

FENNER TOWN BOARD  
TOWN OFFICE BUILDING – 8:00PM  
April 12, 2006

PRESENT: SUPERVISOR CARY  
COUNCILPERSON JONES  
COUNCILPERSON STOKER  
COUNCILPERSON STRACK  
TOWN CLERK BUYEA  
HWY. SUPT. HYATT

The regular meeting of the Fenner Town Board was called to order at 8:00 p.m. by Supervisor Cary with the pledge to the flag.

Councilperson Strack moved to accept the previous month's minutes as written. Seconded by Councilperson Stoker. Approved by the Board.

OLD BUSINESS:

After brief discussion the board decided not to bid out the insurance contract for next year, but to re-examine the possibility next year.

NEW BUSINESS:

Supervisor Cary informed the Board that the Town Clean Up Days are set for May 5 & 6, 2006. Councilperson Strack moved to have Town Clerk Buyea advertise dates in Oneida Dispatch, Cazenovia Republican and Hi Neighbor. Seconded by Councilperson Jones. Approved by the Board.

Councilperson Stoker moved to adopt Resolution #6 – A resolution to designate the Town Office Building as the Voting Place for 2006. Seconded by Councilperson Jones. Approved by the Board.

RESOLUTION #6  
of the Town Board  
of the Town of Fenner

WHEREAS, each municipality must designate an official Polling Place each year,

THEREFORE BE IT RESOLVED, that the Town of Fenner Board hereby designates the Town Office Building located at the corner of Nelson and East Roads as the official Polling Place for the year 2006.

Supervisor Cary - Aye  
Councilperson Jones - Aye  
Councilperson Stoker - Aye  
Councilperson Strack - Aye

Dated: April 12, 2006

Larry Webb presented to the board an initial design for a Web Site for the Town of Fenner. A brief discussion followed. No action taken at this time.

Sue Snyder spoke briefly to the board concerning the upcoming Madison County Bicentennial activities planned and in particular the banner exhibit to be here in the Town of Fenner town building for two weeks beginning May 6.

Supervisor Cary informed the Board that he had received a recent honorarium in the amount of \$45.00 from Ithaca College in appreciation of his recent tour which he is turning over to the town for the Educational Center. Town Clerk Buyea will send a thank you letter. Supervisor Cary asked the Board for approval to use money in fund for Renewable Energy Center for landscaping, driveway, etc. Approved by the Board

Councilperson Jones moved to adopt Resolution #7, Resolution #104 enacted by Madison County opposing delay of collection of sales and excise taxes on tribal sales to non-tribal member. Seconded by Councilperson Stoker. Approved by the Board

**RESOLUTION NO. 7  
Of the Town of Board  
Of the Town of Fenner**

**OPPOSING DELAY OF COLLECTION OF SALES AND EXCISE TAXES ON  
TRIBAL SALES TO NON-TRIBAL MEMBERS**

**WHEREAS**, during the pendency of land claims brought by Indian tribes for large tracts of land across New York State, tribal governments purported to assert jurisdiction over taxation and other matters; and

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

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

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

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

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

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

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

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

**WHEREAS**, the Commissioner of Taxation and Finance previously published rules and regulations intended to implement collection of those taxes upstream from the point of sale, the implementation of which has been postponed until Mar 1, 2006; and

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

**WHEREAS**, The New York State Commissioner of Taxation and Finance has repeatedly confirmed that the Department of Taxation and Finance will delay collection of these taxes until 2007, and

**WHEREAS**, the Madison County, along with the New York State Association of Counties and its other member counties, has repeatedly expressed unqualified, strong support for implementation of effective measures to collect these taxes on tribal sales to non-Indians;

**NOW THEREFORE BE IT RESOLVED**, that the Madison County Board of Supervisors urges the Governor of the State of New York to abandon his budget proposal and implement effective measures called for by the Legislature and the New York State Association of Counties and to take action necessary to insure collection of all sales and excise taxes on tribal and Indian sales of all goods and services to non-tribal members for the benefit of state and local governments without further delay, and

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

**BE IT FURTHER RESOLVED**, that copies of this Resolution shall be forwarded to Governor George E. Pataki, members of the New York State Legislature and all others deemed necessary and proper.

Dated: April 12, 2006

Supervisor Cary	-	Aye
Councilperson Jones	-	Aye
Councilperson Stoker	-	Aye
Councilperson Strack	-	Aye

Councilperson Stoker moved to accept Town Clerk's Monthly Report as presented. Seconded by Councilperson Strack. Approved by the Board.

Councilperson Jones moved to accept Supervisor's Monthly Report as presented. Seconded by Councilperson Strack. Approved by the Board.

Councilperson Strack moved to approve the payment of General Fund Claim Nos. 53-70 in the amount of \$3,954.09 as set forth in Abstract #4 and as audited. Seconded by Councilperson Stoker. Approved by the Board

Councilperson Jones moved to approve the payment of Highway Fund Claim Nos.29-34 in the amount of \$5,863.84 as set forth in Abstract #4 and as audited. Seconded by Councilperson Strack. Approved by the Board.

Handouts and Reports: On file in Town Clerk's Office  
Dog Control Officer's Report and copy of letter  
Code Enforcement Officer's Reports  
Highway Superintendent Report  
Mad. Co. Resolution 104  
Web Site Design

Councilperson Jones moved to adjourn the meeting. Seconded by Councilperson Stoker. Meeting adjourned at 9:25 p.m.

By Order of the Town Board  
Joanne E. Buyea, Town Clerk

