

**ALLEGANY COUNTY BOARD OF LEGISLATORS  
REGULAR SESSION**

**SEPTEMBER 28, 2015**

**CALL TO ORDER:** The regular meeting of the Board of Legislators was called to order at 2:06 p.m. by Chairman Curtis W. Crandall.

**PLEDGE OF ALLEGIANCE TO THE FLAG:** The Pledge of Allegiance was led by former United States Army Staff Sergeant Donald H. Newland.

**INVOCATION:** The Invocation was given by Legislator Pullen.

**ROLL CALL:** 13 Legislators Present: Scott Burt, Curtis Crandall, Philip Curran, Dwight Fanton, Karl Graves, Dwight "Mike" Healy, Theodore Hopkins, Charles Jessup, Kevin LaForge, Aaron McGraw, Timothy O'Grady, David Pullen, Norman Ungermann, Jr.  
Absent: David Decker, Debra Root

**APPROVAL OF MINUTES:**

The Committee of the Whole minutes of August 24, 2015, were approved on a motion made by Legislator Graves, seconded by Legislator Fanton, and carried.

The Board meeting minutes of September 14, 2015, were amended following a motion made by Legislator Burt, seconded by Legislator Curran, and carried to clarify Legislator Burt's comments on Resolution No. 199-15 regarding the New York State Homes and Community Renewal Community Development Block Grant Program on page 10 of the minutes. Mr. Burt would like to have the words "doesn't mind" struck and replaced with "encourages." The minutes were then approved as amended following a motion made by Legislator Curran, seconded by Legislator Pullen, and carried.

The Committee of the Whole minutes of September 14, 2015, were approved on a motion made by Legislator Graves, seconded by Legislator Curran, and carried.

**PUBLIC HEARING:**

Chairman Crandall closed the regular meeting to hold a public hearing on Local Law Intro. No. 4-2015, entitled "A Local Law Authorizing the Use of Best Value in the Competitive Bidding Process." Comments from the public included the following:

There being no one desiring to speak, the public hearing was declared closed and the Board reconvened in regular session.

## **PRIVILEGE OF THE FLOOR:**

Chairman Crandall presented a certificate to Donald H. Newland, former United States Army Director Repairman, in grateful appreciation of his service to our country. Mr. Newland's service dates were from June 26, 1946, to May 24, 1949. Following Basic Training at Aberdeen Proving Grounds, MD, assignments included: Camp Kilmer, NJ, Panama and Fort Bliss, TX. While in Fort Bliss, Mr. Newland was assigned to Battery B, the first guided missile regiment at Fort Bliss. This regiment was the United States' initial entry into the space age. In collaboration with a group of German Scientists, as well as General Electric engineers and machinists for the military, Mr. Newland was involved in the enhancement of the V2 Rocket. In the fall of 1948, after the Army had ended its ban on promotions, Mr. Newland was promoted from Corporal, to Buck Sergeant, to Staff Sergeant in a span of two weeks. With this promotion came a unique assignment. He was given the temporary duty of escort for the World War II casualties. The assignment required Mr. Newland to escort the casket to the soldier's hometown, meet the family, coordinate the funeral with the local V.F.W. or other military organization, and participate in the funeral by presenting the flag to the next of kin. Mr. Newland has graciously shared his memories of his time in the service in a couple of books he has written. The first book, "As I Remember," includes stories from his life. The second book, "The Dark Silent Room," tells about his days as an honor escort. Mr. Newland led the Pledge of Allegiance to the Flag at the beginning of the meeting as part of the Veterans' Honorary Pledge of Allegiance Program.

Mr. William Heaney addressed the group regarding an Allegany County Museum Trail Event taking place this weekend, October 3-4. There are over twenty museums in Allegany County. A group of Allegany County historians that Mr. Heaney is part of, had planned the event for the first time last year, but unfortunately chose a weekend with seven other events already planned. They are hoping better planning and publication of the event will result in a better turnout this year. Mr. Heaney stated, "Allegany County may not have billions of dollars, but we have billions of history... We have a history here; a history we should be proud of."

## **ACKNOWLEDGMENTS, COMMUNICATIONS, REPORTS, ETC.:**

1. October 2015 Calendar.
2. Correspondence from Senator Catharine Young acknowledging receipt and support of our resolution in support of establishing statewide benchmarks and our resolution opposing New York State's plan to close Skill Development and Work Centers.
3. Allegany County Area Foundation's Annual Report for 2014-2015.

## **APPOINTMENTS:**

Chairman Curtis W. Crandall appointed David T. Pullen, of Fillmore, to serve as the legislative designee on the **LAW LIBRARY BOARD OF TRUSTEES** for a two-year term commencing October 2, 2015, and expiring October 1, 2017.

**RESOLUTIONS:**

**RESOLUTION NO. 200-15**

**AMENDING RESOLUTION NO. 118-67, AS AMENDED, TO IMPOSE ALLEGANY COUNTY SALES AND USE TAX AT THE RATE OF FOUR AND ONE-HALF PERCENT FOR THE PERIOD BEGINNING DECEMBER 1, 2015, AND ENDING NOVEMBER 30, 2017, AND THEREAFTER SAID RATE OF SALES AND USE TAX TO REVERT TO THREE PERCENT**

Offered by: Ways & Means Committee

Pursuant to Article 29 of the Tax Law, and Chapter 174 of the Laws of 2015

**BE IT RESOLVED AND ENACTED** by the Board of Legislators of the County of Allegany as follows:

Section 1. Section 4-A of Resolution No. 118-67, as amended, is hereby amended to read as follows:

Section 4-A. Imposition of additional rate of sales and compensating use taxes

Pursuant to the authority of section 1210 of the Tax Law, in addition to the sales and compensating use taxes imposed by sections 2 and 4 of this resolution, there is hereby imposed and there shall be paid an additional one and one-half percent rate of such sales and compensating use taxes, for the period beginning December 1, 2004, and ending November 30, 2017. Such additional taxes shall be identical to the taxes imposed by such sections 2 and 4 and shall be administered and collected in the same manner as such taxes. All of the provisions of this resolution relating or applicable to the administration and collection of the taxes imposed by such sections 2 and 4 shall apply to the additional taxes imposed by this section, including the applicable transitional provisions, limitations, special provisions, exemptions, exclusions, refunds and credits as are set forth in this resolution, with the same force and effect as if those provisions had been incorporated in full into this section and had expressly referred to the additional taxes imposed by this section.

Section 2. Paragraph (D) of Subdivision (1) of Section 11. of Resolution No. 118-67, as amended, is hereby amended to read as follows:

(1) (D) With respect to the additional tax of one and one-half percent imposed for the period beginning December 1, 2004, and ending November 30, 2017, in respect to the use of property used by the purchaser in this county prior to December 1, 2004.

Section 3. This resolution shall take effect December 1, 2015.

Moved by: Mr. Jessup  
Seconded by: Mr. Hopkins

Adopted: Roll Call  
11 Ayes, 2 Noes, 2 Absent  
Voting No: Burt, Ungermann

Comments made regarding Resolution No. 200-15 included: Legislator Burt moved the resolution be amended to change the additional rate from 1.5 percent to 1.35 percent. He noted the growth of the Fund Balance and feels it would encourage businesses to set up in Allegany County. Legislator Pullen seconded the motion to amend the resolution. Legislator Pullen stated that it's a touchy issue, but one that's important to constituents. He stated there would be consequences of reducing the rate, especially since the sales tax revenues are already down this year. Chairman Crandall cautioned the Board about the process in place. This falls under Home Rule Legislation. We asked our state representatives to address the sales tax issue for us. If the resolution were amended, it would have to go back through the State Legislature and the Governor for approval. At this point, that would mean having to wait until next year, and we'd be without the additional tax. County Attorney Tom Miner affirmed that this was true. The County could end up with no additional tax if the resolution were amended. Legislator O'Grady remarked that he feels the greater priority is reducing property taxes. Sales tax is contributed by everyone, including visitors to the County. He feels there are too many properties that are tax exempt. He doesn't think it's the sales tax that's keeping people from moving here, more likely it's the property taxes; although, he thinks that all of our taxes are too high. Legislator Fanton remarked on the reduction in property tax rates in the County over the last six years. Legislator Ungermann agreed that Chairman Crandall was correct about the process. He stated, "This is something that should have been discussed two votes ago." He feels that if Allegany County is going to be competitive, we need to do something about sales tax. Legislator Healy stated that he agrees with what's been said. All of our taxes are too high, but the money has to come from some place. He feels it's better to have it come from sales tax. Property taxes are a big issue with residents. Chairman Crandall reiterated the consequences of trying to amend our Home Rule Request, and Legislator Scott Burt requested a point of order asserting that the Chairman should temporarily vacate the office of Chairman while he presents his opinions. Chairman Crandall declared he was not voicing his opinions, but rather ensuring those present understand the consequences of any action. The motion failed to receive the necessary votes of the Board.

### **RESOLUTION NO. 201-15**

#### **ADOPTION OF LOCAL LAW INTRO. NO. 4-2015, PRINT NO.1, AUTHORIZING THE USE OF BEST VALUE IN THE COMPETITIVE BIDDING PROCESS**

Offered by: Ways & Means Committee

#### **RESOLVED:**

1. That proposed Local Law, Intro. No. 4-2015, Print No. 1, is adopted without any change in language, to wit:

**COUNTY OF ALLEGANY**

Intro. No. 4-2015

Print No. 1

**A LOCAL LAW AUTHORIZING THE USE OF BEST VALUE IN THE  
COMPETITIVE BIDDING PROCESS**

**BE IT ENACTED**, by the Board of Legislators of the County of Allegany, State of New York, as follows:

**Section 1. Name of local law.** This law shall be known as “Allegany County Best Value Competitive Bidding Law.”

**Section 2. Findings and Intent.** The State Legislature and Governor amended General Municipal Law §103 on January 27, 2012, to provide local governments greater flexibility in awarding contracts by authorizing the award of purchase contracts, including contracts for service work on the basis of best value. The State Legislation requires Political Subdivisions with a population of less than one million to pass a local law authorizing the use of the best value award process.

Enactment of this legislation provides additional procurement options to localities in ways that may expedite the procurement process and result in cost savings. The “best value” standard for selecting goods and services vendors, including janitorial and security contracts, is critical to efforts to use strategic sourcing principles to modernize the supply chain and ensure that taxpayers obtain the highest quality goods and services at the lowest potential cost, while also ensuring fairness to all competitors.

The federal government, approximately half the states, and many localities have added best value selection processes to their procurement options, in recognition of these advantages. With the increased complexity of the goods and services that municipalities must obtain in order to serve taxpayers, it is critical to consider selection and evaluation criteria that measure factors other than cost in the strictest sense.

Taxpayers are not well served when a public procurement results in low unit costs at the outset, but ultimately engenders cost escalations due to factors such as inferior quality, poor reliability, and difficulty of maintenance. Best value procurement links the procurement process directly to the municipality’s performance requirements, incorporating selection factors such as useful lifespan, quality and options and incentives for more timely performance, and/or additional services.

Even if the initial expenditure is higher, considering the total value over the life of the procurement may result in a better value and long-term investment of public funds. Best value procurement also encourages competition and, in turn, often results in better pricing, quality, and customer service. Fostering healthy competition ensures that bidders will continue to strive for excellence in identifying and meeting municipalities’ needs, including such important goals as the participation of small, minority and women-owned businesses, and the development of environmentally-preferable goods and service delivery methods. Best

value procurement will provide much-needed flexibility in obtaining important goods and services at favorable prices, and will reduce the time to procure such goods and services.

**Section 3. Definitions.** “Best value” means the basis for awarding contracts for services to the offerer which optimizes quality, cost and efficiency, among responsive and responsible offerors. Such basis shall reflect, wherever possible, objective and quantifiable analysis. Such basis may also identify a quantitative factor for offerors that are small businesses or certified minority- or women-owned business enterprises as defined in subdivisions one, seven, fifteen, and twenty of section three hundred ten of the executive law to be used in evaluation of offers for awarding of contracts for services.

**Section 4. Requirements.**

- A. Where the basis for award is the best value offer, the County Administrator shall document, in the procurement record and in advance of the initial receipt of offers, the determination of the evaluation criteria, which whenever possible, shall be quantifiable, and the process to be used in the determination of best value and the manner in which the evaluation process and selection shall be conducted.
- B. The County Administrator shall select a formal sealed competitive bidding procurement process in accordance with General Municipal Law and the Allegany County Procurement Policy and document their determination in the procurement record. The process shall include, but is not limited to, a clear statement of need; a description of the required specifications governing performance and related factors; a reasonable process for ensuring a competitive field; a fair and equal opportunity for offerors to submit responsive offers; and a balanced and fair method of award. Where the basis for the award is best value, documentation in the procurement record shall, where practicable, include a quantification of the application of the criteria to the rating of proposals and the evaluation results, or, where not practicable, such other justification which demonstrates that best value will be achieved.
- C. The solicitation shall prescribe the minimum specifications or requirements that must be met in order to be considered responsive and shall describe and disclose the general manner in which the evaluation and selection shall be conducted. Where appropriate, the solicitation shall identify the relative importance and/or weight of cost and the overall technical criterion to be considered by the County of Allegany in its determination of best value.
- D. The County Administrator shall develop procedures that will govern the award of contracts on the basis of best value. These procedures shall be included in the Allegany County Procurement Policy and reviewed annually by the Allegany County Board of Legislators in conjunction with its annual review and approval of the Allegany County Procurement Policy.

**Section 5. Severability.** If any clause, sentence, paragraph, subdivision, section or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity or circumstance shall be adjudged by any court of competent jurisdiction to

be invalid or unconstitutional, such order or judgment shall not affect, impair, effect or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law or in its application to the person, individual, corporation, firm, partnership, entity or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

**Section 6. Effective Date.** This local law shall take effect immediately upon filing with the New York Secretary of State.

Moved by: Mr. Jessup  
Seconded by: Mr. LaForge

Adopted: Roll Call  
13 Ayes, 0 Noes, 2 Absent

Comments made regarding Resolution No. 201-15 included: Legislator LaForge noted that this resolution allows the County to adopt New York State Legislation that was put into place 2 years ago.

## **RESOLUTION NO. 202-15**

### **ADOPTION OF POLICY PURSUANT TO §408-a(2) OF THE COUNTY LAW TO ALLOW OTHER POLITICAL SUBDIVISIONS TO PURCHASE GOODS AND SERVICES ON CONTRACTS AWARDED BY ALLEGANY COUNTY TO THE LOWEST RESPONSIBLE BIDDER**

Offered by: Ways & Means Committee

**WHEREAS**, under §408-a(2) of the County Law, prior to allowing other political subdivisions to purchase goods and services on contracts awarded by the County to the lowest responsible bidder, a County must adopt rules prescribing the conditions under which, and the manner in which, purchases may be made or services may be obtained by such political subdivisions, and

**WHEREAS**, Allegany County wishes to allow other political subdivisions the ability to piggyback off of certain contracts awarded by the County through competitive bidding, now therefore, be it

#### **RESOLVED:**

1. That the attached policy, entitled "Piggybacking off County Bids," constituting the rules and conditions under which, and manner in which, purchases may be made or services obtained by political subdivisions on contracts awarded by Allegany County to the lowest responsible bidder is hereby adopted.

Moved by: Mr. Jessup  
Seconded by: Mr. LaForge

Adopted: Roll Call  
13 Ayes, 0 Noes, 2 Absent

Comments made regarding Resolution No. 202-15 included: Legislator LaForge noted that this is commonly referred to as “piggybacking.” This will allow other municipalities to “piggyback” off County bids.

**RESOLUTION NO. 203-15**

**ABOLISHING ONE POSITION OF SOCIAL WELFARE EXAMINER AND ONE POSITION OF ACCOUNTANT IN THE DEPARTMENT OF SOCIAL SERVICES**

Offered by: Human Services Committee

**RESOLVED:**

1. That one position of Social Welfare Examiner (AFSCME, Grade 11) and one position of Accountant (PEF, Grade 7) are abolished in the Department of Social Services.
2. This resolution shall take effect immediately.

Moved by: Mr. LaForge  
Seconded by: Mr. Fanton

Adopted: Roll Call  
13 Ayes, 0 Noes, 2 Absent

**RESOLUTION NO. 204-15**

**BUDGET TRANSFERS WITHIN HEALTH DEPARTMENT ACCOUNTS**

Offered by: Human Services Committee

**RESOLVED:**

1. That the sum of \$971 shall be transferred from Account No. A4035.409 (Family Planning - Fees) to Account No. A4035.201 (Family Planning - Office Equipment).
2. That the sum of \$22,177 shall be transferred from Account No. A4010.101 (Health Dept – Personnel) to Account No. A4010.408 (Health Dept – General Supplies).

Moved by: Mr. LaForge  
Seconded by: Mr. Pullen

Adopted: Roll Call  
13 Ayes, 0 Noes, 2 Absent

**RESOLUTION NO. 205-15**

**TRANSFER OF FUNDS WITHIN PUBLIC DEFENDER’S ACCOUNTS**

Offered by: Public Safety Committee

**RESOLVED:**

1. That the transfer of \$9,678 within the Public Defender accounts is approved as follows:

From:	To:	Amount:
A1172.201	Equipment	\$ 2,980
A1172.402	Mileage	\$ 477
A1172.405	Conference Expense	\$ 3,100
A1172.407	Office Supplies	\$ 489
A1172.409	Fees	<u>\$ 2,632</u>
Total		\$ 9,678

A1172.802	Retirement	\$ 6,379
A1172.803	FICA	\$ 2,671
A1172.804	Workers Comp	\$ 541
A1172.805	Disability	<u>\$ 87</u>
Total		\$ 9,678

Moved by: Mr. Curran  
Seconded by: Mr. Healy

Adopted: Roll Call  
13 Ayes, 0 Noes, 2 Absent

**RESOLUTION NO. 206-15**

**APPROVAL OF DRIVEWAY AGREEMENT WITH THE  
ESTATE OF BARBARA J. DEJONGE**

Offered by: Ways & Means Committee

**WHEREAS**, Allegany County owns property located at 25 Court Street in the Village of Belmont; and

**WHEREAS**, the Estate of Barbara J. DeJonge owns property located at 27 Court Street in the Village of Belmont; and

**WHEREAS**, the driveway used to access the back portion of the property located at 27 Court Street is located on the property owned by Allegany County at 25 Court Street; and

**WHEREAS**, the Estate of Barbara J. DeJonge has approached the County with a request that the County enter into a Driveway Agreement with the estate to allow the estate, together with their successors and assigns, to use the driveway on the County's property to access the back of its property; and

**WHEREAS**, it is deemed to be in the County's best interest to enter into a Driveway Agreement with the Estate of Barbara J. DeJonge as the Agreement will not negatively impact the County's property, but will enhance the value of the estate's property; and

**WHEREAS**, the Driveway Agreement will require that the driveway be kept open and unobstructed and that each party will be responsible for any damage caused to the driveway by such party beyond normal wear and tear; and

**WHEREAS**, the sum of Five Hundred Dollars (\$500) has been determined to constitute fair and reasonable consideration to be paid the County for agreeing to enter into the Driveway Agreement, now therefore, be it

**RESOLVED:**

1. The Driveway Agreement between the County of Allegany and the Estate of Barbara J. DeJonge is hereby approved.

2. Upon receipt of the sum of Five Hundred Dollars (\$500) by the County of Allegany, the Chairman of this Board is authorized to execute the Driveway Agreement and any other documents necessary for recording said Agreement in the Allegany County Clerk's Office.

Moved by: Mr. Jessup  
Seconded by: Mr. Curran

Adopted: Roll Call  
11 Ayes, 1 No, 2 Absent  
Voting No: Burt  
Abstaining: Pullen

Comments made regarding Resolution No. 206-15 included: Legislator Burt expressed his concern over the longevity of the easement. He is concerned about who might own the property in the future. Legislator Pullen requested permission to abstain from the vote as he has represented the estate. Legislator Graves moved that he be allowed to abstain. The motion was seconded by Legislator Fanton and carried by the Board.

Resolution Intro. No. 210-15 (**ACCEPTANCE AND APPROPRIATION OF UNALLOCATED FUNDS FOR THE WIC PROGRAM FOR THE 2015 BUDGET YEAR**) was not pre-filed and was considered from the floor on a motion made by Legislator LaForge, seconded by Legislator Graves, and carried by an affirmative voice vote of the requisite two-thirds of the Board membership.

**RESOLUTION NO. 207-15**

**ACCEPTANCE AND APPROPRIATION OF UNALLOCATED FUNDS FOR THE WIC PROGRAM FOR THE 2015 BUDGET YEAR**

Offered by: Human Services and Ways & Means Committees

**RESOLVED:**

1. That the sum of \$27,604 in unallocated funds for the WIC Program for the 2015 budget year is accepted.
2. That the accepted sum of \$27,604 is placed in Account No. A4190.204 (WIC - Vehicle) with a like sum credited to Revenue Account No. A4190.4452.00 (Federal Aid - WIC).

Moved by: Mr. LaForge  
Seconded by: Mr. Fanton

Adopted: Roll Call  
13 Ayes, 0 Noes, 2 Absent

**AUDITS:**

A motion was made by Legislator Jessup, seconded by Legislator Graves, and carried, that the audits be acted upon collectively and by totals.

A motion was made by Legislator Jessup, seconded by Legislator Pullen, and adopted on a roll call vote of 13 Ayes, 0 Noes, 2 Absent, that the audit of claims, totaling \$3,391,493.45, including prepaid expenses, be approved for payment as recommended by the County Administrator. (*Allegany County's Local Dollar Share of the NYS Medicaid Program paid year-to-date is \$7,341,068.*)

**COMMENTS:**

Legislator Ungermann remarked on the attendance at the annual Garlic Festival in Cuba, saying that there were 7,200 people in attendance not including volunteers or vendors.

Legislator Pullen thanked today's honored Veteran Mr. Newland. He expressed his gratitude for Mr. Newland joining us and for so eloquently writing his memories about these milestones in history. That is not an easy thing to do, yet he has done it so very well.

**ADJOURNMENT:** The meeting was adjourned at 3:13 p.m. on a motion made by Legislator Graves, seconded by Legislator Fanton, and carried.