

**MINUTES
CAYUGA COUNTY LEGISLATURE
REORGANIZATION MEETING
JANUARY 2, 2008, 6:30 PM**

ROLL CALL: Lee Brew, Clerk of the Legislature, all Legislatures present except Netti excused at 6:45PM

EMERGENCY EVACUATION STATEMENT:

PLEDGE OF ALLEGIANCE:

MOMENT OF PRAYER:

Lee Brew, Clerk of the Legislature, we would like to recognize former County Legislator Betty Graney, the first woman ever elected to the Cayuga County Legislature, Bill Graney, City Councilman, and Ginger Sheffey, Regional Vice President of CSEA, she is up for re-election and we wish her well with her campaign.

MINUTES: For reading 11-27-07

PUBLIC BE HEARD:

If you wish to speak notify your Legislator, who will grant you privilege of the floor. You will be allowed to speak for 3 to 5 minutes. You must state your name and address.

REPORTS OF DEATH: None

COMMUNICATIONS AND ANNOUNCEMENTS:

1. Received a letter of resignation from Paul Weiman, Codes Enforcement Officer, dated December 31, 2007, effective January 13, 2008.
2. Received a plaque from the United Way Campaign for the Ralph W. Standbrook Chairmans Choice Award, presented to the employees of Cayuga County to their outstanding leadership and support, we raised \$27, 500.

SWEARING IN OF COUNTY CLERK, SUSAN M. DWYER, Surrogate County Court Judge, Hon. Mark H. Fandrich, administrated the Oath of Office.

SWEARING IN OF LEGISLATORS:

David R. Axton, District #3, Michael H. Chapman, District #2, George C. Fearon, District #7, Patrick V. Mahunik, District #12, Roger A. Mills, District #6, Frances C. Mitchell, District #8, Ann R. Petrus, District #4, Daniel P. Sincebaugh, District #14, and Peter A. Tortorici, District #10, Surrogate County Court Judge, Hon. Mark H. Fandrich, administrated the Oath of Office.

NOMINATIONS FOR LEGISLATIVE CHAIRPERSON:

Motion by Legislator Petrus, 2nd by Legislator Lockwood for Roger Mills.

Motion by Legislator Sincebaugh, 2nd by Legislator Mahunik for Daniel Schuster.

Majority vote – Legislator Mills received 688 votes – Murphy(51), Mills(79), Palermo(58), Chapman(81), Axton(68), Petrus(53), Lockwood(63), Mitchell(57), Cuddeback(64), Tortorici(51), Fearon(63). Legislator Schuster received 144 votes – Mahunik(49), Schuster(47), Sincebaugh(48) Escused Netti(50).

Legislator Mills voted in as 2008 Legislature Chairman.

County Clerk Susan Dwyer administered the Oath of Office.

NOMINATIONS FOR LEGISLATIVE VICE CHAIRPERSON:

Motion by Legislator Palermo, 2nd by Legislator Lockwood for Peter Tortorici, approved by voice vote, all present voting aye. County Clerk Susan Dwyer administered the Oath of Office.

APPOINTMENTS AND RE-APPOINTMENTS:

HEALTH & HUMAN SERVICES:

Community Service Board, (MRDD Subcommittee)

Kimberly A. Savage, 6341 Canoga Rd., Auburn, NY 13021 term – 1-1-08 to 12-31-201.
Susan Barrette, 7077 N. Division St. Rd., Auburn, NY 13021 term – 1-1-08 to 12-31-2010.

Community Services Board, (Mental Health Subcommittee)

Barbara A. Bowen, 25 Grover St. Auburn, NY 13021 term – 1-1-08 to 12-31-2010.
Marion C. Cool, 17 John Smith Ave., Auburn, NY 13021 term 1-1-08 to 12-31-2010.

Cayuga County Office for the Aging Advisory Committee:

Don Clark, 61 Nelson St. Auburn, NY 13021 term 1-1-08 to 12-31-2013.
Jane Lumb, 5239 W. Lake Rd. Auburn, NY 13021 term 1-1-08 to 12-31-2013.

Auburn Memorial Hospital Board:

Elaine Daly, 160 Genesee St. 2nd FL, Auburn, N.Y. 13021 term 1-1-08 to 12-31-10.

PLANNING & ECONOMIC DEVELOPMENT:

Cayuga County Water & Sewer Authority: (Board)

James Taber, 1791 W. Genesee St. Rd., Auburn, NY 13021 term – 1-1-08 to 12-31-2010.
Lester Van Dyke, 12314 Westbury Rd, Red Creek, NY 13143 term - 1-1-08 to 12-31-2010.
Herbert Marshall, 8016 Powers Rd., Port Byron, NY 13140 term 1-1-08 to 12-31-2010.

Central New York Regional Planning & Development Board:

Ann Petrus, 2435 State Rte 31, Weedsport, NY 13166 term - 1-1-08 to 12-31-2008.
Terri Bridenbecker, Chamber of Commerce, 36 S. St., Auburn, NY 13021 term – 1-1-08 to 12-31-2008.
Stephen F. Lynch, 1160 Genesee St., Auburn NY 13021 term – 1-1-08 to 12-31-08.
Vijay Mital, 52 Kearney Ave., Auburn, NY 13021 term – 1-1-08 to 12-31-08.
Dan Schuster, 123 Genesee St., Auburn, NY 13021 term 1-1-08 to 12-31-08.
Steve Zabriski, PO Box 119, 441 Main St., Aurora, NY 13026 term 1-1-08 to 12-31-08.

Cayuga County Industrial Development Agency:

Dave Miller, 8788 S. Seneca, Weedsport, NY 13166 term – 1-1-08 to 12-31-09.
Raymond E. Lockwood, 1877 State Rte. 326, Auburn, NY 13021 term – 1-1-08 to 13-31-08.
Carol Contigulia, 125 S. Herman Ave., Auburn, NY 13021 term – 1-1-08 to 12-31-08.
Herbert Marshall, 8016 Powers Rd., Port Byron, NY 13140 term – 1-1-08 to 12-31-09.

Cayuga County Ag & Farm Protection Board:

Judy Wright, 26 Mary St., Auburn, NY 13021 term – 1-1-08 to 12-31-2011.
Don Waterman, 1032 Spring Lake Rd. Port Byron, NY 13140 term – 1-1-08 to 12-31-2010.
Ken James, 4267 Lamphier Rd., Box 277, Locke, NY 13092 term – 1-1-08 to 12-31-2010.
David Shurtleff, 1972 Weatherly Rd., Cato, NY 13033 term – 1-1-08 to 12-31-2009.
G. Douglas Young, Spruce Haven Farm, 5004 White Rd., Union Springs, NY 13160 term 1-1-08 to 12-31-2009
Al Kozlowski, 160 Genesee St., Auburn, NY 13021 term – coterminous with position.
Stephen F. Lynch, 160 Genesee St., Auburn, NY 13021 term - coterminous with position.
Brian Aldrich, Cornell Coop. Extension, 248 Grant Ave., Auburn, NY 13021 – term - coterminous with position.
TBD, New Legislative Representative: **Roger Mills**. - term - coterminous with position.

All of the above appointments, approved by voice vote, all present voting aye.

MOTIONS/RESOLUTIONS:

**RESOLUTION NO. 02-08 (1/2/08) yearend.W&M
AUTHORIZING ACCOUNTS PAYABLE YEAR END ADJUSTMENTS –
2007 OPERATING BUDGET**

BY: Hon. Paul Dudley, Chairman Ways and Means Committee

WHEREAS, provisions of the Federal Single Audit Act and regulations of the State Comptroller require Cayuga County to utilize modified accrual as the basis for governmental fund accounting; and

WHEREAS, modified accrual accounting principles require that the County accrue accounts payable so expenditures are generally reflected in the period for which goods or services are received; and

WHEREAS, application of this principle may result in the over-expenditure of certain individual line item expenditures and revenues particularly in areas where spending is mandated by State and Federal laws and requirements; now, therefore be it

RESOLVED, that the Cayuga County Legislature hereby authorizes and directs the County Treasurer to make adjusting entries to provide sufficient appropriations to avoid individual line item deficits upon the accrual of year-end accounts payable, provided that said entries do not result in an increase in total appropriations approved by the County Legislature, for 2007; and, be it further

RESOLVED, that said adjusting entries shall be subject to approval of the Chairman of the Legislature, Chairman of Ways and Means Committee and County Manager who shall upon completion of the year-end closing, report the same to the County Legislature.

Signed by Cuddeback, Lockwood, Mitchell, Murphy, Petrus, Schuster.

Approved by voice vote, all present voting aye.

Motion by Legislator Lockwood to separate the question and vote on each newspaper separately, approved by voice vote, all present voting aye.

**RESOLUTION NO. 03-08 1/2/08 COL Designating Newspapers08
DESIGNATING NEWSPAPERS TO PUBLISH COUNTY MATTERS.**

BY: Hon. Francis Mitchell, Chairman, Government Operations Committee.

WHEREAS, Section 214, Subdivision 2, of the County Law directs that the Cayuga County Legislature shall annually designate at least two (2) newspapers for publication of all local laws, notices and other matters required by law to be published during fiscal year 2008.

NOW, BE IT RESOLVED, that the Cayuga County Legislature does hereby designate the following newspapers for that purpose:

REPUBLICAN REGISTER, Moravia, New York

The POST-HERALD, Fair Haven, New York

The CITIZEN, Auburn, New York

Signed by Mitchell, Petrus, Schuster.

Vote on the **Republican Register**, Moravia, NY – Approved by voice vote, all present voting aye.

Vote on the **Post Herald**, Fair Haven, NY – Approve by voice vote, all present voting aye, except Palermo abstained.

Vote on the **Citizen**, Auburn, NY – Approved by voice vote, all present voting aye, except Lockwood voting No.

RESOLUTION NO. 04-08

Action Date: 1/2/08 hrtransauditfunctionrev1

Implementation of the transfer of function of certain audit staff from the Clerk of the Legislature's Department to the County Manager's office pursuant to the recommendation of the legislature and the adoption of the 2008 county budget.

BY: Chairperson, Francis Mitchell, Government Operations
Chairperson, Paul Dudley, Ways and Means Committee

WHEREAS, the audit functions of the of the Clerk to the Legislature's Office have been reviewed by the legislature; and
WHEREAS, it was recommended that the audit functions of the Clerk to the Legislature Officer be separated for better internal controls of the various departmental expense accounts; and

WHEREAS, supervision of the audit functions could be accomplished by moving the aforesaid function to the County Manager's Office; and

WHEREAS, NYS CS Law, Section 70.2 states "As soon as practicable after the adoption of a law, rule, order or other action direction such a transfer of function, but not less than twenty days prior to the effective date of such transfer, the head of the department or agency from which such function is to be transferred shall certify to the head of the department or agency which such function is to be transferred a list of the names and titles of those employees substantially engaged in the performance of the function to be transferred, and shall cause copies of such certified list to be publicly and conspicuously posted in the offices of the department or agency from which such function is to be transferred, along with copies of this subdivision;" and

WHEREAS, funding for the position was moved from the Clerk to the Legislature account to the County Manager's account within the 2008 county to accommodate the anticipated transfer for employee's payroll and fringe benefits; now, be it therefore

RESOLVED, that the Transfer of Function of one Account Clerk Typist as listed in the attachment in the Clerk to the Legislature's be hereby ordered and initiated with the effective date of transfer to be January 23, 2008 or as soon as practicable as directed by the County Attorney; and be it further

RESOLVED, that the Clerk to the Legislature be hereby directed to post a certified list of employees as attached pursuant NYS CS Law, Section 70.2 "As soon as practicable after the adoption of a law, rule, order or other action direction such a transfer of function, but not less than twenty days prior to the effective date of such transfer, the head of the department or agency from which such function is to be transferred shall certify to the head of the department or agency which such function is to be transferred a list of the names and titles of those employees substantially engaged in the performance of the function to be transferred, and shall cause copies of such certified list to be publicly and conspicuously posted in the offices of the department or agency from which such function is to be transferred, along with copies of this subdivision;"; and be it further

RESOLVED, that the above list be posted the day after the adoption of this resolution; and be it further

RESOLVED, that the Treasurer be hereby authorized to make the appropriate journal entries to carry out the intent of this resolution; and be it further

RESOLVED, that this Transfer of Function be facilitated in accordance to NYS Civil Service Law, Cayuga County Civil Service Rules and Regulations, Bargaining Contracts, and the Policies of the County of Cayuga.

Signed by Mitchell, Schuster, Cuddeback, Lockwood, Petrus, Schuster.

RESOLUTION NO. 05-08

(1/2/08)

contractLBrew

AUTHORIZING THE LEGISLATURE TO CONTRACT WITH LEE BREW FOR CONSULTANT SERVICES

BY: Hon. Francis Mitchell, Chairman Government Operations Committee

Hon. Paul Dudley, Chairman Ways and Means Committee

WHEREAS, Lee Brew, the Clerk of the Cayuga County Legislature has recently retired; and

WHEREAS, Mr. Brew has worked as the Clerk of the Legislature for 15 years; and

WHEREAS, when Mr. Brew left County employment an extensive amount of knowledge was lost to the County; and

WHEREAS, a new Clerk of the Legislature will accept and perform such duties and responsibilities effective January 3, 2008; now, therefore be it

RESOLVED, that the County Legislature authorize the Chairman to sign a contract with Lee Brew to provide assistance and information for the Clerk of the Legislature; and, be it further

RESOLVED, that Mr. Lee Brew will be paid at a rate of \$15.00 per hour at a cost not to exceed \$5,000.00.

Signed by Mitchell, Petrus, Schuster, Lockwood, Cuddeback, Petrus, Schuster.

Approved by voice vote, all present voting aye.

RESOLUTION NO. 06-08

1/2/08

boeinspectorpay

**AUTHORIZING THE BOARD OF ELECTIONS AND COUNTY TREASURER
TO PAY ELECTION INSPECTORS AND CUSTODIANS**

BY: Mr. Mitchell, Chairman, Government Operations Committee

BY: Mr. Dudley, Chairman, Ways & Means Committee

WHEREAS, § 3-420.1 and § 3-302.6 of the New York State Election Law mandate that as of January 1, 2006, towns and cities in New York State will no longer pay election inspectors and machine custodians and establishes this process as a function of each county, and

WHEREAS, the Election Law provides that each county legislative body approves the payment amount for each election inspector and machine custodian, and

WHEREAS, there was insufficient time to complete the Election Board's November audit due to the general election being held on the due date of the audit; and be it

RESOLVED, that the County Treasurer be and he hereby is authorized and directed to pay the claims so audited and charge account A1450.400.078 (General Election Inspectors) made therefore in the County Budget finalized on December 13, 2006.

RESOLVED, that the County Treasurer is authorized to issue payment in the amount of \$9,465.00 to the election inspectors

Signed by Mitchell, Petrus, Schuster, Cuddeback.

Approved by voice vote, all present voting aye.

RESOLUTION NO. 07-08 January 2, 2007

itservers0108

AUTHORIZING THE INFORMATION TECHNOLOGY DEPARTMENT TO PURCHASE SERVERS

By: Steven Cuddeback, Chairman, Public Works

Raymond Lockwood, Vice Chairman Ways and Means Committee

WHEREAS, the new County financial program requires servers and database software for operation and backup; and

WHEREAS, these servers must be in place and operational for installation of the new financial program; now therefore, be it

RESOLVED, that the Information Technology Department is authorized to purchase and install 3 new Hewelett Packard servers and related hardware and software for the financial program on New York State contract in the amount of \$25,000.00 from account No. A1020.200.000; and be it further

RESOLVED, that the Cayuga County Treasurer is hereby authorized and directed to make the journal and accounting entries required to implement the intent of this resolution.

Signed by Cuddeback, Lockwood, Palermo, Mitchell, Tortorici, Murphy, Petrus, Schuster.

Approved by voice vote, all present voting aye.

RESOLUTION NO. 08-08 1-2-08 coanativeonefallsalestaxcollectsalestaxrev1

RESOLUTION CALLING FOR THE COLLECTION OF SALES AND EXCISE TAXES ON TRIBAL LANDS

By: George Fearon, Raymond Lockwood and David Axton

WHEREAS, during the pendency of land claims brought by Indian tribes for large tracts of land across New York State, tribal governments purported to assert jurisdiction over taxation, law enforcement, gambling, boxing, motor vehicle licensing, land use, environmental regulation, law enforcement and other matters; and

WHEREAS, during the pendency of these land claims the State of New York elected to exercise forbearance on counter-assertions of state jurisdiction over these matters; and

WHEREAS, recent court decisions by the United States Supreme Court in the *City of Sherrill v. Oneida Indian Nation of New York* (No. 03-855) and by the Second Circuit Court of Appeals in the *Cayuga Indian Nation of New York, et al. vs. Pataki, et al.* (2nd Cir. Docket No 02-6111(L)) have significantly altered the legal landscape and have affirmed, unequivocally, comprehensive state and local jurisdiction over lands and issues in question; and

WHEREAS, tribal governments in every part of New York State: from Long Island to the Canadian border; from Lake Ontario to the Pennsylvania border; from the Hudson Valley to the Finger Lakes and the Niagara frontier and Central New York continue to raise significant controversy through litigation focused on jurisdiction, property rights, Indian gaming, and tribal sovereignty; and

WHEREAS, numerous federal court cases involving the application of state and local excise and sales taxes to sales by tribal retailers to non-tribal members, including the United States Supreme Court case of *Department of Taxation and Finance of New York et. al. v. Milhelm Attea and Bros., Inc., et. al.* (No 93-377), have repeatedly affirmed that states have a right to the sales and excise tax revenues on such transactions; and

WHEREAS, Cayuga County believes that a failure of the State of New York to assert its sovereign prerogatives with regard to taxation and other areas of governmental jurisdiction is detrimental to the well-being of citizens and the interests of local governments across the state; and

WHEREAS, failure to collect sales and excise taxes on tribal and Indian sales to non-tribal members has been particularly damaging to the citizens and governments of New York because this failure deprives the State of New York and local governments of legitimate, legal revenues which are desperately needed for public programs; and

WHEREAS, failure to collect these taxes on tribal and Indian sales further creates a grossly unfair business environment for non-Indian retailers across the State of New York by diverting business to tribal and Indian retailers and by giving tribal and Indian retailers a grossly unfair competitive advantage; and

WHEREAS, the Legislature of the State of New York, by legislation contained in Chapter 62 of 2003 amending various laws of the State regarding taxation, required the Commissioner of Taxation and Finance to implement, not later than September 16, 2003, measures to effectively collect sales and excise taxes on tribal and Indian sales of tobacco and motor fuels to non-tribal members; and

WHEREAS, the Commissioner of Taxation and Finance previously published rules and regulations which would attempt to collect those taxes upstream from the point of sale, the implementation of which was postponed until March 1, 2006; and

WHEREAS, the Governor introduced language in the 2006-07 Executive Budget Proposal to effectively delay collection of sales and excise taxes on Native American lands until January 1, 2007, and

WHEREAS, the State of New York delayed the collection of sales tax despite its statutory authority and obligation; and

WHEREAS, the State Legislature in 2006 passed legislation (A.10859-A / S.7568-A) that would have prohibited cigarette manufacturers from delivering their product to any licensed distributor who has been identified by the Attorney General, the NYS Department of Taxation and Finance or the City of New York as an illegal supplier of unstamped cigarettes; and

WHEREAS, Governor Pataki vetoed that legislation in August of 2006, and

WHEREAS, Governor Spitzer and his new administration pledged to begin collecting sales tax on goods sold on Native American lands to non Native Americans and included revenues from those collections in the 2007-08 State Budget, and

WHEREAS, New York State has, on this date, still not begun to collect sales and excise taxes on Native American lands, and

WHEREAS, Cayuga County has repeatedly expressed unqualified, strong support for implementation of such measures to collect these taxes on tribal sales to non-Indians:

NOW THEREFORE BE IT RESOLVED, that Cayuga County calls on the Governor of the State of New York to take any and all necessary action to insure collection of all sales and excise taxes on tribal and Indian sales of all goods and services to non-tribal members for the benefit of state and local governments without further delay, and

BE IT FURTHER RESOLVED, that New York State take action to affirmatively assert its sovereign prerogatives and jurisdiction consisted with recent court decisions, New York State and federal law.

BE IT FURTHER RESOLVED, that the Clerk of the Cayuga County Legislature shall forward copies of this Resolution to Governor Spitzer, the New York State Legislature New York State Association of Counties and all others deemed necessary and proper.

Signed by Fearon, Lockwood, Axton.

Approved by voice vote, all present voting aye.

NEW OR UNFINISHED BUSINESS:

1. PAR Application

County Attorney, Fred Westphal, as Mr. Lockwood indicated earlier, we have a tradition of having a special meeting in January, and I am going to make a request to have a special meeting. Mr. Allen has handed out to everybody the Holt Architects, Feasibility Study, which talks about a couple of options of potentially moving some services of the Mental Health to the Hospital. It is also located in your County Project, and you might want to consider it separate, because as you know the COP's payments has been suspended at this point. Pam Wandro, from the regional office, they are looking for some direction from the County, as far as which way the County is going on the programs. It might be appropriate, if the body considers it, to have a special meeting. My thought would be have a meeting as, A Committee of the Whole, having the whole Legislature their, rather then go through the individual committees, because you may have some of the same questions come up.

Legislator Petrus, Mr. Chair, I would support that as Chair of the Health & Human Services Committee.

Legislator Tortorici, what I would like to see is the three phases of the Holt Architects Proposal, and I would like to get an estimate of lease numbers on how much that's going to be. I would like to know from the State what if any reimbursement will come from the State for this project. Also any information we might need to help us decide on the building.

County Attorney, Fred Westphal, I did reach out to the Attorney's for the Hospital, they are going to meet to have that discussion, I'm not informed as to when that will happen, just to bring you up to speed. We need to pick a date and who you want to bring.

Legislator Mitchell, without the total information on leasing this property, which is not our property, I'm not sure the meeting would be very useful. I think we need to know when we're going to get that other information, before we pick a time for the meeting.

County Attorney, Fred Westphal, which choice should I tell the hospital the Legislature is interested in, both choices and see if they come up with a rental information. Is that what you're looking for?

Legislator Mitchell, yes.

Legislator Fearon, It might be wise to discuss this in executive session.

Chairman Mills, would you like to do that now.

Legislator Fearon, I would.

Motion by Legislator Fearon to go into executive session, Re: Proposed Lease of Real Property, approved by voice vote, all present voting aye, at 7:53PM.

Chairman Mills, called back into session at 8:08PM, approved by voice vote, all present voting aye.

Motion by Legislator Chapman to adjourn at 8:09PM, approved by voice vote, all present voting aye.

Minutes approved on 3-25-08, by voice vote, all present voting aye.