

**Sullivan County Legislature
Special Meeting
February 5, 2009 at 11:45AM**

The Special Meeting of the County Legislature was called to order at 12:16PM by Chairman Rouis with the Pledge of Allegiance.

Roll Call indicated Mrs. LaBuda absent.

The Clerk Read the following Meeting Notice:

A Special Meeting of the County Legislature has been called for **Thursday, February 5, 2009 at 11:45AM** in the Legislative Chambers of the County Government Center, Monticello, N.Y. The purpose of the meeting is to discuss the County Wide Assessment Study and any other business that may come before the Legislature.

Presentation

Lynda Levine, Director of Real Property Tax Services gave the following presentation. (Assessment Study is attached)

Good Morning, first I would like to thank you for giving me the opportunity to make this presentation. I would also like to thank the members of the Committee for their assistance and input with respect to this study. She has provided everyone with a copy of the study both hard copy and electronically.

In 2007 the New York State Office of Real Property established the Centralized Property Tax Administration Program to encourage counties to study reforms of their assessment systems. In March of 2008 Sullivan County was awarded a \$50,000 grant to study the current system within Sullivan County and to offer the County Legislative Body alternatives in an attempt to reform the current system to ensure that all real property within Sullivan County is treated equally.

The goal of this study is to review the current system and to offer alternatives that will improve the performance of the New York's real property tax system to achieve the following:

1. Equity – the system treats every parcel the same way;
2. Transparency – the system is simple enough for taxpayers to understand; and
3. Efficiency – the lowest cost for a given level of service is achieved.

The ultimate goal of this study is to explore and make recommendations towards developing a system that could result in a common level of assessment or one equalization rate for all parcels within Sullivan County.

New York State's Real Property tax system is arguably the most complex property tax system in the nation. While most states have less than 100 assessing jurisdictions, New York State has over 1,100 assessing units. Additionally, while most states have a statutory reassessment cycle and a statewide standard of assessment, New York State allows each assessing jurisdiction to determine its own level of assessment, requiring only that within that assessing jurisdiction, all real property be assessed at a uniform percentage of value. Furthermore, there is no standard reassessment cycle. Many municipalities within New York State reassess annually, while others have not reassessed since before the Civil War.

Initially, in 1683, when New York State first established its first twelve counties, Sullivan County was wholly contained as a part of Ulster County. On March 27, 1809, the New York State Legislature, concerned over the handling of legal affairs in the region, separated Sullivan County from Ulster County. The name was chosen to honor General John Sullivan, a Revolutionary War hero.

Sullivan County is located in the southern part of the State of New York. It is southeast of Binghamton and southwest of Albany. It is separated, on its western border, from Pennsylvania by the Delaware River. The county starts about 75 miles northwest of New York City and is nestled firmly within the Catskill Mountains, making it a very desirable second home community. Its northeast corner is within the Catskill Park.

Sullivan County is comprised of approximately 1,011 square miles total with a land area of approximately 984 square miles and 27 square miles of water. With a population of 73,966, according to the 2000 Federal Census Bureau, Sullivan County has a population density consisting of approximately 73.2 people per square mile. Sullivan County consists of 65,595 parcels in its 15 towns and 6 villages.

Sullivan County had always been a popular tourist destination with many outdoor recreational activities such as hunting, fishing, golfing, boating, skiing and mountain climbing, amongst others. Its rich history includes the resort complexes of the Borscht Belt, where many famous entertainers got their start, the 1969 Woodstock festival, the site of which is now the Bethel Woods Center for the Arts and the Monticello Raceway, which now includes a Racino. Sullivan County had been home to many famous hotels, including the Concord Hotel. Now only a few remain.

In New York State the real property tax is a local tax. It is raised and spent by the local municipalities that include the villages, towns, cities, county and school districts. Many of the school districts cross assessing unit boundaries. Local governments, counties, towns, cities, villages and school districts, must be able to accurately predict both their revenues and expenses during each fiscal year. Revenue sources, such as state and federal aid, service and licensing fees, sales tax revenue, etc. are deducted from the total expense necessary to provide services to determine the real property tax levy. The tax levy is then distributed to the owners of real property within the taxing jurisdiction in the form of real property taxes. New York State law has determined that the fair way to distribute the levy amongst property owners is to base the amount that a property owner will pay on the estimated market value of their real property. Therefore, the real property tax is an ad valorem tax, or a tax based on value.

It is important to note that the assessor plays no part in the determination of the levy. As stated above, the levy is determined by the cost to provide the services by the governing board of the taxing jurisdictions, county, town, village and school district less anticipated revenue. The assessor's job is to identify and estimate market values of all properties located within their municipality. Further complicating the concept of assessment equity is the fact that market trends vary across a municipality. For instance, real property in some neighborhoods increase in value at a different rate than others. There are many factors in Sullivan County that contribute to these shifts, such as, speculative purchases of real property in areas where there has been talk of casino gaming, as has been occurring in the Town of Thompson and the influx of second home buyers as a result of the events of September 11, 2001. As a result, unless there is reassessment each year by each assessing unit, the allocation of property taxes, specifically county and school taxes would be inequitable.

Real Property Tax Law 305 requires that "all real property in each assessing unit shall be assessed at a uniform percentage of value..." Value is defined as "market value" or the price at which a willing buyer would pay a willing seller for real property under normal circumstances. The percentage of value at which a municipality maintains its assessment is the level of assessment. Levels of assessment and equalization rates vary greatly throughout Sullivan County and range from a low of 3.9% to 100% for those municipalities that completed reassessments in 2008. While the equalization rate does provide some balance, its greatest shortcoming is that there can be only one rate per assessing unit. If values are not equitable within the municipal boundaries, the single equalization

rate cannot be truly indicative of the proportion of assessments to market value. The real estate market is constantly changing as the factors that affect property values change. Constant vigilance to provide the best estimates of current market value is required to truly achieve equity for taxpayers.

It is also important to note that the last time that the municipal-wide physical property data was collected varies from one Sullivan County municipality to the next over a period of approximately three decades. Only six of the fifteen municipalities have conducted reassessments since 2000. Only two towns were part of the annual reassessments program in 2008, the Towns of Highland and Lumberland. They both went through town wide reassessments in 2003 and maintained their level of assessments at 100 percent throughout the program. This year both municipalities have opted not to continue in the annual reassessment program. More importantly, the town supervisors that responded to the questionnaire I sent while researching for this study indicated that they would not be in favor of a reassessment in their town. As a result, the first and foremost recommendation that I can make is that the State Legislature consider a cycle bill that would mandate reassessments, at least on a town-wide basis every 3 to 5 years.

Pursuant to the Real Property Tax Law there are alternatives available to the existing assessment system in Sullivan County. Pursuant to RPT Section 1530 and 1540, there is the County Assessing option, in which the county would perform all of the functions currently performed by the town assessors, including but not limited to data collection, valuation and exemption administration. By definition, county assessing removes the responsibility of property assessment for tax purposes from the local municipalities and places it with the county. Under this scenario, the County would have to adopt a local law, subject to a mandatory county wide referendum. Since Sullivan County does not contain any cities, the referendum would have to pass in the County by simple majority. Pursuant to New York State RPTL Sections 1530 and 1540, under a county assessing system the Real Property Tax Services Agency would no longer be mandated and the Director of Real Property Services would be replaced by a Director of Assessment. The County Legislature would appoint a Director of Assessment for either a six-year term of office or civil service appointment. All other employees in the department, including appraisers, tax map technicians and clerical staff would be civil service employees.

If county assessing were adopted, the county would become a single assessing unit, with a single equalization rate calculation based on the aggregate assessed value to market ratio of the entire county (RPTL 1214). The County Legislature would determine the revaluation schedule and level of assessment. I have discussed the various costs associated with this type of system in the report submitted and refer you to that report for those specifics.

As an alternative, Real Property Tax Law 579 authorizes two or more assessing units within the same county to adopt identical local laws, without referendum, approving an agreement to enter into a coordinated assessing program. Such local laws must be adopted by each participating assessing unit at least sixty days before the first taxable status date (March 1) of an assessment roll to which such program is to apply. There are two such types of agreements.

The first type of agreement is one in which there is direct county involvement. Under this scenario, the assessing units would enter into an agreement with the County to provide assessment services to all of the participating assessing units pursuant to RPTL 1537. The second type of agreement is that in which there is no direct County involvement. Under this scenario, all of the participating assessing units would enter into a municipal cooperative agreement providing for a single assessor to be appointed in all of the participating assessing units. Regardless of the level of involvement on the part of the county, there would be a single appointed assessor to hold the office in all of the participating assessing units. The appointment must be effective no later than 60 days after the date on

which the agreement is effective. There would be one level of assessment for all of the participating assessing units. All municipalities that enter into a coordinated assessing agreement are then considered one assessing unit.

This can also be done on a County wide basis. If all of the assessing units in Sullivan County were to participate in such a program with the County having direct involvement with same, the County would be required to establish a County Assessing Department, separate and distinct from that of the County Department of Real Property Tax Services to perform the assessment functions for the County as a whole. There would be a single appointed assessor for the county wide CAP and the County Department of Real Property Tax Services would continue to maintain the tax maps, calculate the tax levy, provide impartial information to the taxpayers, train Board of Assessment Review members and continue to coordinate and advise the assessment department thereby maintaining the separation of assessments and taxes.

A final option is pursuant to RPTL 1537 in which assessing units enter into agreements with the County to provide assessing services. Under this scenario, an assessing unit and the county could enter into agreements for the county to provide appraisal, exemption administration and/or other assessment related services. Depending on the level of services contained in the agreement, the County could be responsible for appraisal of all properties within the participating assessing units, review of all exemption applications and making eligibility determinations regarding same based upon ownership, and/or finally, data collection and data processing services.

Any such agreement must be approved by a simple majority vote by the governing bodies of both the assessing unit or units and the county. In order for an assessing unit to enter into any such agreement, they must pass a resolution authorizing said agreement 45 days prior to entering into same, subject to permissive referendum. Said agreements could thereafter be amended, cancelled or terminated without prior authorization.

According to most of the town assessors in Sullivan County, exemption administration takes up approximately 80% of an assessors daily time, which could be used for other purposes. The assessor must make determinations regarding the ownership of the property, the use of the property and whether or not the ownership and/or the use sufficiently fits the criteria for eligibility for the exemption. There is also a great deal of public relations involved with exemption administration. The County could enter into such an agreement with the assessing units in which the County would take on the roll of exemption administration. The County would be responsible to review applications for exemptions and determine the eligibility of the applicants. As a first step, it is recommended that the County create a centralized database to tract exemption applications filed and their determinations throughout the municipalities.

Finally, an assessing unit and the county can contract to provide a person, other than the County Director of Real Property Tax Services, to be selected by the assessing unit to perform assessment services. Said person shall be deemed the assessor of the participating assessing units but would be an employee of the county.

Pursuant to these agreements provision could be made to charge the cost of providing such services back to the assessing units.

Under the RPTL 1537 agreements, assessing units remain autonomous and are each individually analyzed for equalization rates, RARs (residential assessment ratios), reassessment cycles and STAR state aid.

With respect to any of the potential options discussed, the County would also have to provide staff to support their actions, whether it is an appraisal of value,

or denial of an exemption and to defend such actions and provide legal support for challenges both before the Board of Assessment Review or in Court.

I must also note that with respect to all of these options, there is available state aid. The amounts vary from program to program and have been discussed further in the report submitted.

Finally, a first step in achieving equity throughout the County would be for the County to consider a county wide reassessment. A reassessment is defined as “a systematic review of assessments of all locally assessed properties, valued as of valuation date of the assessment roll containing those assessments to attain compliance with the standard of assessment.” If Sullivan County were to centralize or consolidate its assessing functions, it would be necessary to reassess all parcels in Sullivan County, most likely, by the use of a contractor.

Having had discussions with contractors that have done a reassessment, I have estimated that a reassessment project for Sullivan County would cost approximately \$90 per parcel. Therefore, I have estimated that a county wide reassessment project would cost Sullivan County approximately \$5,900,000.

The above figure would be off set by the \$5 per parcel state aid of approximately \$325,000.

As you can see the reassessment process is extremely expensive. It has also historically been very unpopular amongst taxpayers. As a result, there would need to be a strong public relations campaign, before such an undertaking to educate the public. Furthermore, the Legislature would need to consider the timing of such a reassessment. For instance, although the Country is presently in a recession and Sullivan County has experienced a decrease in real property transfer activity, property values have not yet dropped substantially within the County. Any reassessment would be based upon values of real property over the last several years while the values were still relatively high. Therefore, I believe that the result of a reassessment at this time, may actually result in inflated values not representative of the current market. So although I favor a county wide reassessment, I believe that we need to wait for the market to become more stable.

Finally, assessment officials in Sullivan County were asked for recommendations on how to improve the assessment function in New York State. The following are some of their recommendations for improving the real property tax assessment program statewide:

1. The most prevalent recommendation from both the assessment community and the local elected officials is a mandated reassessment cycle bill. This would require municipalities to reassess on a periodic basis. They felt that reassessment should be required every three to five years.
2. Another recommendation would be for the state legislature to review the existing property tax exemptions in New York State. Although the perception amongst many is that exempting properties forgives taxes, however in reality, the exemptions only redistribute property taxes amongst taxpayers. Furthermore, in discussions with assessors, exemption administration takes up a considerable amount of time and increases workload. This time and energy could be put to better use for the collection of data and valuation of property. I would also suggest that we consider our options of assisting the municipalities pursuant to 1537 agreements with respect to exemption administration by creating a centralized database to tract exemption applications and their determinations, and perhaps considering entering into a dialogue to perform exemption administration services pursuant to a 1537 agreement, on a trial basis, with one or two towns.
3. It is suggested also that the State increase assessment aid payments. It is the opinion of the municipalities that there is insufficient aid currently in place and does not provide adequate incentive to the municipalities to improve assessment functions.

In closing, she would like to thank the members of the Office of Real Property Services for all their assistance in creating this report.

Mr. Lee Kyriacou, Executive Director of the Office of Real Property Services, thanked everyone for having him here today. He then thanked Ms. Levine for the study and there is no question that it meets the criteria that they asked for in terms of looking at some method of treating every parcel in the county exactly the same way. He distributed a hand out (see attached). Most communities in the state are already there. While Sullivan is not one of the places where majority of communities are updating annually or even updating every three or four years, 60% of the jurisdictions in the state, have updated their reassessment in the last four years. At any point, 400 of the assessing jurisdictions are effectively at 100% full market value. We are at the stage now, where the majority of municipalities are actually doing it. His encouragement to the Legislature is that it can be done. If you look at the two maps on the first page; one says who has done it since 2005 and 400 jurisdictions are at full market value. Again, not many in Sullivan County, and Sullivan County is one of the pockets they are working on. He is from Dutchess County. Most of Dutchess is in the green now but five years ago, Dutchess was the same color as Sullivan is now. Five years ago, only a handful of the 22 communities in Dutchess did a reval, started to come together and make it a non partisan issue in his area. Seventeen of the twenty-two communities are at 100% and they are going to get the rest one community at a time. Once you get started, it flips quickly. Most are doing it and getting aid, so once you get there, the aid is there. He next would like everyone to turn to the back of the first page where there is a table. The table lists all 15 communities of Sullivan County. Most Sullivan communities are among hold-outs for reassessment which results in taxpayer unfairness. Neversink hasn't been revald in at least 35 years. It should be called Neverreval. It also shows the equalization rate right next to it and shows the drop of the equalization rate. The third column is the COD column and what it means is the older the reval, the wider the properties vary around whatever that average equalization rate is. The bigger that number is and basically once it starts exceeding 15, it means that there is a lot of variation. A lot of that variation means a lot of the county's taxpayers are over assessed and a lot of taxpayers are under assessed. If you are over assessed, you are paying too much and you are being subsidized by someone who is under assessed. He will tell you that it is not who you think it is. One of the comments that he gets is, *oh, your going to hurt my seniors*. They just did an analysis for a major county (Westchester). They analyzed based on sales; take 30,000 sales in Westchester, identify the ones that are seniors, (can do by looking at senior exemption or enhanced star exemption). They isolated those to get enough data to see over under, guess what, seniors are over assessed. What a surprise. The places that haven't depreciated as quickly as the average in the county, are probably over assessed. Your county, let's say is going up 5% in appreciation. If you are in an area that has appreciated slower than that, your over assessed. If you are in an area that has appreciated faster than that, your probably getting a deal. This is just a measure of it. What it is basically saying is that most of the communities are overdue for a reassessment. Next, looking at the same table, is a column called residential sales. This is the number of sales that they found within the community, to allow them to set an equalization rate. A lot of them are awfully small numbers. In Forestburgh, for example, there were only 9 residential sales in that year for them to do their work. The way they set equalization rates is they use good sales. When the numbers are 20 or 30, they are awfully small and that means their ability to find an equalization rate is going to create variability and that variability is going to affect your taxpayers. It is hard and you have a lot of small communities and we have to figure out how we are going to work together to avoid that issue. The last thing he is going to say, is on the last page, it is not their job to comment on models. They want the Legislature to study what it thinks is interesting. Ms. Levine mentioned a couple of examples using what are called CAPS which is when two towns get together and share an assessor. Beacon does that. When they did their reval, they got a new agreement with East Fishkill. Those two communities are about 15,000 parcels with a single assessor. Their assessor expenses went down; their service levels went up and they are in an annual reassessment which means they change their assessment every single year. The reason is worked that way is once you have an assessor, whose skills are about assessing and appraisal, serving a large enough base, you can hire support staff to do things like exemption which takes up all the assessors time for which their training is far in excess of what is needed. He encouraged the legislature to look at the models such as the county –

run or a centralized data base as Ms. Levine mentioned, moving in the direction of exemption; Looking at data collection in a group etc. The only other thing he would say is they are here to help. If the legislature wants to meet afterwards, they would be happy to do so. Right now, they are doing planning with a number of counties of how can we set this path. Do we want to take five years to do it or take another route. Another thing he would encourage the legislature to do as Ms. Levine mentioned, wanting a state wide mandated cycle bill. If that is something you think is important then sending a notice up to the state is very helpful. Most of his studies are saying that should be in place. If you believe that, give us a resolution and you won't be the only ones asking for that and that will make it a lot easier. That is all he has and he thinks Sullivan County has a good study in front of them.

Chairman Rouis stated he would like a motion to accept the Study and thanked Ms. Levine, the committee and all that worked on it. He thinks it is a worthwhile event to discussing it further at the Real Property Committee meetings. Moved by Mrs. Goodman, seconded by Mr. Hiatt, put to a vote and unanimously carried with Mrs. LaBuda absent.

RESOLUTION NO. 35-09 INTRODUCED BY JODI GOODMAN, CHAIRMAN OF THE PLANNING, ENVIRONMENTAL MANAGEMENT, AND REAL PROPERTY COMMITTEE TO ACCEPT THE SULLIVAN COUNTY CENTRALIZED PROPERTY TAX ADMINISTRATION PROGRAM ASSESSMENT STUDY

WHEREAS, in 2007 the New York State Office of Real Property established the Centralized Property Tax Administration Program (CPTAP) to encourage counties to study reforms of their assessment systems, and

WHEREAS, in March 2008 Sullivan County was awarded a \$50,000 grant to study the current system within Sullivan County, and to offer the County's Legislative Body alternatives in an attempt to reform the current system to ensure that all real property within Sullivan County is treated equally, and

WHEREAS the ultimate goal is to develop a system that could result in a common level of assessment or equalization rate for all parcels within the County, and

WHEREAS, the Sullivan County Legislature received both a verbal and written report from Lynda Levine, Esquire, Director of Real Property Tax Services, at a Special Meeting of the Legislature held on February 5, 2009 for the purpose of receiving such report.

NOW, THEREFORE, BE IT RESOLVED that the Sullivan County Centralized Property Tax Assessment Study is attached hereto as Schedule "A", and is hereby accepted by the Legislature of the County of Sullivan, and

BE IT FURTHER RESOLVED that the Sullivan County Legislature hereby refers the Sullivan County Centralized Property Tax Assessment Study to the Planning, Environmental Management, and Real Property Committee for further review and deliberation, and

BE IT FURTHER RESOLVED that the Clerk of the County Legislature is hereby directed to transmit a copy of this resolution and Schedule "A" to the Director of the New York State Office of Real Property Services, Senator John Bonacic, Assemblywoman Aileen Gunther, and the Supervisor of each municipality in Sullivan County.

Moved by Mrs. Goodman, seconded by Mr. Hiatt, put to a vote with Mrs. LaBuda absent, unanimously carried and declared duly adopted on motion February 5, 2009.

Chairman Rouis indicated if anyone wanted a further explanation to see Mr. Yasgur. This is related to the pharmaceutical claims which are coming in volumes but for small amounts. Mr. Yasgur stated that they need a reasonably prompt response once they negotiate potential resolutions. Having the three of us complete this, will make it more expeditious and with every one of these, we wind up with something.

RESOLUTION NO. 36-09 INTRODUCED BY JONATHAN ROUIS, LEGISLATIVE CHAIRMAN, TO AMEND RESOLUTION #187-05 TO PROVIDE FOR AUTHORIZATION TO SETTLE CLAIMS

WHEREAS, on April 21, 2005 by Resolution #187-05 the County Legislature authorized the County Attorney to retain the firm of Kirby McInerney and Squire, LLP (hereinafter “Kirby McInerney”) as outside counsel to commence certain lawsuits with regard to overpayments for Medicaid pharmaceuticals, and

WHEREAS, Kirby McInerney has now reached the stage on the litigation where there is a possibility of settling some of the claims, and

WHEREAS, Kirby McInerney has kept the County Attorney fully advised of all considerations leading to the possible settlement of certain claims, both by conference calls involving the other County Plaintiffs and by confidential writings, and

WHEREAS, given the nature of the lawsuits and the number of cases, defendants, individual drugs and counties involved it would be appropriate for Sullivan County to provide a streamlined method of approving proposed settlements, and

WHEREAS, Paragraph number “3” of Resolution 187-05 provided: “No lawsuit instituted by Kirby, McInerney, and Squire, LLP on behalf of the county with respect to the aforesaid matters will be compromised and/or settled without the express approval of the County Attorney who shall first obtain such authorizations as may be legally required”, and

WHEREAS, the County Attorney submits that given the nature of the matters, the timing involved in approving proposed settlements and the confidential nature of the materials it would be advisable to for the County Legislature to provide that settlements in such cases may be approved, by the unanimous written approval, of the following officials; Chairperson of the County Legislature, the County Manager and the County Attorney or, in the alternative, by a majority of the County Legislature,

NOW THEREFORE BE IT RESOLVED THAT

Paragraph number “3” of Resolution 187-05 is hereby amended to read as follows: “No lawsuit instituted by Kirby, McInerney, and Squire, LLP on behalf of the county with respect to the aforesaid matters will be compromised and/or settled without one of the following: either (A) the unanimous, written approval of the Chairperson of the County Legislature, the County Manager and the County Attorney, or, in the alternative (B) approval by a majority of the members of the County Legislature upon the written recommendation of the County Attorney.”

Moved by Mr. Wood, seconded by Mr. Hiatt, put to a vote with Mrs. LaBuda absent, unanimously carried and declared duly adopted on motion February 5, 2009.

RESOLUTION NO. 37-09 INTRODUCED BY THE PERSONNEL COMMITTEE TO ABOLISH AND CREATE POSITIONS WITHIN THE DEPARTMENT OF MOTOR VEHICLES IN THE OFFICE OF THE COUNTY CLERK

WHEREAS, the County Clerk has requested the authorization to restructure job duties within the Department of Motor Vehicles in the Office of the County Clerk, and

WHEREAS, the County Clerk intends to utilize the title created herewith to market the services of the Department of Motor Vehicles; provide for a renewed effort to realize increased DMV work with automobile dealers throughout New York State; and to provide greater accessibility to and mobility of the DMV, and

WHEREAS, the County Manager has reviewed the request from the County Clerk, and concurs with the merits of the request, and

WHEREAS, the realignment of job duties as proposed by the County Clerk will increase the efficiency, productivity, customer service, and potential revenues of the DMV, and

WHEREAS, it is in the best interest of the County of Sullivan to abolish and create the following positions.

NOW, THEREFORE, BE IT RESOLVED, that the Sullivan County Legislature hereby authorizes the creation and abolishment of the following positions within the Department of Motor Vehicles in the Office of the County Clerk, and placed upon the associated grade on the Teamsters Union pay scale:

CREATE:		
A-1410-11	Motor Vehicle Bureau Customer Services Specialist	Grade IV
ABOLISH:		
A12410-11	County Clerk Worker I	Grade IV

Moved by Mr. Sager, seconded by Mrs. Binder, put to a vote with Mrs. LaBuda absent, unanimously carried and declared duly adopted on motion February 5, 2009.

Chairman Rouis stated that this resolution is to increase the amount for the contract with the company that provides our code book updates. Given the changes we made to the code, it acquired additional money for those updates. Mr. Sager inquired does this include what we were talking about at the last meeting of which the Clerk gave a pre-meeting statement with increasing the fees at the Clerk’s office. Chairman Rouis stated this has nothing to do with the Sullivan County Clerk’s office. This relates to the blue code book. Mr. Yasgur stated this is the book with the Charter, Administrative Code and updates to the website so that when you pull it up on the computer, you will see the latest revisions based on the enactment of a local law. Mr. Sager stated so this has nothing to do with the recording fees. Mr. Yasgur stated no.

RESOLUTION NO. 38-09 INTRODUCED BY JONATHAN F. ROUIS, CHAIRMAN OF THE LEGISLATURE TO AUTHORIZE THE COUNTY MANAGER TO EXECUTE A MODIFICATION AGREEMENT WITH GENERAL CODE PUBLISHERS CORP. (“Contractor”)

WHEREAS, the original contract signed between the parties in March 1998 was authorized by Resolution No. 141-98 (“Original Agreement”) and was modified pursuant to Resolution No. 653-99, and

WHEREAS, the total annual amount of \$3,800.00 is and has been insufficient to cover the annual services that the Legislature requires from the Contractor, and

WHEREAS, it is difficult to determine on an annual basis what the cost of services shall be due to the changes in the local laws and amendments to the code, and

WHEREAS, in order to provide accurate and up to date public access to the code as well as hard copies the annual contract amount has to be increased. Said increase is to be determined at the discretion of the legislative administrative staff but shall not exceed an annual amount of \$7,000, and

WHEREAS, all other terms and conditions of the Original Agreement shall remain in effect.

NOW THEREFORE, BE IT RESOLVED, that the County Manager is hereby authorized to execute a Modification Agreement with the Contractor as detailed above, said Modification Agreement to be in a form approved by the County Attorney’s Office.

Moved by Mrs. Binder, seconded by Mr. Hiatt, put to a vote with Mrs. LaBuda absent, unanimously carried and declared duly adopted on motion February 5, 2009.

Mrs. Goodman moved to untable the following resolution, seconded by Mrs. Binder. Chairman Rouis indicated that this resolution was tabled at the last meeting. Chairman Rouis stated that the County Treasurer and Real Property Advisory Board had worked this out with the village and he thinks it is representative of what will happen.

RESOLUTION NO. 39-09 INTRODUCED BY THE PLANNING, ENVIRONMENTAL MANAGEMENT AND REAL PROPERTY COMMITTEE MODIFYING THE AGREEMENT WITH THE VILLAGE OF MONTICELLO FOR THE ENFORCEMENT OF ITS TAX LIENS

WHEREAS, pursuant to Resolution No. 426-07 adopted by the Sullivan County Legislature on September 27, 2007 the County Manager was authorized to enter into an Inter-Municipal Agreement (“IMA”) wherein the County of Sullivan (“County”) would commence and complete tax foreclosure proceedings on the Village of Monticello’s (“Village”) delinquent real property taxes; and

WHEREAS, pursuant to a Resolution adopted by the Village of Monticello Board of Trustees on October 1, 2007 the Village authorized the execution of the IMA; and

WHEREAS, the authorized representatives of the County and the Village executed an IMA, dated October 16, 2007; and

WHEREAS, Section 1(g) of the IMA permits modification of the IMA upon the mutual consent of the parties; and

WHEREAS, the County and the Village mutually agree to modify the IMA and enter into a Modification Agreement.

NOW, THEREFORE, BE IT RESOLVED, that the Sullivan County Legislature hereby authorizes the modifications to the IMA as detailed in the Modification Agreement; and

BE IT FURTHER RESOLVED, that the County Manager is hereby authorized to execute the Modification Agreement, said Modification Agreement to be in a form approved by the County Attorney's Office.

Moved by Mrs. Goodman, **seconded by** Mrs. Binder, put to a vote with Mrs. LaBuda absent, unanimously carried and **declared duly adopted on motion** February 5, 2009.

**MODIFICATION AGREEMENT
BETWEEN THE
COUNTY OF SULLIVAN
AND
VILLAGE OF MONTICELLO**

This modification agreement (“Modification Agreement”) made as of February 1, 2009, by and between the County of Sullivan (“County”), a municipal corporation with offices at the Sullivan County Government Center, 100 North Street, Monticello, New York 12701 and the Village of Monticello, a municipal corporation with an address of 2 Pleasant Street, Monticello, New York (“Village”).

The parties hereby agree to modify the Inter-Municipal Agreement, dated as of October 16, 2007, by and between them, entered into pursuant to Resolution No. 426-07 adopted by the Sullivan County Legislature on September 27, 2007 and a Resolution adopted by the Village of Monticello Board of Trustees on October 1, 2007 (“Original Agreement”).

The Original Agreement shall be modified as follows:

1. The first paragraph shall be modified by adding, “through the Office of the Sullivan County Treasurer” before (“County”).
2. The second paragraph shall be modified by deleting the words “tax lien” and inserting before (“Article 11”) the following “and the County’s local laws and/or customs”.
3. The third paragraph shall be modified by adding, “aiding the Village” before “in enforcing foreclosure...”.
4. After the fourth paragraph the sentence shall be modified by deleting “powers (rights) and” so that the sentence is “The County’s obligations are as follows:”
5. Under the County’s obligations paragraph number 2 shall be modified by deleting, “as well as discretionary,” and deleting “and/or collect on behalf of the Village the delinquent taxes with all accrued penalties and interest. The County shall turn over to the Village the collected taxes on a monthly basis without interest or penalties.” The following sentence shall be added at the end of paragraph number 2, “The Village shall collect redeemed taxes and pay to the County the costs levied therein pursuant to Article 11. The Village shall pay the costs levied to the County at the end of each month.
6. The following paragraph shall be inserted as number 7 under the County’s obligations:

“7. The County will charge the Village a reasonable fee for its administrative services. The administrative fee payable to the County shall be as follows:

 - a. Upon redemption the Village will pay the County the costs levied pursuant to Article 11 as referenced in paragraph 2 above.
 - b. For parcels not redeemed and sold by the County, on behalf of the Village, at its public auction or otherwise, the proceeds from the sale of each parcel will be payable as follows:
 - i. The first proceeds will be paid to the Village to satisfy its delinquent tax lien, as levied (without interest, penalties, etc.).
 - ii. Surplus monies, if any, shall be payable equally to the Village and County.”
7. Number 7 shall become number “8” and the following sentence shall be added at the end, “All decisions regarding the auction process shall be made by the County.”
8. The following sentence shall be added as paragraph number “9” under the County’s obligations: “The County will host the software purchased by the Village, on its computer system and provide access to the Village.”
9. The following sentence shall be added as paragraph number “10” under the County’s obligations: “All decisions regarding redemption, re-purchase, installment agreements and sales of properties after the Village takes title, shall be made by the County on behalf of the Village.”
10. The following sentence shall be added as paragraph number “11” under the County’s obligations: “For properties sold back to former owners pursuant to a re-purchase program, similar to the one conducted by the County, all proceeds will be payable to the Village except the statutory fee (see paragraph 2 above) and 50% of the surcharge collected (50% of 5% of the equalized assessed value of the properties).”

11. In paragraph 2 of the Village’s obligations the following shall be deleted, “in the event the County has not reimbursed itself from moneys collected on behalf of the Village.”
12. The following sentence shall be added as paragraph number “3” under the Village’s obligations: “The Village shall pay the County a reasonable fee for administrative services as provided for in paragraph 7 above.”
13. Paragraph Number 3 shall become paragraph number “4”.
14. Paragraph number 4 shall become paragraph number “5” and the word “pursue” shall replace the word “accomplish”.
15. Paragraph number 5 shall become paragraph number “6” and the word “supply” shall replace the word “provide”. Also, the word “litigation” shall be inserted before “matters.”
16. Paragraph number 6 shall become paragraph number “7” and the words “and/or the County,” shall be deleted. Also the word “related” shall replace the word “pursuant.”
17. Paragraph number 1b under Mutual Covenants and Restrictions shall be modified so that notice is sent via first class mail. Therefore, the words “first class” shall replace the words “certified return”.
18. Paragraph number 1d shall be modified by deleting the following: “the Supreme Court, Sullivan County. The following shall replace the language deleted, “a court of competent jurisdiction having venue in Sullivan County.”
19. **This Agreement shall not be effective or applicable to any Article 11 proceeding commenced by the County on behalf of the Village prior to the date first written above.**
20. All other terms and conditions of the Original Agreement shall remain in effect.
21. This Modification Agreement is authorized by Resolution No. _____-09, adopted by the Sullivan County Legislature on February 5, 2009 and Resolution No. ____-09 adopted by the Village of Monticello Board of Trustees on _____.

VILLAGE OF MONTICELLO

By: Gordon Jenkins, Mayor

**APPROVED TO FORM
VILLAGE OF MONTICELLO ATTORNEY'S OFFICE**

By: Jacob Billig, Esq., Village Attorney

COUNTY OF SULLIVAN

By: David P. Fanslau, County Manager

**APPROVED TO FORM
SULLIVAN COUNTY ATTORNEY'S OFFICE**

By: Thomas J. Cawley, Assistant County Attorney

Mr. Armstrong moved to reconsider the following resolution which was resolution no. 1 on the January 22, 2009 agenda to enact a local law to set the recording fees at the Office of the County Clerk, seconded by Mrs. Binder. Mr. Sager stated he never got to finish being interviewed when asked why he voted against this. He sees this as we raised the taxes seven percent and this essentially is just a usage tax. We are increasing taxes in every direction and he thinks with the economy that we are in, he doesn't know how we continue to do that in whatever form in comes in. At some point, New York has to say slow down folks.

Mr. Hiatt stated he would like to explain why he thinks that we need to do it. As he understands it, there is about a \$400,000 hole in our budget and rather than increase our property tax about 1 ½% that everyone has to pay, this way, it is just those people who are buying, selling or filing, it is a use fee specifically for them rather than have everyone supporting that. To file a deed, what is an extra \$40 or so. That is not a huge deal for somebody buying a house but if you are going to just raise the taxes generally 1 1/3% , he would rather have it as a use fee rather than just a general income. This is a way of saving \$400,000 worth of local jobs. Mr. Sager stated that this is also part of an anticipated tax that was put into a budget. It reminds me of days past on the legislature prior to his arrival. He thinks that we should be making budgets that are not on anticipated law but factual law.

Mrs. Goodman stated she remembers when we were voting on our sales tax and how many of us were against that but someone brought up a very good point, that a lot of this would be paid by people who are visiting our area or a second home owner. She thinks here, holds true as well. We have a lot of people who own second homes here or list us as their number one dwelling when it really isn't and they register their vehicles here. So it helps spread the wealth a little bit and proctors those who shouldn't be doing it here and let them pay the penalty for doing it that way. If we don't pass it this way, the bottom line is we are probably going to have to raise our property tax so it is going to come from some where and sometimes it just eases the pain. She likes that sometimes we share our pain.

Mrs. Binder stated she was one of the proponents of the sales tax increase because people who don't pay property tax still have to pay the gas at the pump and usually they are a lot more careful going into stores with tax exemptions when it is a one on one. She thinks the same has to do with the filing fees. Someone may be tax exempt and when they file their papers, they are still paying that filing fee to get it filed and she thinks that it just evens it out because if you raise the property tax, you are exempt, they are still going to be exempt. But if they go into file their papers because they are dividing up properties, this makes them pay their fair share of some of the costs. It was in the budget and we have been talking about it for five or six years, and she just doesn't see any way not to do this.

Chairman Rouis stated it is a constant struggle to try and balance fee revenue versus tax revenue. It is difficult and he doesn't think anyone wants to sit up here and be put in a position that they have to raise fees or taxes.

Mr. Sorensen added that he was opposed and is still opposed to the increase. In December we adopted a budget that was based on projected anticipated revenues and those revenues should have been in place so that the expenditures were in line. His concern with increasing fees; whether it be sales tax or recording fees, it inevitably becomes an excuse not to control your expenditures and expenses. He thinks if you look historically, which he has started to do, the history of the landfill revenues, that provided a convenient excuse for the legislature not to control expenses. We need to take a hard look at where we can control our costs and spend more time focusing on that as opposed to just looking for ways to increase revenues. He thinks it is a healthy discussion on either side.

The Clerk asked the County Attorney since there is a motion and second to reconsider, would another motion be necessary to approve it. Mr. Yasgur stated they are moving to reconsider it, the vote now will be a revote on the original motion.

**RESOLUTION NO. 40-09 INTRODUCED BY JONATHAN F. ROUIS,
CHAIRMAN OF THE LEGISLATURE TO ENACT A LOCAL LAW OF 2009**

WHEREAS, proposed Local Law of 2009 entitled "A Local Law to Set Recording Fees at the Office of the Sullivan County Clerk", was presented to the Sullivan County Legislature at a meeting held on December 30, 2008 at the County Government Center, Monticello, New York, to consider said proposed local law and notice of public hearing having been duly published and posted as required by law, and said public hearing having been held and all persons appearing at said public hearing deeming to be heard, and

NOW, THEREFORE, BE IT RESOLVED, that the Sullivan County Legislature does hereby enact and adopt this Local Law entitled "A Local Law to Set Recording Fees at the Office of the Sullivan County Clerk", County of Sullivan, State of New York, which local law is annexed hereto and made a part hereof.

Moved by Mr. Armstrong, seconded by Mrs. Binder, put to a roll call vote with Mrs. LaBuda absent and Mr. Sager and Mr. Sorensen opposed, resolution carried and **declared duly adopted on motion** February 5, 2009.

A LOCAL LAW of 2009 TO SET CERTAIN FEES IMPOSED BY THE COUNTY CLERK FOR RECORDING, INDEXING AND ENDORSING A CERTIFICATE ON ANY INSTRUMENT

WHEREAS, Section 8021(a)(4)(a)(1) of the Civil Practice Law and Rules of the State of New York relating to fees to be charged when the County Clerk renders services OTHER than in his capacity as clerk of the supreme court or a county court, or other than in an action pending in a court of which he is clerk, provides for the payment of specified fees, payable in advance, and

WHEREAS, in July, 2008, Chapter 288 of the Session Laws of New York, amended Section 8021(a)(4)(a)(1) by adding new sub-section as follows:

“Section 8021(a)(4)(a)(2) Notwithstanding clause one of this subparagraph, any county may opt by county law to increase the fee for recording, entering, indexing and endorsing a certificate on any instrument from five dollars to twenty dollars and, in addition thereto, increase from three dollars to five dollars for each page or portion of a page. Such increase shall take effect thirty days after the county enacts such fees. For the purpose of determining the appropriate recording fee, the fee for the cover page shall be deemed an additional page of the instrument. A cover page shall not include any social security account number or date of birth. To the extent a county clerk has placed an image of such cover page online, such county clerk shall make a good faith effort to redact such information.”, and

WHEREAS, the County of Sullivan desires to enact a Local Law setting the fees and adopting the provisions of Section 8021(a)(4)(a)(2):

NOW THEREFOR BE IT ENACTED AS FOLLOWS:

1. This local law shall only be applicable to services provided by the Sullivan County Clerk other than in his capacity as Clerk of the Supreme Court, or of the County Court, and other than in an action pending in a court of which he is clerk.
2. The fee for recording, entering, indexing and endorsing a certificate on any instrument shall be increased from five dollars to twenty dollars.
3. The fee for each page or portion of a page shall be increased from three dollars to five dollars for each page or portion of a page.
4. A cover page shall not include any social security account number or date of birth.
5. To the extent the County Clerk has placed an image of such cover page online he shall make a good faith effort to redact such information.
6. The provisions of this local law shall become effective thirty days after this local law shall become effective.

This Local Law shall become effective upon filing with the New York State Secretary of State.

Manager Fanslau stated he felt compelled to respond about the issue of anticipated revenue. In his budget message that was filed in November 2008 , there was an entire paragraph on page five dedicated to the fee structure for recording fees.

There being no further comments, Mrs. Goodman moved to adjourn, seconded by Mrs. Binder, put to a vote and carried. The Special Meeting was declared closed at 12:55PM subject to the call of the Chairman.

ANNMARIE MARTIN, Clerk of the Legislature