

**Facilities and Infrastructure Committee**  
Regular Meeting Minutes  
**Friday, December 3, 2010 9:30 AM**  
Scott Heyman Conference Room

Approved 1-7-11

<b>Attendee Name</b>	<b>Title</b>	<b>Status</b>	<b>Arrived</b>
Dooley Kiefer	Chair	Present	9:37 AM
Michael Lane	Member	Present	
Pamela Mackesey	Member	Present	
Leslyn McBean-Clairborne	Member	Present	
David McKenna	Member	Excused	

Staff: J. Mareane, County Administrator; E. Marx, Commissioner of Planning and Public Works; B. Sczesny, Highway Manager; C. Nelson, Public Works Administrator; J. Lampman, Highway Division; T. Rudy, Airport; B. Eckstrom, T. Richardson, L. Riley, Solid Waste  
Guests: Liz Lawyer, Ithaca Journal; Scott Nostrand, Barton and Lougudice; Steve Kleman, FCR

**Call to Order**

Mrs. McBean-Clairborne, Vice Chair, called the meeting to order at 9:35 a.m.

**Changes to the Agenda**

There were no changes to the agenda.

**Comments from the Public**

There was no one from the public present.

**Report from the Commissioner of Planning and Public Works**

Mr. Marx reported the restructuring of his position for 2011 would change his responsibilities. This change will happen gradually over the course of the end of the year and beginning of 2011. He stressed he will continue to work closely with the Public Works Division managers on their capital plan and will still be attending some Facilities and Infrastructure Committee meetings as well. Mr. Marx enjoyed working with Public Works and looks forward to continuing to work with them regarding sustainability. He expressed appreciation of the work of the Committee and noted the extreme amount of work it does.

Ms. Kiefer arrived at this time.

Mrs. McBean-Clairborne expressed her appreciation to Mr. Marx for the work he has done over the years.

**Minutes Approval**

It was MOVED by Mr. Lane, seconded by Ms. Mackesey, and unanimously adopted by voice vote by members, to accept the minutes of November 05, 2010, as submitted. MINUTES APPROVED.

**Report from the Committee Chair**

Ms. Kiefer reported the meeting for Pine Tree Road will take place at 5:45 p.m. on December 20<sup>th</sup> at the Trinity Lutheran Church on Honness Lane. At that time updated information will be made available to the public.

Ms. Kiefer reported she forwarded communication from Don Barber, Chair of Tompkins County Council of Governments, that included road preservation documents from Yates and Steuben Counties.

She said Yates County's is a very detailed road-use agreement, not a law, and Steuben County's asks the State Department of Environmental Conservation to require road-use agreements as part of the final GEIS. Mr. Wood had told her Tompkins County has already made that comment.

Mrs. McBean-Clairborne said she will not be able to attend the Pine Tree Road meeting due to a conflict and asked that others inform her of the outcome.

**Highway Division**

**Hanshaw Road Maps**

The Committee was informed the maps for Hanshaw Road are not yet completed. Mr. Lane said he would like to review the information prior to the public meeting being held in January.

**Ditching (In Regards to Clean Water) (DOC ID: 2281)**

Mr. Sczesny reported the Highway Division's ditching initiative includes the placement of silt fencing or hay bales to reduce runoff to prevent erosion. Upon completion, the Soil and Water Conservation District assists by hydro-seeding the ditch to introduce vegetation that helps reduce erosion and contaminates in stormwaters.

He reported the flooding that occurred on Hanshaw Road earlier in the week was the result of silt fencing around catch basins preventing the water to drain quickly enough due to the amount of rain in a short period of time. It was necessary to pull the fencing temporarily to allow the water to flow to the catch basin.

Ms. Kiefer said she requested the report as a result of discussions at the Water Resources Council work plan review. She felt it would be beneficial to know what the County efforts are to keep water clean. She noted it is unknown if all municipalities take the same steps when doing construction projects. Mr. Sczesny said they do to varying degrees.

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**Budget Transfer - Computers (DOC ID: 2343)**

The Committee was informed the purchase of equipment is to replace broken equipment and is not specifically for bridge-related work.

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**Capital Payment Summary Report (11/20/10) (DOC ID: 2344)**

The report was provided as information only.

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**Resolution (DOC ID: 2346): Audit of Final Payment – F. Rizzo Construction, Inc. – CR 121, Warren Road Reconstruction (PIN 3753.73), Town and Village of Lansing**

<b>RESULT:</b>	<b>RECOMMENDED [UNANIMOUS]</b>
<b>MOVER:</b>	Leslyn McBean-Clairborne, Member
<b>SECONDER:</b>	Pamela Mackesey, Member
<b>AYES:</b>	Dooley Kiefer, Michael Lane, Pamela Mackesey, Leslyn McBean-Clairborne
<b>EXCUSED:</b>	David McKenna

WHEREAS, F. Rizzo Construction, Inc., General Contractor, of Auburn, New York, has completed their contract for the CR 121, Warren Road Reconstruction Project, (PIN 3753.73) to the satisfaction of Tompkins County and the New York State Department of Transportation, with all closeout documents submitted and satisfactory, all work done within budget, and with one change order for \$50,827.53, now therefore be it

RESOLVED, on recommendation of the Facilities and Infrastructure Committee, That the following final claim against the County of Tompkins, be and hereby is audited by the Legislature:

<u>Vendor</u>	<u>Payment Request</u>	<u>Account No.</u>	<u>Amount</u>
F. Rizzo Construction, Inc.	12 (Final)	HZ5103.59239.53.12	\$553,585.49

RESOLVED, further, That the Finance Director be and hereby is authorized and directed to pay said claim from Account No. HZ5103.59239.53.12.

**SEQR ACTION:** TYPE II-20

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**Resolution: Award of Bid - Bridge Painting (DOC ID: 2348)**

In response to Mrs. McBean-Clairborne's question about contracting this work, Mr. Sczesny said the County does not have the materials or equipment necessary for lead containment if a lead paint is present.

*Mr. Lane suggested the Highway Division develop a photo album of the various bridges and pieces of equipment used.* Mr. Lampman spoke of having maps available with the various locations listed.

<b>RESULT:</b>	<b>COMMITTEE APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Leslyn McBean-Clairborne, Member
<b>SECONDER:</b>	Pamela Mackesey, Member
<b>AYES:</b>	Dooley Kiefer, Michael Lane, Pamela Mackesey, Leslyn McBean-Clairborne
<b>EXCUSED:</b>	David McKenna

WHEREAS, Resolution No. 27 of 2009 authorized an agreement with the State of New York whereby Federal sources will furnish 80% of the funding necessary for the Tompkins County Bridge Painting Project (the Project), (PIN 3754.20), and

WHEREAS, Resolution No. 151 adopted on September 1, 2009, authorized granting of design approval whereby completion of project final design was authorized, and

WHEREAS, the Department of Finance - Division of Purchasing has duly advertised for bids for the Project, and

WHEREAS, four (4) bids were received and publicly opened on November 30, 2010, now therefore be it

RESOLVED, on recommendation of the Facilities and Infrastructure Committee, That the bid, including alternate #1, be awarded to AMSTAR of WESTERN NEW YORK, INC., of Cheektowaga, New York, lowest, responsible bidder, in the amount of Seven Hundred Forty Thousand and Zero

Hundredths Dollars (\$740,000.00), pending approval by the New York State Department of Transportation,

RESOLVED, further, That the Highway Division be authorized to implement this bid and execute change orders with total values not to exceed ten percent (10%) of the aforementioned bid amount on behalf of the County, funds to be provided from the bridge operating budget /Bridge Contracts Account (D 5111.54411).

**SEQR ACTION:** TYPE II-2

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Presentation on the Draft Design Report for Pine Tree Road Bike and Pedestrian Trails Project (DOC ID: 2347):

Mr. Lampman said Pine Tree Road is considered a minor urban arterial road with a volume of over 11,000 vehicles per day, placing it in the top five percent of traveled roads. He provided maps showing the portion of the road that is included in the scope of work. In the designated area there are 10 to 11 foot travel lanes and 5 to 6 foot shoulders, with two lanes at the Route 366 intersection. It was explained that the pedestrian trail crosses on an old railroad bridge (built either 1912 or 1930) and the road is narrower at that point with only 3-foot shoulders due to the abutments. The bridge is owned by Cornell University and leased to the Town of Ithaca for the East Ithaca Recreation Way pedestrian trail.

The project is designed to make the roadway safer for pedestrians, bicycles, and vehicles by widening the shoulders and creating a separate trail parallel to Pine Tree Road for pedestrians that would connect to the trails at Cornell University's campus. In addition, there is a sight-distance problem that should be resolved by widening the roadway. He noted that the section of the road where the project is undertaken does not have any residential properties between Route 366 and Snyder Hill and the property owners who have expressed concern about the project are on the southern end of the road closer to Honness Lane. In reply to Mr. Wood's question he said that Cornell University owns all the property on both sides of the road in the project area with the exception of the cemetery located south of the Maple Avenue intersection; it is not known whether they own the real property where the Rite Aid is located. In addition, Cornell University owns the real property south of CR 110 to Snyder Hill.

Mr. Lampman said as more trail projects are completed in the Dryden and Varna areas it will encourage use of the trails, bringing more bicycles and pedestrians in the area. For the trail areas ADA accessibility will be provided in the project as well as enhancing the visual experience. One portion the project looked at was to enhance the appearance of this area that is a gateway into the Cornell University area.

The project will improve the hydraulic drainage system in this area to correct the problem of water backing up onto the roadway during high-water events.

Mr. Lampman reviewed the maps indicating the trailways and noted the Town of Ithaca would be responsible for upkeep of the trail. The County will replace the bridge that would be owned by Cornell University and leased by the Town of Ithaca. The project will be funded by Tompkins County and Cornell University.

Mr. Lampman explained the project would widen the shoulder of the road in the bridge area by rehabilitating the eastern bridge abutment, changing the angle of the pedestrian bridge, and building a new abutment on the western side of the road to make ten-foot lanes and six-foot shoulders. Although there had been discussions about eliminating the pedestrian bridge, due to pedestrian safety concerns and the need to use the bridge to bring electrical utilities across, it will be kept. He clarified the design is still being revised and needs to be approved by the New York State Department of Transportation (NYSDOT). He is unsure whether they would approve the ten-foot lanes since that is normally

considered substandard width. It is anticipated the changes will be reviewed by the project Design Team, followed by the NYSDOT review. With regard to the lane width, Mr. Lampman explained it is not a reconstruction project and only affects a very limited area of the road. In response to Ms. Mackesey's question about replacing the bridge, Mr. Lampman said the sight-distance for that area of the road is such that to bring bicycles and pedestrians to the road level could be hazardous. Mr. Marx said the TGEIS completed for all transportation around the Cornell campus identified this area as a major bicycle/pedestrian area. Pine Tree Road was recognized as the route used for people to get the campus, however, it is not currently the preferred route due to the narrow road. Mr. Marx also noted the goal of Complete Streets concept is having the ability to provide road access to all users.

Ms. Mackesey asked if there is a history of accidents near the overpass; Mr. Lampman said there is nothing greater than statewide average. She expressed concern regarding the project due to limited resources at this time. Mr. Marx said the enhancement grant cannot be used for any other project.

Mr. Lampman reviewed the elevation of the walkway, noting the majority of the trail is at five percent, the ADA maximum, however, the north side is at 9.5 percent and would require rest areas to be ADA compliant. Every attempt is being made to be ADA compliant. Mr. Lane asked about the need to remove trees for an ADA-compliant trail; Mr. Marx indicated the Design Team has not yet addressed that.

Mr. Lampman said the bridge replacement goal is to improve the clearance from 13 feet to a 14.5 feet minimum, which is the standard height sought by NYSDOT. Since the project is being done it is believed to be worthwhile to place the bridge at a standard height and that NYSDOT may not approve the plans if it is a substandard feature. He said there have been concerns expressed about speeding and that by raising the bridge more truck traffic would be using the route between Routes 366 and 79. However, he believes given the current truck traffic, there will not be much if any increase. A vehicle count is underway and will provide more detailed information. He noted there are vehicles that use Maple Avenue to access Pine Tree Road in order to avoid the bridge area. Ms. Mackesey spoke of the concern of vehicles from the potential Cornell University project. Mr. Lampman said the Town of Ithaca has asked Cornell University to provide information on the dirt removal if their project moves forward. He believes that when hauling earth standard dump trucks would be used and they would be able to travel under the existing bridge.

Mr. Lane said he supports the project and believes when the project is presented to the public there needs to be a firm position from the County that Pine Tree Road is an important road designed for this kind of traffic and that it is not a residential street but a multi-use high-volume County road.

Mr. Lampman noted the existing bridge was very heavy and designed for railroad use. The new bridge will be made of a thinner product and will allow emergency vehicle access. The project cost is \$950,000, with the Federal share of \$686,000, Cornell share of \$199,000, and the balance of \$70,000 will be shared between the Town of Ithaca and Tompkins County.

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### Airport

**Resolution (DOC ID: 2331): Audit of Final Payment to Sealand Contractors, Inc. - Relocate Parallel Taxiway (Phase III) - Ithaca Tompkins Regional Airport**

<b>RESULT:</b>	<b>COMMITTEE APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Leslyn McBean-Clairborne, Member
<b>SECONDER:</b>	Pamela Mackesey, Member
<b>AYES:</b>	Dooley Kiefer, Michael Lane, Pamela Mackesey, Leslyn McBean-Clairborne
<b>EXCUSED:</b>	David McKenna

WHEREAS, Sealand Contractors Inc. has completed the Relocation of the Parallel Taxiway (Phase III) at the Ithaca Tompkins Regional Airport to the satisfaction of the County, and all Prime and Sub-Contractors' Labor Law Certification forms, executed Lien Affidavit and Consent of Surety to Final Payment have been received, now therefore be it

RESOLVED, on recommendation of the Facilities & Infrastructure Committee, that the following claim against the County of Tompkins, be and hereby is audited by the Tompkins Legislature:

<u>Vendor</u>	<u>Payment Requested</u>	<u>Account No.</u>	<u>Amount</u>
Sealand Contractors, Inc.	9 (and Final)	HT. 5601.59239	\$ 291,149.33

RESOLVED, further, that the Finance Director be and hereby is authorized and directed to pay said claim from Account No. HT. 5601.59239.

**SEQR ACTION:** TYPE II-20  
(No further action required)

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**Resolution (DOC ID: 2332): Audit of Final Payment to Sealand Contractors Inc - Runway Safety Area Improvements - Ithaca Tompkins Regional Airport**

<b>RESULT:</b>	<b>COMMITTEE APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Pamela Mackesey, Member
<b>SECONDER:</b>	Leslyn McBean-Clairborne, Member
<b>AYES:</b>	Dooley Kiefer, Michael Lane, Pamela Mackesey, Leslyn McBean-Clairborne
<b>EXCUSED:</b>	David McKenna

WHEREAS, Sealand Contractors Inc. has completed the Runway Safety Area Improvements at the Ithaca Tompkins Regional Airport to the satisfaction of the County, and all Prime and Sub-Contractors' Labor Law Certification forms, executed Lien Affidavit and Consent of Surety to Final Payment have been received, now therefore be it

RESOLVED, on recommendation of the Facilities & Infrastructure Committee, that the following claim against the County of Tompkins, be and hereby is audited by the Tompkins Legislature:

<u>Vendor</u>	<u>Payment Requested</u>	<u>Account No.</u>	<u>Amount</u>
Sealand Contractors, Inc.	9 (and Final)	HT. 5601.59239	\$ 290,176.98

RESOLVED, further, that the Finance Director be and hereby is authorized and directed to pay said claim from Account No. HT. 5601.59239.

**SEQR ACTION:** TYPE II-20  
(No further action required)

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Long-Term Parking Lot

Mr. Rudy, Assistant Manager, reported the long-term parking lot, which recently was expanded, has been full on a regular basis.

### Enplanements

Mr. Lane spoke of an article in the newspaper indicating enplanements were up twenty percent from last year. Mr. Rudy said there were just under 12,000 enplanements, which is the highest level ever. With regard to flights, there may be a temporary loss of a Delta flight between December 18<sup>th</sup> to January 11<sup>th</sup>.

### County Attorney

Mr. Wood said the Local Law on road permitting was reviewed at the last meeting, however, it was decided by Government Operations Committee members to postpone action in order to obtain more information regarding the possible exclusion of agricultural uses.

Mr. Lane said the local law will be taken up again at the next Government Operations Committee meeting and that there will be the opportunity for agriculture representatives to weigh in. He said Mr. Dennis shared concerns expressed by one of his constituents who farms and extended an invitation to the farmer to attend the next Government Operations Committee meeting, however, he declined. He said the Tompkins County Council of Governments is concerned about what law may be adopted that other municipalities would be subjected to. He said the recent resolution from Yates County is for permit conditions. He recommends not modifying the local law until Government Operations Committee takes action.

Ms. Kiefer said the local law is on the agenda at her request. She does not believe there would be a problem with acting on all the items, including the resolution requesting clarification from the State. She believes her suggested changes to the resolution requesting clarification would not be inappropriate. She also included the other local law for consideration and said she would like to see all three approaches passed.

Mr. Lane said he disagrees with using the term “well operators” within the documents and that it should be the generic language of high-volume heavy traffic. Mr. Wood explained the term “well operator” is what is used within the State law. What is being requested is clarification of what “well operators” can do as specified in State law. He further clarified the law is specifically drilling about operations. He said that strip mining is a different section of State law that would be applied to them. Ms. Kiefer suggested including the other areas of State law within the resolution, however, Mr. Wood said he does not believe that would be productive.

Mr. Lane said he has a problem requesting clarification at the same time the County is enacting a local law. He could support passing the local law first and then the resolution later. He also said he does not support passing two local laws. Mr. Wood said he agrees with Mr. Lane and noted the law that could not be challenged as easily was passed by the Committee on November 5<sup>th</sup>.

Following discussion, the Committee agreed to postpone any action pending Government Operations Committee review of the resolution and local laws.

Mr. Marx said when the State Legislature reconvenes and passes legislation early in the session it would allow time for local municipalities to look at what may need to be considered when gas drilling operations come to New York.

**Resolution (DOC ID: 2290): Urging the State Legislature to Clarify the Environmental Conservation Law to Expressly Authorize Municipalities to Protect Their Roads from Damages as a Result of Gas Drilling Operations**

**RESULT: NO ACTION TAKEN**

WHEREAS, Section 23-0303 (2) of the Environmental Conservation Law provides that the State Oil Gas and Solution Mining Law superseded all local laws relating to the regulation of oil and gas development except for local government jurisdiction over local roads and rights of local governments under Real Property Tax Law, and

WHEREAS, the New York State Department of Environmental Conservation issued a draft generic environmental impact statement that advises local municipal governments to “be proactive in exercising their authority under New York State Highway Vehicle Traffic Laws” to ensure the appropriate “maintenance and improvement” of local roads (DSGEIS p 7-109), and

WHEREAS, the draft GEIS provides that drilling companies “should attempt to obtain a road use agreement with the municipality” to ensure appropriate maintenance and improvement of local roads (p 7-110), and

WHEREAS, it is clear from the draft GEIS that the DEC contemplates that local municipalities will govern the use of their roads through agreements with mining companies and regulation through State Highway and Vehicle Traffic Laws but neither the New York State Highway Law nor the State Vehicle and Traffic Laws provide such clear authority, now therefore be it

RESOLVED, on recommendation of the Facilities and Infrastructure Committee, That the County of Tompkins requests that the New York State Legislature clarify Section 2303 (2) of the Environmental Conservation Law to read as follows:

“Provisions of this Article shall superseded all local laws or ordinances relating to the regulation of the oil, gas and solution mining industries; but shall not supersede local government jurisdiction over local roads or the rights of local governments under real property tax law. Local governments are authorized to establish reasonable rules and regulations to protect local roads from damage and require well operators to post reasonable bonds or other security to ensure that local roads are adequately maintained and improved to handle traffic associated with oil, gas and solution mining activities.”

**SEQR ACTION:** TYPE II-20

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**Local Law (DOC ID: 2289): A Local Law to Amend the County Code in Relation to Regulation of Commercial Activities that Have the Potential to Adversely Affect County Roads**

**RESULT: NO ACTION TAKEN**

The County Code is amended by adding a new Chapter \_\_\_\_\_ which shall read as follows:

**SECTION I: PURPOSE**

The purpose of this law is to maintain the safety and general welfare of County residents by regulating commercial activities that have the potential to adversely affect County roads. Well maintained roads are important to the economic well being of the County. Commercial endeavors, such as timber harvesting, mining and natural gas drilling are also economically beneficial. This law is not intended to regulate such business: the intent is to protect the public roads from damage. The County Legislature hereby enacts the following Road Preservation Local Law pursuant to the provisions of the Municipal Home Rule Law, the Highway Law and Traffic Law.

**SECTION II: DELEGATION OF POWERS**

The County Legislature delegates to the County Highway Manager the powers described herein in order to oversee the use of town roads to ensure that commercial activities do not have an adverse impact on County roads.

### SECTION III: DEFINITIONS

1. *High-Frequency, Hig-Impact Truck Traffic:* Traffic to and from a single project site that generates more than ten truck trips per day for more than three days in a week (any consecutive 7 day period) involving trucks that exceed 20 tons (truck and load combined).
2. *Bond:* A commercial bond to ensure that the condition of the County roads is not adversely impacted by high frequency, high impact truck traffic. The County Highway Manager may accept an equivalent financial guarantee in lieu of bond.
3. *Permittee:* The permittee is the person responsible under this law to obtain a permit regardless whether they in fact obtain a permit. The permittee is the person responsible for the project generating the truck traffic. In any instance in which another permit is required, such as building or mining permit, any person who obtained any such permit or was required to obtain such other permit shall be deemed the permittee for purposes of this law. In the event no other permit is required, the owner of any property on which the activity is taking place shall be deemed the permittee for purposes of this law.
4. *Person:* Any individual, public or private corporation, political subdivision, government agency, department or bureau of the state, municipality, industry, co-partnership, association, firm, trust, estate or any other legal entity whatsoever.
5. *Bond Release:* A bond release given by the County Highway Manager based on satisfactory road conditions at project completion.
6. *Project:* Any commercial activity that generates high frequency, high impact truck traffic on County roads whether or not the project itself is located in the County. *Here list any exclusions that the County may desire i.e. permanent facilities, agricultural uses, preexisting facilities, etc.*

### SECTION IV: GENERAL PROVISIONS

1. Prior to the start of any project that involves high frequency, high impact truck traffic on County roads, a permit must be obtained.
2. The permittee must submit a permit application, which shall include all information required by the County Highway Manager including but not limited to: vehicle identification and owners/operators, vehicle weights, load weights, materials carried, route to be followed from State Highway to site, duration of activity (beginning date and end date), frequency of trips and times of operation. The applicant shall pay a permit fee to be established by County Legislature resolution, but in no event shall the fee be less than \$50.
3. The County Highway Manager will decide if the scope of work is such that a Bond is required and the amount of any such bond. The determination of the need and amount of any bond shall be based on the Highway Manager's determination of potential damage to County roads based on the truck route as well as the weight of the vehicles and the frequency of travel.
4. The County Highway Manager may require the permittee to submit video documentation of condition of the roads, shoulders and all structures (culverts, bridges, etc.) that will be traversed by the permitted traffic as a condition of the permit.

5. Upon completion of the project, the permittee will apply to the County Highway Manager for a Bond Release. Upon inspection of the work site, as necessary, the Highway Manager may approve the release of the Bond. If the release is not approved, the Highway Manager will specifically document the tasks that must be accomplished in order for the Bond to be released which may include, but will not be limited to, the payment of money for the repair to damaged roads. In this case, the permittee must remedy the specified problems before the bond may be released.

6. If the permittee does not comply with all the terms and conditions of the permit and operate within the parameters specified on the permit application, the permit may be revoked in the discretion of the Highway Manager. In the event that high frequency high impact truck traffic uses the roads without a valid permit, the Highway Manager, any law enforcement officer or Code Enforcement Officer has the authority to deny access to the roads and (if a County permit was required) to shut down the project. The relief is in addition to any and all damages and penalties.

7. The permittee will be responsible for the repair of any damages that occur to any County road when a project proceeds without a proper permit, as well as for all fines and penalties specified in this law.

#### SECTION V: ENFORCEMENT

The Highway Manager or his designee, in consultation with the County Attorney, shall enforce the provisions of this article and all rules, regulations and designations made pursuant thereto. Such enforcement shall include but not be limited to legal or equitable proceedings, including without limitation an action for specific performance brought in the name of the County.

#### SECTION VI: PENALTIES FOR OFFENSES

A. Any person who violates this article shall be guilty of an offense and subject to a fine of not more than \$500 and/or imprisonment for not more than 15 days. Each and every act committed which is prohibited by this law shall constitute a separate violation. Each time a vehicle travels on a County Road without a permit as required by this law shall constitute a separate offense.

B. Upon failure of any permittee to comply with the requirements of this article, the permit shall be subject to suspension, revocation or to the imposition of conditions.

#### SECTION VII: INVALID SEGMENT

Should any section or provision of this Local Law be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Local Law as a whole or any part thereof-other than the part declared to be invalid.

#### SECTION VIII: EFFECTIVE DATE

This Local Law shall take effect upon filing with the Secretary of State.

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**Local Law (DOC ID: 2288): A Local Law to Amend the County Code in Relation to Temporarily Excluding Certain Commercial Traffic that Would Materially Injure County Roads**

<b>RESULT:            NO ACTION TAKEN</b>
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The County Code is amended by adding a new Chapter \_\_\_\_ which shall read as follows:

**SECTION I: AUTHORITY**

The County is authorized to adopt this local law by Section 1650(4) of the New York State Vehicle and Traffic Law as well as by the Municipal Home Rule Law that authorizes the County to adopt local laws to protect the health and safety of its citizens.

**SECTION II: PURPOSE**

The purpose of this law is to maintain the safety and general welfare of County residents by regulating heavy commercial uses of County roads that have the potential to adversely affect such roads. Well maintained roads are important to the economic well being of the County. Commercial endeavors, such as timber harvesting, mining and natural gas drilling are also economically beneficial. This law is not intended to regulate such businesses: the intent is to protect the public roads from damage.

**SECTION II: DEFINITIONS**

1. *High-Frequency, High-Impact Truck Traffic:* Traffic to or from a single project site that generates more than ten truck trips per day for more than three days in a week (any consecutive 7 day period) involving trucks with a gross weight that exceeds 20 tons (truck and load combined).
2. *Bond:* A commercial bond to ensure that the condition of the County roads is not adversely impacted by high-frequency, high-impact truck traffic. The County Legislature may accept an equivalent financial guarantee in lieu of bond.
3. *Permittee:* The permittee is the person responsible under this law to obtain a permit regardless of whether the person in fact obtains a permit. The permittee is the person responsible for the project generating the truck traffic. In any instance in which another permit is required, such as a building or mining permit, any person who obtained any such permit or was required to obtain such other permit shall be deemed the permittee for purposes of this law. In the event no other permit is required, the owner of any property on which the activity is taking place shall be deemed the permittee for purposes of this law.
4. *Person:* Any individual, public or private corporation, political subdivision, government agency, municipality, industry, co-partnership, association, firm, trust, estate or any other legal entity whatsoever.
5. *Temporary Project:* Any non-permanent commercial activity that generates high frequency, high impact truck traffic on County roads whether or not the project itself is located in the County. Projects include, but are not limited to, construction projects, mining and drilling activities. *Here list any exclusions that the County may desire e.g. permanent facilities, agricultural uses, preexisting facilities, etc.*

**SECTION IV: GENERAL PROVISIONS**

1. The County Legislature determines that high-frequency, high-impact truck traffic associated with temporary projects would materially injure County roads.
2. Upon a determination by the County Highway Manager that a temporary project may generate high-impact, high-frequency truck traffic, the Highway Manager shall erect signs on the appropriate sections of

County highways setting forth the notice that such vehicles are excluded, and the notice shall also be published in a newspaper in Tompkins County.

3. Any permittee may apply to the County Highway Department for a permit providing for an appropriate exemption for the vehicles serving the temporary project. Such permit shall be granted, upon appropriate terms and conditions, if the vehicles are performing essential local pick-up or delivery. For purposes of this law, pickup and delivery associated with New York State permitted mining or gas drilling operations shall be deemed essential local pickup or delivery.

4. Any such permit may designate the route to be traversed and contain other reasonable restrictions or conditions deemed necessary by the County Highway Manager. The permit shall be carried on all vehicles serving the project and shall be open to inspection by any peace officer acting pursuant to his special duties, or police officer. Such permit shall be for the duration of the temporary project.

5. In order to obtain a permit the permittee must submit a permit application to the County Highway Department, which shall include all information required by the County Highway Manager including but not limited to: vehicle identification and owners/operators, vehicle weights, load weights, materials carried, route to be followed from State Highway to site, duration of activity (beginning date and end date), frequency of trips and times of operation. The applicant shall pay a permit fee to be established by the County Legislature, but in no event shall the fee be less than \$50.

6. The County Highway Manager may require the permittee to submit documentation (including, but not limited to, photographs and videos) of the condition of the roads, shoulders and all structures (culverts, bridges, etc.) that will be traversed by the permitted traffic as a condition of the permit.

7. In addition to the restrictions on routes and other reasonable restrictions, the County Highway Manager will decide if the scope of work is such that a Bond is required and the amount of any such bond. The determination of the need and amount of any bond shall be based on a determination of potential damage to County roads based on the truck routes, weight of the vehicles, frequency of travel and the type-category of the roads on the approved routes.

8. The permittee shall be responsible for assuring that any County road that is impacted by the high-frequency, high-impact truck traffic remains in safe and useable condition for all legal uses of the road throughout the duration of the temporary project.

9. Upon completion of the project, the permittee will apply to the Highway Manager for a Bond Release. Upon inspection of the traveled roads, as necessary, the Highway Manager may approve the release of the Bond. If the release is not approved, the Highway Manager will specifically document the tasks that must be accomplished in order for the Bond to be released which may include, but not be limited to, the payment of money for the repair to damaged roads. The permittee must remedy the specified problems before the bond may be released.

10. If the permittee does not comply with this law and all the terms and conditions of the permit and operate within the parameters specified on the permit, the permit may be revoked in the discretion of the Highway Manager. In the event that high-frequency, high-impact truck traffic uses any County roads without the required valid permit, the Highway Manager, any law enforcement officer, or code enforcement officer has the authority to deny access to the roads and, in cases where a County permit was required, to shut down the project. This relief is in addition to any and all damages and penalties.

11. The permittee will be responsible for the repair of any damages that occur to any County road when a project proceeds with or without a proper permit, as well as for all fines and penalties specified in this law.

SECTION V: ENFORCEMENT

The Highway Manager, in consultation with the County Attorney, shall enforce the provisions of this article and all rules, regulations, and designations made pursuant thereto. Such enforcement shall include but not be limited to legal or equitable proceedings, including without limitation an action for specific performance brought in the name of the County.

SECTION VI: PENALTIES FOR OFFENSES

A. Any person who violates this article shall be guilty of a violation and subject to a fine of not more than \$500 and/or imprisonment for not more than 15 days. Each and every act committed, which is prohibited by this law shall constitute a separate violation. Each time a vehicle travels on a County Road without a permit as required by this law shall constitute a separate violation. Violations may be prosecuted by the County District Attorney or any other person with authority to prosecute violations within the County.

B. Upon failure of any permittee to comply with the requirements of this article, the permit shall be subject to suspension, revocation or to the imposition of conditions.

SECTION VII: INVALID SEGMENT

Should any section or provision of this Local Law be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Local Law as a whole or any part thereof other than the part declared to be invalid.

SECTION VIII: EFFECTIVE DATE

This Local Law shall take effect upon filing with the Secretary of State.

It was clarified that the three versions with Ms. Kiefer's edits will also go to the Government Operations Committee.

\* \* \* \* \*

**Facilities Division**

**Information Item (DOC ID: 2345): Capital Payment Summary Report (11/22/10)**

The Committee received the document for information only. In response to a question on the Notice of Claim regarding the tile at Brown Road, Mr. Wood explained the suit is being made by the General contractor who is suing the County and the subcontractor. The County answered the documents and made a counter claim. He believes it is an attempt to get the manufacturer to accept responsibility. The amount is approximately \$200,000 and the County is withholding that amount.

\* \* \* \* \*

**Solid Waste**

Mr. Lane complimented Ms. Eckstrom and staff on how the proposed Recycling and Solid Waste Center project has been handled, noting she has made the Committee aware of every step taken. Mr. Lane said the process should be used as a model for future projects. Mrs. McBean-Clairborne agreed with Mr. Lane.

Ms. Eckstrom said she had received good coaching and had a good team. She said the review team process worked very well together. She also said working with FCR as a company will be a positive

experience. She had the opportunity to go to North Carolina and meet their attorney, engineers, head operations staff, and Shawn Duffy, President of FCR. She said their office resembles every aspect of sustainability and used recycled materials within fixtures. She spoke of having gone to their marketing department, which had a screen showing live action at every facility. She noted that FCR's Steve Kleman lives in Watkins Glen.

**Resolution (DOC ID: 2323): Award of Contracts for the Upgrading and Operation of the Tompkins County Recycling and Solid Waste Center Pursuant to General Municipal Law Section 120-W**

Mr. Wood reviewed a summary of the terms of the contract. The changes being made will provide much better customer service and result in an increase of recyclable materials.

Ms. Eckstrom reviewed the \$2.4 million cost of the construction, noting it is included in the approved capital budget. There will be a lot of reuse of the existing building and the plan is moving forward to get increased commercial-stream recycling. In order to get the increased high-grade materials she will share the income with the commercial account. The site improvements will assist in the traffic flow at the facility, which has 120,000 to 140,000 vehicles per year. She would like people to have the opportunity to use the facility for recycling. There will be restructuring of the interior of the building as well. The contracts are ready for signing at this time. She provided members with a schedule of what work will be undertaken. The project will begin on February 16, 2011, with completion on October 31, 2011. She will make the full contract available at the Legislature office. At the Legislature meeting on December 21<sup>st</sup> Ms. Eckstrom will have Mr. Duffy, President of FCR, speak about the marketing plan.

Mr. Nostrand of Barton and Loguidace said the construction contract is a design-build contract that minimizes the level of design documents prepared. He and the County will be reviewing all of FCR's design documents to determine whether they meet County standards. Ms. Eckstrom said Mr. Nostrand will be involved in the entire project and will be looking for quality assurance and will attend construction meetings.

Ms. Eckstrom said March 7<sup>th</sup> will be the start of single-stream, one-container recycling. There is *a public information strategy that will be discussed with F&I in January to assist in this transition.*

Mr. Kleman said he is excited to be part of this project and is looking forward to working with the County. He commended the County for having the staff that has worked with his firm.

In response to Mrs. McBean-Clairborne's question regarding employment of local personnel and whether there is a livable wage, Ms. Eckstrom said it is not part of the contract, however, she has seen FCR's employee plan and policy, which does reference all concerns. She said there are currently 13 employees, once complete there will be between 14 and 22 employees.

Ms. Eckstrom said she is also working with staff on the exit process for the current company. There will be a number of punch-list items to be completed prior to the change to the new firm.

Mrs. McBean-Clairborne requested the construction contract amount be included in the resolution; it was noted it is not possible to put the operational amounts due to the fluctuation of commodities.

<b>RESULT:</b>	<b>RECOMMENDED [UNANIMOUS]</b>
<b>MOVER:</b>	Pamela Mackesey, Member
<b>SECONDER:</b>	Leslyn McBean-Clairborne, Member
<b>AYES:</b>	Dooley Kiefer, Michael Lane, Pamela Mackesey, Leslyn McBean-Clairborne
<b>EXCUSED:</b>	David McKenna

WHEREAS, the Solid Waste Division received proposals from four recycling companies pursuant to Section 120-w of the General Municipal Law and has completed negotiations, and

WHEREAS, this Legislature has determined that it is in the public interest to award a contract to FCR, LLC, of Charlotte, North Carolina, on the basis of overall costs and anticipated revenues and such other factors as experience in Facility operation, and its commitment to waste diversion and maximizing recycling at the Recycling and Solid Waste Center (RSWC) as specified in its proposal, and

WHEREAS, the FCR, LLC, proposal includes a plan to upgrade the Facility, and

WHEREAS, the County has determined that an award to FCR, LLC, does not require the adoption of particularized findings referred to in General Municipal Law Section 120-w(4) (e) (4) because of the responsive proposals received by the County, the total proposal submitted by FCR, LLC, provides the lowest net cost to the County, and

WHEREAS, the County and the Company have negotiated a design-build contract for facility and site improvements in the amount of \$2,496,917 and a service agreement for operation of the facility at an overall cost that fluctuates with tonnages, market conditions and other factors, and

WHEREAS, this Legislature wishes to authorize the Clerk of this Legislature to publish notice of such award in accordance with General Municipal law Section 120-w (6), now therefore be it

RESOLVED, on recommendation of the Facilities and Infrastructure Committee, That the County Administrator or his designee is authorized to execute any and all contracts for a five-year period with a five-year renewal option with FCR, LLC, of Charlotte, North Carolina, providing for the upgrading and operation of the Facility for the costs and fees described in said proposal as amended through negotiation,

RESOLVED, further, That the basis of the determination by this Legislature is that (a) FCR, LLC, is the most responsive proposer having submitted the most responsive proposal to the Request for Proposals (RFP), and (b) of proposals received from responsive proposers, FCR, LLC,'s total proposal, as negotiated, will provide the lowest net cost to the County,

RESOLVED, further, That the validity of the contracts and the procedures relating to this award may be contested only if:

(1) such action, suit or proceeding is commenced within sixty (60) days after the date of publication of official action, and

(2) such award or procedure was not authorized pursuant to General Municipal Law Section 120-w, or

(3) any of the provisions of General Municipal Law Section 120-w, that should be complied with at the date of the publication of such official action have not been substantially complied with, or

(4) a conflict of interest can be shown in the manner in which the contracts were awarded,

RESOLVED, further, That the Clerk of the Legislature is hereby authorized and directed to publish notice of the official action of the county awarding the contracts in accordance with General Municipal Law Section 120-w (6) (b).

**SEQR ACTION:** TYPE II-2 Upgrade of Existing Structure

\* \* \* \* \*

**Resolution (DOC ID: 2324): Award of Bid - Inbound and Outbound Scale Replacement - Tompkins County Solid Waste Management Division**

In response to Mr. Lane's question regarding only one company bidding, Ms. Eckstrom said it is a hydrostatic scale. It was known there was the possibility of four bidders for the scales, which are

approximately \$240,000. The price is within the estimates for the equipment. The bid requirements were very specific for risk management and required the company warranty the "load cells" of the scales for twenty years. As a result of that requirement, as well as a maintenance plan only one bidder responded. She and Mr. Riley visited other sites that used these scales and are aware of the quality of this bidder and the work completed. The estimated amount was \$264,000. The scale replacement will be completed within six to eight weeks.

<b>RESULT:</b>	<b>RECOMMENDED [UNANIMOUS]</b>
<b>MOVER:</b>	Pamela Mackesey, Member
<b>SECONDER:</b>	Leslyn McBean-Clairborne, Member
<b>AYES:</b>	Dooley Kiefer, Michael Lane, Pamela Mackesey, Leslyn McBean-Clairborne
<b>EXCUSED:</b>	David McKenna

WHEREAS, the Department of Finance-Division of Purchasing has duly advertised for bids for Inbound and Outbound Scale Replacement at the Tompkins County Recycling and Solid Waste Center, and

WHEREAS, the Finance Department advertised and received one bid for the Inbound and Outbound Scale Replacement at the Tompkins County Recycling and Solid Waste Center, and

WHEREAS, all bids were received, publicly opened and reviewed Monday, November 29, 2010, and

WHEREAS, Scale Service and Supply Co., Inc., of Rensselaer, NY, was found to be the lowest responsible bidder with a bid of \$259,010, within the range of the County estimate of \$264,000, now therefore be it

RESOLVED, on recommendation of the Facilities and Infrastructure Committee, That the bid for Inbound and Outbound Scale Replacement be awarded to Scale Service and Supply Co., Inc., of Rensselaer, NY, as the lowest responsible bidder with a bid of \$259,010,

RESOLVED, further, That funds are available in the Solid Waste Management Division Capital Fund 8101 Project 81.67 line 59239,

RESOLVED, further, That the County Administrator or his designee be authorized to execute this bid on behalf of the County a contract with Scale Service and Supply Co., Inc.

**SEQR ACTION:** TYPE II-20

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**Resolution (DOC ID: 2325): Authorizing the Filing of an Application to New York State for the Household Hazardous Waste (HHW) State Assistance Program and Signing of the Associated State Contract, Under the Appropriate Laws of New York State**

Ms. Eckstrom said she has been very successful in receiving grants to use for this program. She announced that Linette Short, her employee for 24 years, would be taking an early retirement at the end of the year. Ms. Short's duties will be reassigned to other staff.

<b>RESULT:</b>	<b>RECOMMENDED [UNANIMOUS]</b>
<b>MOVER:</b>	Michael Lane, Member
<b>SECONDER:</b>	Pamela Mackesey, Member
<b>AYES:</b>	Dooley Kiefer, Michael Lane, Pamela Mackesey, Leslyn McBean-Clairborne
<b>EXCUSED:</b>	David McKenna

WHEREAS, the State of New York provides financial aid for household hazardous waste programs that grant up to fifty percent of the cost, and

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

WHEREAS, it is necessary that a contract be entered into by and between the State of New York and Tompkins County be executed for such aid, now therefore be it

RESOLVED, on recommendation of the Facilities and Infrastructure Committee, That the filing of an application in the form required by the State of New York in conformity with the assurances contained in said application for the period of April 1, 2010, to March 31, 2011, is hereby authorized,

RESOLVED, further, That the Tompkins County Solid Waste Manager or her designee is directed and authorized as the official representative of Tompkins County to act in connection with the application and to provide such additional information as may be required and to sign the resulting contract if said application is approved by the State,

RESOLVED, further, That Tompkins County agrees that it will fund the cost of said program and will be reimbursed by the State for the total cost,

RESOLVED, further, That five (5) certified copies of this resolution be prepared and sent to the New York State Department of Environmental Conservation (NYSDEC) together with a complete application,

RESOLVED, further, That this resolution shall take effect immediately.

**SEQR ACTION:** TYPE II-20

\* \* \* \* \*

**Information Item (DOC ID: 2326): Solid Waste Management Division Five-Year Budget Summary (2011-2015)**

Ms. Eckstrom provided the information to allow review of the preliminary five-year budget. This will be used as a tool for planning. *She will discuss it further in February.*

\* \* \* \* \*

**Resolution (DOC ID: 2229): Resolution Prohibiting Leasing of County-Owned Land for Natural Gas Drilling Using High- Volume Hydro-Fracturing (Referred to Committee)**

Ms. Mackesey reported that at the Planning, Development, and Environmental Quality Committee the resolution passed by a three to two vote. Following the meeting she spoke to Mr. Proto and Ms. Pryor who voted against the resolution to determine what their concerns are. Mr. Proto said he does not believe it is necessary to take any action, it is superfluous. Ms. Pryor did not support the resolution and has taken Mr. Stein's position of not having the knowledge whether natural gas is a cleaner-burning fuel.

Ms. Kiefer said the reference to the clause relating to whether natural gas is cleaner was in the previous version. Ms. Mackesey and Mrs. McBean-Clairborne both believe it is not necessary to include

that language in the resolution, particularly since there is no clear scientific evidence. Ms. Kiefer said the resolution would be coming to the Legislature with the language shown.

Ms. Kiefer said since the resolution initially was presented to the Legislature, a report Bob Howarth presented to Ithaca College was shared that indicated research on the subject, giving a basis to make the statement. Mrs. McBean-Clairborne said there are also other reports that may disagree with the statements. Mr. Marx said there are reports that show life cycle, however, they do not explain what is meant. Ms. Kiefer noted it is the difference between cleaner burning at point of use or throughout the production process.

Mr. Lane said this is an example of what he would like to support, he does not want to allow hydrofracking on County land, however the many "Whereas" paragraphs are causing problems. If the resolution goes forward he may submit a substitute that is very brief and does not contain political or environmental arguments. Mrs. McBean-Clairborne agreed with having a shorter resolution.

Ms. Mackesey believes a simple resolution is sensible. She supported the resolution at the Committee level, however, after speaking to Ms. Pryor, she stated she would prefer a much simpler resolution. She believes that there is too much wordsmithing of the resolution and as a result people are burned out. Ms. Kiefer said the language mirrors the resolution sent to the State. Ms. Mackesey said she is speaking of the broader issue of many amendments. She believes people are getting to the point of being weary. Ms. Kiefer said she had thought it would be easily passed at the Committee level since it came through Planning, Development, and Environmental Quality Committee. Mr. Marx said the resolution going to the State included the reasons why they should not allow drilling in the State forests; for this resolution, the County owns the property and it is not necessary to convince ourselves.

Mr. Lane will support the resolution to move it forward and said he will be bringing forward a substitute resolution.

<b>RESULT:</b>	<b>RECOMMENDED [3 TO 1]</b>
<b>MOVER:</b>	Leslyn McBean-Clairborne, Member
<b>SECONDER:</b>	Pamela Mackesey, Member
<b>AYES:</b>	Dooley Kiefer, Michael Lane, Pamela Mackesey
<b>NAYS:</b>	Leslyn McBean-Clairborne
<b>EXCUSED:</b>	David McKenna

WHEREAS, it is increasingly clear that drilling for natural gas using high-volume slick-water hydraulic-fracturing (hydrofracking) may have severe adverse impacts on communities and the environment, and

WHEREAS, the activity of drilling for and transporting natural gas, with the attendant well pads, roads, pipelines, and ancillary facilities, will fragment our forest lands in ways that damage their values, including threatening water resources, creating edges that impair habitat value for forest-dwelling species, removing natural vegetation cover, and allowing invasive species to become established, and

WHEREAS, such activity would undoubtedly place added stress on species that may increasingly come under stress from the impacts of climate change, and

WHEREAS, rather than allowing fragmentation of County-owned lands and forests we should be increasing our acreage of unbroken forest lands off limits to drilling to provide mitigation for the increasing fragmentation of private forest lands, and

WHEREAS, County-owned forest lands are located in rural areas where roads, other infrastructure, and emergency response capabilities are ill suited to accommodating the level of impact on infrastructure and demand for services resulting from the industrial activity associated with high-volume hydro-fracturing, and

WHEREAS any economic boost to the state’s economy from development and sale of natural gas from Marcellus shale is short term (30-40 years?) at best, and will foreclose the long-term economic benefit to the county of tourism and agriculture, and

WHEREAS, although natural gas is a cleaner-burning fuel than coal at the point of use, recent research suggests that life cycle greenhouse gas emissions from natural gas extracted using high-volume hydrofracking may be equal to or greater than those from coal, and

WHEREAS, the Tompkins County government, as well as the overall community, has established a goal to reduce greenhouse gas emissions at least 80% by 2050, a goal that would be impossible to meet if natural gas drilling occurred on county-owned land, and

WHEREAS, the Tompkins County Energy and Greenhouse Gas Emission component of the Tompkins County Comprehensive Plan concluded that increased energy conservation and use of renewable energy are important ways to avert the most catastrophic impacts of climate change, and

WHEREAS, Tompkins County further believes that development of the Marcellus Shale will likely have a net adverse impact on reducing greenhouse gas emissions, and

WHEREAS, with respect to the 556 acres of County forest land, the Tompkins County Forest Management Plan specifically states that “drilling sites and pipeline corridors that permanently alter the character of the land would not be compatible with the goals outlined in this Plan,” and

WHEREAS, it is clear that from a long-term environmental, economic, and social perspective the value of our county-owned lands will be much greater if left unimpaired by the impacts of gas drilling than if such drilling is allowed to occur, now therefore be it

RESOLVED, on recommendation of the Planning, Development, and Environmental Quality Committee and the Facilities and Infrastructure Committee, That Tompkins County will not lease any county-owned lands, including but not limited to County forest lands, for high-volume, slick-water hydraulic -fracturing to extract natural gas,

RESOLVED, further, That the Clerk of the Tompkins County Legislature is hereby directed to forward copies of this resolution to Governor David Paterson, Senate Majority Conference Leader John Sampson, Senate Minority Leader Dean Skelos, Assembly Speaker Sheldon Silver, Assembly Majority Leader Ron Canestrari, Assembly Minority Leader Brian Kolb, Senator James Seward (51<sup>st</sup> District), Senator {O’Mara?}(53<sup>rd</sup> District), Senator Michael Nozzolio (54<sup>th</sup> District), Assemblywoman Barbara Lifton (125<sup>th</sup> District), and New York State Department of Environmental Conservation Acting Commissioner {Iwanowitz?}.

**SEQR ACTION:** TYPE II-20

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**Adjournment**

On motion the meeting adjourned at 12:01 p.m.

*Respectfully submitted by Karen Fuller, Deputy Clerk.*