolution actually streamlines the vacancy review form significantly to reduce that burden. In accordance with our stated goal, and in order to clarify all the confusion paragraph 2 under section 3, paragraphs 4, 5, and 6 under section 4 should be eliminated thereby simplifying and reducing any confusion. The point being as stated we will do a position review on every vacancy.

Mr. Smith moved to amend resolution 303-16 to remove the second paragraph under section 3, and sections 4, 5, and 6 under section 4 under procedures, seconded by Mr. Morrison.

VOTE: Roll Call – Montgomery, Morrison, Button, Smith voting “Yes” Paddock, Bronson, Multer, Banach, Church, Gleason, Morris, Dennis voting “No” motion lost. Motion lost.

Mr. Smith questioned the 4 paragraph section IV where it references for some reason after 3 months that same position became vacant. It was decided to correct that wording to read for some reason within 3 months that same position became vacant.

ADOPT VACANCY REVIEW POLICY AND ABOLISH RESOLUTION 87-03 ADOPT PROCEDURE FOR VACANT POSITIONS AND 278-03 REVISING THE PROCEDURE

WHEREAS, like all other counties in New York, Yates County faces budget challenges and in an effort to address these budget challenges, it is the goal of the Yates County Legislature to review whether positions should be refilled when they become vacant, and

WHEREAS, the Yates County Legislature needs the expertise of the department heads to assist in achieving this goal, and

WHEREAS, the proposed Vacancy Review Policy and Procedure supersedes any former policy and procedure, and

NOW, THEREFORE BE IT RESOLVED, that the Yates County Legislature adopts the following Vacancy Review Policy and Procedure, effective August 8th, 2016, and be it further

RESOLVED, that copies of this policy be given to the all department heads.

YATES COUNTY VACANCY REVIEW POLICY AND PROCEDURE

I. PURPOSE:

In an effort to create cost reduction efficiencies and sustain current levels of services within available resources, Yates County has adopted the Vacancy Review Policy and Procedure.

II. DEFINITIONS:

Supervising authority is defined as the appointing authority that can hire or appoint the employee and who supervises the individual either directly or indirectly.

III. SCOPE:

Applies to all budgeted full-time and part-time positions that become vacant.

****Exception** – all part-time positions where there are two (2) or more employees classified under the same title and who are listed in the budget under the same personnel services account number.

IV. VACANCY REVIEW PROCEDURE:

The requesting supervising authority will complete the Vacancy Review Form and submit to the Clerk to the Legislature as an agenda item for their standing committee to review.

The appropriate Legislative standing committee that the supervising authority reports to, will review the Vacancy Review Form. On standing committee approval the vacancy request and the vacancy review will go before the entire Legislature to either approve or disapprove the supervising authority's vacancy request.

After the conclusion of the standing committee meeting the supervising authority will notify the Personnel Officer. The Personnel Officer in collaboration with the supervising authority will then create and submit the applicable resolution to the Clerk of the Legislature to be included in the Legislature meeting agenda under the appropriate committee chairperson for review and disposition by the entire Legislature. If the Legislature disapproves the resolution, no further action is taken. If the Legislature approves the resolution, the supervising authority can act accordingly based on the effective date stated within the resolution.

In the event the position were to become vacant within three (3) months of the initial Legislative approval to fill the vacancy, the supervising authority may fill the vacancy without obtaining further approval from the Legislature. (Example: a position becomes vacant and the legislature has given approval to refill it, for some reason within 3 months that same position became vacant again, the supervising authority can refill the position without having to come back to the legislature). The same authorization given by the Legislature for the initial vacancy also applies to additional vacancies in the same position/with the same job title within the specified time frame not to exceed three (3) months.

In the event part-time position(s) where there are two (2) or more employees classified under the same title and who are listed in the budget under the same personnel services account number becomes vacant, the supervising authority has Legislative approval to fill ongoing vacancies without obtaining further approval from the Legislature.

****Benchmarking** has been removed from the procedure and the Vacancy Review Form. The intent is for supervising authorities to benchmark with other counties at other times rather than during the vacancy review process.

VACANCY REVIEW FORM

- 1. Does this position perform services that are mandated by the Federal or State government? YES NO
- 2. If the answer to #1 is no, does this position perform services that the County has traditionally maintained? YES NO
- 3. If the answer to #2 is yes, can an entity other than Yates County government perform these services? YES NO
- 4. If this position is not refilled, can other positions be reconfigured to handle the work performed by the person in this position? If so, what positions? If not, how will the work conducted by the person in this position be handled? YES NO
- 5. If applicable, is there an existing Civil Service Eligibility List for this position? YES NO
- 8. Will the loss of this position impact overtime? *If yes, why and how can this be minimized? (Please attach an analysis showing any impact on overtime.)* YES NO

-
-
- 9. Does federal and/or state aid offset the cost of this position? *(If yes, how much)* YES NO
\$ _____
 - 10. If the position were eliminated, what would be the net county savings? *(Include fringe benefits and retirement)* \$ _____
 - 11. Is there any risk, financial or otherwise, to waiting 30 days to refill this position? YES NO
 - 12. If you are given approval to refill this position, when do you expect to fill it? Date: _____
 - 13. Please submit any other information that you think would be helpful to this review.

VOTE: Roll Call – Paddock, Bronson, Multer, Banach, Church, Gleason, Morris, Dennis voting “Yes” Montgomery, Morrison, Smith voting “No” Button abstained. Motion Carried

RESOLUTION NO. 304-16

Mr. Morris offered the following resolution and moved its adoption, seconded by Mr. Smith.

**AMEND RESOLUTION NUMBER 174-16
ADOPT 2016 HOURLY SALARY SCHEDULE**

WHEREAS, Council 82 Law Enforcement and Yates County have ratified the Union Contract to be effective from January 1, 2015 through December 31, 2018, and

WHEREAS, the Part Time Deputy Sheriff Hourly Salary needs to be amended to reflect the 2015 retroactive hourly rate change to reflect a start rate of \$17.30, and

WHEREAS, resolution 174-16 Adopt 2016 Hourly Salary Schedule needs to be amended to reflect the 2016 start rate of pay of \$17.65, and

NOW, THEREFORE, BE IT RESOLVED, that the Yates County Legislature hereby amends Resolution 174-16 and replaces it with the subsequent resolution, and

Schedule II – Hourly Positions

	<u>Start Rate</u>	<u>After 12 months</u>	<u>After 3 years</u>
Account Clerk Typist <i>(Sheriff's Office)</i>	\$13.95	\$14.20	\$14.69
Animal Control Officer <i>(Part Time)</i>	\$14.72		
Clerk <i>(Historian/Records Management Office)</i>	\$13.67		
Correction Officer	\$17.34	\$18.36	
Correction Officer/ Court Security	\$17.34	\$18.36	
Coroner	\$100.00 per case		
County Code Enforcement Officer	\$20.00		
County Historian <i>(Part Time)</i>	\$24.07		
Deputy County Clerk <i>(Part Time Temporary)</i>	\$30.00		
Deputy Sheriff <i>(Experience= TBD @ 80% Council 82 LE contract for appropriate step)</i>	\$17.65		
Deputy Election Commissioner	\$13.93		
Election Coordinator	\$15.00		
Election Inspector	\$10.00		
Election Inspector <i>(Traveling)</i>	\$11.00		
Election Inspector <i>(Chair)</i>	\$12.50		
Election Inspector <i>(Chair-Traveling)</i>	\$13.50		
Election Machine Technician	\$25.00		
Emergency Services Dispatcher	\$14.46	\$14.89	
Examination Monitor	\$10.00		
Fiscal Administrative Assistant <i>(Community Services)</i>	\$78.37		
Jail Cook	\$10.93	\$11.61	\$12.09
Laborer <i>(seasonal- Highway Department) (80% CSEA Contract rate)</i>	\$11.94		
	<u>First Season</u>	<u>After 1 season</u>	<u>After 3 seasons</u>
Marine Patrol Officer <i>(Seasonal)</i>	\$14.78	\$15.36	\$16.00
Motor Equipment Operator <i>(YC Stop- SMART)</i>	\$13.75		
Motor Vehicle Supervisor	\$22.99		
Planner <i>(Part Time Temporary)</i>	\$25.00		
Public Health Program Coordinator	\$29.97		
Secretary to County Attorney	\$30.74		
Senior Administrative Assistant <i>(PH)</i>	\$23.03		
SPOA Coordinator	\$52.15		
Youth Bureau Director	\$22.45		

RESOLVED, that a copy of this resolution be given to the Personnel Officer, Treasurer and Sheriff.

VOTE: Unanimous

Chairman Dennis closed the public hearing at this time, there were no comments.

RESOLUTION NO. 305-16

Mr. Morris offered the following resolution and moved its adoption, seconded by Mr. Multer.

ADOPT LOCAL LAW NO. 2-16 ENTITLED RENEWAL AND REVISION OF LOCAL LAW 4-07 ENTITLED A LOCAL LAW ESTABLISHING AN OCCUPANCY TAX IN YATES COUNTY

WHEREAS, proposed Local Law 2-16 entitled “ Renewal And Revision Of Local Law 4-07 Entitled A Local Law Establishing An Occupancy Tax In Yates County was introduced at the July meeting,

NOW, THEREFORE, BE IT RESOLVED, that proposed Local Law 2-16 entitled “ Renewal And Revision Of Local Law 4-07 Entitled A Local Law Establishing An Occupancy Tax In Yates County is hereby adopted, and be it further

RESOLVED, that a copy of this resolution be given to the County Attorney, the Secretary of State.

NEW YORK STATE DEPARTMENT OF STATE
162 WASHINGTON AVENUE, ALBANY, NY

Local Law Filing

12231 (Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underling to indicate new matter.

County

~~City~~ of Yates

~~Town~~

~~Village~~

Local Law No. 2-16

RENEWAL AND REVISION OF LOCAL LAW 4-07 ENTITLED “A LOCAL LAW ESTABLISHING AN OCCUPANCY TAX IN YATES COUNTY”

(Insert Title)

Be it enacted by the Legislature of the

County

~~City~~ of Yates as follows:

~~Town~~

~~Village~~

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

SECTION 1 Intent - The Yates County Legislature declares that the intent and purpose of this Local Law shall be to impose a tax on facilities providing lodging on an overnight basis and provide for the collection thereof in order to make funds available for tourism and General Fund of Yates County. Pursuant thereto, the County of Yates has enacted an Occupancy Tax by way of Local Law No. 4-07 entitled “A Local Law Establishing an Occupancy Tax in Yates County”, which was renewed by Local Law No. 1-10, and by Local Law No. 2-13. The intent of this Local Law is to further renew said Local Law 4-07, with revisions to the same as set forth herein.

SECTION 2 Definitions - When used in this local law, the following terms shall mean:

- (a) County - Yates County, New York
- (b) County Treasurer – The Yates County Treasurer, or such other fiscal officer(s) of Yates County.
- (c) County Legislature – The legislature of the County of Yates.
- (d) Hotel or Motel – Any facility providing lodging on an overnight basis and shall include those facilities designated and commonly known as “bed and breakfast”, inns, cabins, condominiums, cottages, campgrounds, lodges, tourist homes, convention centers, and vacation rentals. The term condominium shall mean and include those units rented or leased directly by the owner or through a real estate agency or rental management agency. The provisions of this section relating to campgrounds, shall only apply to those leases and rentals in which the campground provides overnight shelter or lodging, and shall not apply to the provision of services by a campground when the customer provides his or her own shelter or lodging.
- (e) Occupancy – The use or possession, or the right to the use or possession of any room in a hotel or motel.
- (f) Occupant - A person who, for a charge or any consideration uses, possess, 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.
- (g) Operator – Any person operating a hotel or motel, as those terms are defined in subdivision (d) above and elsewhere herein, including, but not limited to, the owner, proprietor, lessee, sub-lessee, mortgagee in possession, licensee, or any other person otherwise operating such hotel or motel.
- (h) Permanent Resident – Any person occupying any room or rooms in a hotel or motel for at least 30 consecutive days.
- (i) Person – An individual, partnership, limited liability company, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee, and any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of the foregoing.
- (j) Rent – The consideration received for occupancy valued in money, whether received in money or otherwise. The term rent includes separately stated charges for the use of furnishings and equipment, maid services, towel and linen services, telephone service and other accommodations. Any charges for food, drinks, entertainment, valet, laundry service, theater ticket service, transportation, and administration do not constitute rent.
- (k) Return – Any return filed, or required to be filed, as herein provided.
- (l) 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.
- (m) State – The State of New York

SECTION 3 Imposition of Tax – Effective January 1, 2008, there is hereby imposed and there shall be paid a tax of four percent (4%) of the per diem rental rate upon the rent for each room or rooms in a hotel or motel located within the County, except that such tax shall not be applicable to a permanent resident of a hotel or motel.

SECTION 4 Transitional Provisions – The tax imposed by this local law shall be paid upon any occupancy on or after January 1, 2008, although such occupancy is pursuant to a prior contract, lease or other arrangement. Where rent is paid on a 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 or after January 1, 2008. Any reservation for 2008 which is made prior to December 1, 2007, with a deposit, shall be exempt from the occupancy tax.

SECTION 5 Exempt Organizations – Section 1202-Y of the Tax Law does not authorize the imposition of this occupancy tax upon any transaction, by or with any of the following in accordance with Section 1230 of the Tax Law.

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

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

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

SECTION 6 Territorial Limitations – The tax imposed by this local law shall apply only within the territorial limits of Yates County.

SECTION 7 Registration –

(a) Within ten (10) days after the effective date of this local law, or in the case of operators commencing business after such effective date, within three (3) days after such commencement or opening, every operator shall file with the County Treasurer a registration application in a form prescribed by the County Treasurer.

(b) The County Treasurer shall, within ten days after such registration, issue without charge to each operator, a certificate of authority empowering such operator to collect the tax from the occupant and duplicate thereof for each additional hotel of such operator. Each certificate or duplicate shall state the hotel or motel to which it is applicable. Such certificates of authority shall be prominently displayed by the operator in such manner that it may be seen and come to the notice of all occupants and persons seeking occupancy. Such Certificates shall be non-assignable and non-transferable and shall be surrendered immediately to the County Treasurer upon the cessation of business at the hotel named or upon its sale or transfer.

SECTION 8 Administration and Collection –

(a) The tax imposed by this local law shall be administered and collected by the County Treasurer, or other fiscal officers of Yates County, by such means and in such manner as other taxes which are now collected and administered by such officers or as otherwise may be 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 of charge made for such 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 subsequent payment of the same to the County Treasurer.

(c) The following persons shall be personally liable for the tax imposed, collected or required to be collected under this local law: i) the operator, ii) any member of a partnership operator, iii) any member of a limited liability company operator; and iv) any officer, director or employee of a corporation operator or dissolved corporation operator, any employee of a partnership operator, any employee or manager of a limited liability company operator, or any employee of an individual proprietorship operator who as such officer, director, employee or manager is under a duty to act for such corporation, partnership, limited liability company or individual proprietorship in complying with any requirement of this local law.

Any such person 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; provided, however, that the County Treasurer or other fiscal officers, employees or agents specified in this local law, shall be joined as a party in any action or proceeding brought to collect the tax.

(d) Where any occupant has failed to pay a tax imposed by this local law, then in addition to all other rights, obligations and remedies provided in this local law, such tax shall be payable by the occupant directly to the County Treasurer and it shall be the duty of the occupant to file a return with the County Treasurer and to pay the tax to the County Treasurer within fifteen (15) days of the date the tax was required to be paid.

(e) The County Treasurer may, whenever he/she deems it necessary for the proper enforcement of this local law, provide by regulation that occupants shall file returns and pay directly to the County Treasurer any tax herein imposed, at such times as returns are required to be filed and payment made by an operator.

(f) 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.

(g) Where an occupant claims exemption from the tax under the provisions of section 5 of this local law, the rent shall be deemed taxable hereunder unless the operator shall receive from the occupant claiming such exemption a certificate duly executed by an exempt corporation or association.

SECTION 9 Records To Be Kept – Every operator shall keep records of every occupancy and of all rent paid, charged and due thereon and of the tax payable thereon, in such form as the County Treasurer may require. Such records shall be available for inspection and examination at any time upon demand by the County Treasurer or the County Treasurer's duly authorized agents or employees, and shall be preserved for a period of not less than three (3) years, except that the County 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.

SECTION 10 Returns –

(a) Every operator shall file with the County Treasurer a return of occupancy and of rents, and of the taxes payable thereon for the quarterly periods ending February 28, May 31, August 31 and November 30 of each year on or after January 1, 2008. Such returns shall be filed within twenty (20) days from the expiration of the period covered thereby. The County Treasurer may permit or require returns to be made by other periods and upon such dates as may be specified. If the County Treasurer deems it necessary in order to insure the payment of the tax imposed by this local law, then the County Treasurer may require returns to be made for shorter periods than those prescribed pursuant to the foregoing provisions of this section and upon such dates as may be specified.

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

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

SECTION 11 Payment of tax -

(a) Upon the time of filing a return of occupancy and of rents, each operator shall pay to the County Treasurer the taxes imposed by this local law upon the rents required to be included in such return, as well as other monies collected by the operator acting, or purporting to act, under the provisions of this local law.

(b) Where the County Treasurer, in his or her discretion, deems it necessary to protect revenues to be obtained under this local law, the County Treasurer may require any operator obligated to collect the tax imposed by this local law to file with the County Treasurer's office a bond, issued by a surety company authorized to transact business in this state and approved by the New York State Superintendent of Insurance as to solvency and responsibility, in such amount as the County Treasurer may fix to secure the payment of any tax and/or penalties and interest due, or which may become due, from such operator.

(c) In the event the County Treasurer determines that an operator is to file such bond, notice shall be given by the County Treasurer 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 five (5), days the operator shall serve upon and deliver to the County Treasurer a written request for a hearing before the Finance Committee at which time the necessity, propriety and amount of the bond shall be determined by the County Treasurer. Any determination by the County Treasurer upon such hearing shall be final and shall be complied with by the operator within fifteen (15) days after the giving of notices thereof.

(e) In lieu of such bond, securities approved by the County Treasurer or cash in such amount as may be prescribed, may be deposited which shall be kept in the custody of the County Treasurer, who may at any time without notice to the depositor apply them to any tax and interest and penalties due, and for that purpose, the securities may be sold by the County Treasurer at public or private sale, without notice to the depositor thereof.

SECTION 12 Determination of Tax -

(a) If a return required by this local law is not filed, or if a return is incorrect or insufficient, then the amount of tax due shall be determined by the County 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. Such notice of determination shall be mailed by certified or registered mail to the person or persons liable for the collection or payment of the tax at his/her last known address. If such person or persons is deceased or under a legal disability, a notice of determination may be mailed to his/her last known address, unless the County Treasurer has received notice of the existence of a fiduciary relationship with respect to such person. After thirty (30) days from the mailing of such notice of determination, such notice of determination shall be an assessment of the amount of tax specified in such notice of determination, together with the interest, additions to tax and penalties stated in such notice of determination. Such notice of determination shall finally and irrevocably fix the tax, unless the person against whom it is assessed, within the above stated thirty (30) day time period, applies to the County Treasurer for a hearing, or unless the County Treasurer of his or her own motion shall re-determine the same. After such hearing, the County Treasurer shall

give a notice of determination made to the person(s) against whom the tax is assessed. Any final determination of the amount of any tax payable hereunder, shall be reviewable for error, illegality or unconstitutionality or any other reason whatsoever by a proceeding under article seventy-eight of the Civil Practice Law and Rules, if application therefore is made to the Supreme Court within thirty (30) days after the giving of the notice of such final determination, provided, however, that any such proceeding under article seventy-eight of the Civil Practice Law and Rules shall not be instituted unless:

(1) The amount of 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 New York State and approved by the New York State Superintendent of Insurance 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 such petitioner in the prosecution of the proceeding, in which event, the petitioner shall not be required to pay such taxes, interests or penalties as a condition precedent to the application.

(b) Whenever such tax is estimated as provided for in this Section 12, such notice shall contain a statement conspicuously placed on such notice advising the applicable person(s): that the amount of the tax was estimated; that the tax may be challenged through a hearing process; and that the petition for such challenge must be filed with the County Treasurer within thirty (30) days.

(c) The liability of the a purchaser, transferee or assignee of assets sold, transferred or assigned in bulk for the payment to the County of taxes determined to be due from the seller, transferor or assignor arising under subdivision (c) of Section 17 of this local law shall be an assessment of the liability determined unless the purchaser, transferee or assignee, within thirty (30) days after the giving of notice by the County Treasurer to such purchaser, transferee or assignee of the total amount of any tax or taxes which the County claims to be due from the seller, transferor or assignor, shall apply to the County Treasurer for a hearing unless the County Treasurer, on its own motion, shall re-determine such liability. Where the County Treasurer determines that the amount of taxes claimed due from the seller, transferor or assignor is erroneous or excessive in whole or in part it shall, on behalf of the purchaser, transferee or assignee, determine the amount of tax or taxes properly due and if such amount is less than the amount of taxes for which the purchaser would have been liable in the absence of such determination it shall reduce such liability accordingly.

(d) The liability, pursuant to subdivision (c)(iv) of Section 8 of this local law, of any officer, director or employee of a corporation operator or dissolved corporation operator, any employee of a partnership operator, any employee or manager of a limited liability company operator, or any employee of an individual proprietorship operator who as such officer, director, employee or manager is under a duty to act for such corporation, partnership, limited liability company or individual proprietorship in complying with any requirement of this local law for the tax imposed, collected or required to be collected, or for the tax required to be paid or paid over to the County Treasurer under this local law, and the amount of such tax liability (whether or not a return is filed under this local law, whether or not such return when filed is incorrect or insufficient, or where the tax shown to be due on the return filed under this local law has not been paid or has not been paid in full) shall be determined by the County Treasurer in the manner provided for in subdivisions (a) and (b) of this Section 12. Such determination shall be an assessment of the tax and liability for the tax with respect to such person unless such person, within thirty (30) days after the giving of notice of such determination, shall apply to the County Treasurer for a hearing. If such determination is identical to or arises out of a previously issued

determination of tax of the corporation, dissolved corporation, partnership, limited liability company or individual proprietorship for which such person is under a duty to act, an application filed with the County Treasurer on behalf of the corporation, dissolved corporation, partnership, limited liability company or individual proprietorship shall be deemed to include any and all subsequently issued personal determinations and a separate application to the County Treasurer for a hearing shall not be required. The County Treasurer may, nevertheless, of its own motion, re-determine such determination of tax or liability for tax. Where the County Treasurer determines or re-determines that the amount of tax claimed to be due from the operator is erroneous or excessive in whole or in part, it shall re-determine the amount of tax properly due from any such person, and if such amount is less than the amount of tax for which such person would have been liable in the absence of such determination or re-determination, it shall reduce such liability accordingly.

(e) If the County Treasurer believes that the collection of any tax will be jeopardized by delay, for reasons including but not limited to, a person liable for the tax is about to cease business, leave the state or remove or dissipate assets out of which the tax or penalties and interest might be satisfied, the County Treasurer may determine the amount of such tax and assess the same, together with all interest and penalties provided by this local law, against any person liable therefor prior to the filing of a return and prior to the date when such return is required to be filed. The amount so determined shall become due and payable to the County Treasurer by the person(s) against whom such a jeopardy assessment is made, as soon as notice thereof is given to such person personally or by registered or certified mail. The provisions of subdivisions (a) and (b) of this Section 12 shall apply to any such determination except to the extent that they may be inconsistent with this subdivision. The County Treasurer may abate any jeopardy assessment if it finds that jeopardy does not exist.

SECTION 13 Refunds –

(a) In the manner provided in this section, the County Treasurer shall refund or credit, without interest, any tax, penalty or interest erroneously, illegally or unconstitutionally collected or paid, if application to the County Treasurer for such refund shall be made within one year of payment thereof. Whenever a refund is made by the County Treasurer, the reason therefore shall be stated in writing. Such application may be made by the operator, or other person who has actually paid the tax. Such application may also be made by an operator who has collected and paid over such tax to the County Treasurer, provided the application is made within one year of the payment by the occupant to the operator, but no actual refund of money shall be paid to such operator until it is first established to the satisfaction of the County Treasurer, under such regulations as the County Treasurer may prescribe, that the County Treasurer has repaid to the occupant the amount for which the application for refund is made. The County Treasurer may in lieu of any refund required to be made, allow credit therefore on payments due from the applicant.

(b) Where any tax imposed hereunder 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 seventy-eight of the Civil Practice Law and Rules, provided, however, that such proceeding is instituted within thirty (30) days after the giving of the notice of such denial, that final determination of the 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 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 14 Reserves In cases where the operator or other person who has paid the tax has applied for a refund and has instituted a proceeding under article seventy-eight of the Civil Practice Law and Rules to review a determination adverse to such operator or other person who has paid the tax on such application for a refund, the County Treasurer shall set aside sufficient monies to meet any decision adverse to the County.

SECTION 15 Disposition Of Revenues – All revenues resulting from the imposition of the tax under this local law shall be paid into the treasury of Yates County and shall be credited to, and deposited in, the General Fund of the County. Thereafter the revenues from the tax after the cost of administration is deducted (said cost of administration being a percentage of such revenues, said percentage being established by County resolution, but not to exceed 10% of such revenues, to defer the necessary expenses of the County in administering such tax), shall be equally divided for the purpose of i) promoting tourism in the County (Yates County Tourism) and ii) the enhancement of the general economy in the County, its towns and villages (Yates County General Fund).

SECTION 16 Remedies Exclusive - The remedies provided by sections twelve (12) and thirteen (13) of this local law shall be the exclusive remedies available to any person for the review of the tax liability imposed by this local law; and no determination, or proposed determination, of tax or determination of any application for refund or credit shall be enjoined, contested or reviewed by any action or proceeding, except by a proceeding under article seventy-eight of the Civil Practice Law and Rules provided, however, that a taxpayer may proceed by declaratory judgment if suit is instituted within thirty (30) days after a deficiency assessment to the County Treasurer prior to the institution of such suit and posts a bond for costs pursuant to section twelve (12) of this local law.

SECTION 17 Proceedings to Recover Tax

(a) Whenever any operator or other person liable for the tax shall fail to collect or pay over 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 Yates County in any court of the State of New York or any other state or of the United States.

(b) As an additional or alternate remedy, the County Treasurer may issue a warrant, directed to the Yates County Sheriff or to the sheriff of any other county, commanding him to levy upon and sell the real and personal property of any person liable for the tax, which may be found within that sheriff's county, for the payment of the amount thereof, with any penalties and interest, and the cost of executing the warrant, and to return such warrant to the County Treasurer and to pay to the County Treasurer the money collected by virtue thereof within sixty (60) days after the receipt of such warrant. The Sheriff shall, within five (5) days after the 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(s) mentioned in the warrant and the amount of the tax, with any penalties and interest, for which the warrant is issued and the date when such copy is filed. Thereupon the amount of such warrant so docketed shall become a lien upon the title to and interest in real and personal property of the person(s) against whom the warrant is issued. Such lien shall not apply to personal property unless another copy of such warrant is filed in the New York State Department of State. The sheriff shall then proceed upon the warrant, in the same manner and with like effect as that provided by law in respect to executions issued against property upon judgments of a court of record, and for services in executing the warrant the sheriff shall be entitled to the same fees, which may be collected in the same manner. In the discretion of the County Treasurer, a warrant of like terms and effect may be issued and directed to any officer or employee of the County Treasurer and in the execution thereof such officer or

employee shall have all the powers conferred upon sheriffs, but shall be entitled to no fee or compensation in excess of the actual expenses paid in the performance of such duty. Upon such filing of a copy of a warrant, the County Treasurer shall have the same remedies to enforce the amount due thereunder as if the County had recovered judgment therefore. If a warrant is returned not satisfied in full, the County 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.

(c) Whenever an operator or other person liable for the tax shall make a sale, transfer or assignment in bulk of any part of the whole of a hotel, motel, or lease, or of such operator's business assets, otherwise 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 such sale, transfer or assignment, or paying therefore, notify the County Treasurer by registered mail of the proposed sale and of the price, terms and conditions thereof whether or not the seller, transferor or assignor has represented to, or informed the purchaser, transferee or assignee that any tax is owed 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) whenever the purchaser, transferee or assignee shall fail to give notice to the County Treasurer as required by the preceding paragraph (1), or whenever the County Treasurer shall inform the purchaser, transferee or assignee that a possible claim for such tax or taxes exists, any sums of money, property or choses in action or other consideration, which the purchaser, transferee or assignee is required to transfer over to the seller, transferor or assignor, shall be the subject of a first priority right and lien of 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 choses in action, or other consideration to the extent of the amount of the County's claim. Within fifteen (15) days of receipt of the notice of the sale, transfer or assignment from the purchaser, transferee or assignee, the County 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 County Treasurer claims to be due from the operator, seller, transferor or assignor to the County, and whenever the County Treasurer shall fail to give such notice within fifteen (15) days from receipt of the notice of the sale, transfer or 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 choses in action or other consideration which the purchaser, transferee or assignee is required to transfer over to the operator, seller, transferor or assignor. For failure to comply with the provisions of this paragraph, the purchaser, transferee or assignee, in addition to being subject to the liabilities and remedies imposed under the provisions of Article Six of the Uniform Commercial Code, shall be personally liable for the payment determined to be due to the County from the 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. Upon receipt of the County Treasurer's notice issued pursuant this paragraph stating the total amount of the County's claim, the purchaser, seller, transferee or assignee may make payment of such claim to the County Treasurer from any sums of money, property, or choses in action or other consideration withheld in accord with the provisions of this paragraph, except that such payment shall be limited to an amount not in excess of the purchase price or fair market value of the assets sold, transferred, or assigned to such purchaser, transferee, or assignee, whichever is higher, 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 County Treasurer shall be deemed satisfaction of the tax liability of the operator, seller, transferor or assignor to the extent

of the amount of such payment.

SECTION 18 General Powers of the County Treasurer – In addition to the powers granted to the County Treasurer by County Law and this local law, the County 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 thirty (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 Commissioner 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 Commissioner or such Treasury Department relative to any person, and any other provision of this local law to the contrary notwithstanding;
- (d) To delegate such 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 non-taxable 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 19 Administration of Oaths and Compelling Testimony

- (a) The County Treasurer, or the County Treasurer's duly designated and authorized employees or agents, shall have power to administer oaths and take affidavits in relation to any matter or proceeding in the exercise of the County Treasurer's powers and duties under this local law.
- (b) The County Treasurer shall have the 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 or her 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 County Treasurer or excuse 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 County 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 County Treasurer under this local law shall be guilty of a misdemeanor, punishment for which shall be a fine of not more than one thousand dollars (\$1,000) or imprisonment for not more than one year, or both such fine and imprisonment.
- (e) The officers who serve the summons or subpoena of the County Treasurer and witnesses attending in response there to 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 County 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 20 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: "Occupancy Tax"; except that in any bill, receipt, statement or other evidence of memorandum of occupancy or rent charge issued or employed by the operator, the word "tax" will suffice.

SECTION 21 Penalties, Interest, and Violation

(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 consisting of the higher of i) five percent (5%) of the amount of tax due or ii) the sum of \$5.00; 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) The County Treasurer, if satisfied the delay was excusable, may remit or waive all or any part of the penalty but not the interest owed. Such penalties and interest shall be paid and disposed of in the same manner as other revenues from this local law. Unpaid penalties and interest may be enforced in the same manner as the tax imposed by this local law.

Any person that is personally liable for the tax imposed, collected or required to be collected under this local law shall also be personally liable for the penalties and interest herein imposed.

(c) 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.

(d) 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 22 Returns to be Confidential

(a) Except in accordance with proper judicial order, or as otherwise provided by law, it shall be unlawful for the County Treasurer to divulge, or make known in any manner, the rents or other information relating to the business of the taxpayer contained in any return required

under this local law. The officers charged with the custody of such returns shall be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the County 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 this local law, when the returns or facts shown thereby are directly involved in such action or proceeding, in either of which events the court may require the production of, and may admit into evidence, so much of such returns, or of the facts shown thereby, as are pertinent to the action or proceeding and no more. Nothing herein shall be construed to prohibit the delivery to a taxpayer, or his or her duly authorized representative, of a certified copy of any return filed in connection with his or her tax, nor to prohibit the publication of statistics so classified as to prevent the identification of particular returns and the items thereof, or the inspection by the County Attorney or other legal representatives of the County of the return 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. Returns shall be preserved for three (3) years and thereafter until the County Treasurer permits them to be destroyed.

(b) Any violation of this section shall be punishable by a fine not exceeding one thousand dollars (\$1,000).

SECTION 23 Notice 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 post-paid envelope addressed to such person at the address given in the last return filed by him or her pursuant to the provisions of this local law, or in any application made by him or her, or if no return has been filed or application made, then to such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the receipt of the same by the person to whom it is addressed. Any period of time which is determined according to the provisions of the local law giving of notice shall commence to run from the date of such notice.

(b) The provisions of the Civil Practice Law and Rules or any other law relative to limitations of time for the enforcement of a civil remedy shall not apply to any 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. However, except in the case of a willfully false or fraudulent return with the intent to evade the tax, no assessment of additional tax shall be made after the expiration of more than three (3) years from the date of the filing of a return, provided, however, that where no return has been filed as provided by law, the tax may be assessed at any time.

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

SECTION 24 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 25 Limitation of 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 Yates County Legislature; except 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 local law.

SECTION 26 Effective Date – This local law shall take effect January 1, 2017.

VOTE: Unanimous

Meeting adjourned at 2:35p.m.