

**Oneida County Board of Supervisors  
Regular Meeting March 17<sup>th</sup> 2009**

Vice Chair Greb called the meeting to order at 9:30 a.m. in the County Board Meeting Room at the Oneida County Courthouse. There was a brief moment of silence, followed by the Pledge of Allegiance.

Members present: Supervisors Gary Baier, Ted Cushing, Paul Dean, Franklin H. Greb, Larry Greschner, John Hoffman, Scott Holewinski, Jack Martinson, Matt Matteson, David O'Melia, Sonny Paszak, Patricia L. Peters, Wilbur Petroskey, Denny Thompson, Romelle Vandervest, Charles Wickman, Peter Wolk and John R. Young.

**Supervisors absent** – Supervisors Tom Rudolph, Jim Sharon and Andrew Smith excused.

**Student Representatives:** Jessie Starke, Mary Benbenek, Ben Brusio and Laci McCann.

**Others present:** Robert Brusio, County Clerk, Mary Bartelt, Deputy County Clerk, Brian Desmond, Corporation Counsel and John Potters, County Coordinator.

Vice Chair Greb reminded Supervisors to use their microphones when addressing the floor and those addressing the Board to sign the attendance form at the podium.

**Motion/second Hoffman/Cushing** to accept the minutes of the February 17<sup>th</sup>, 2009 regular meeting. All "ayes" on voice vote.

**Reports –**

- 2008 County Coordinator's Report
- 2008 Forestry Annual Report
- 2009 Emergency Fire Warden List
- 2008 Land Information Annual Report

**Motion/second O'Melia/Martinson** to accept the 2008 reports from the County Coordinator, Forestry and Land Information. All "ayes" on voice vote.

**Motion/second Cushing/Vandervest** to accept the 2009 Emergency Fire Warden List. All "ayes" on voice vote.

**Presentations-** NONE

**Unfinished Business -** NONE

**Considerations of resolutions & ordinances**

**Resolution #19-2009/General Code/OA** – offered by Supervisors of the Resolutions & Ordinances/Legislative Committee amending the Oneida County General Code.

Resolved by the Board of Supervisors of Oneida County, Wisconsin:

**WHEREAS**, it is deemed expedient and necessary that the General Code of the County of Oneida, Wisconsin be brought up-to-date; and

**WHEREAS**, resolutions and ordinances adopted through December 9, 2008 and changes necessitated by changes in State law have been incorporated into the General Code by the Revisor, which has provided Oneida County with corrected printed revisions, pursuant to Statute 25.08 of the General Code of Oneida County, Wisconsin; and

**WHEREAS**, a copy of such amended General Code of Oneida County, Wisconsin, has been on file and open for public inspection in the office of the County clerk for not less than two weeks, as required by Statute 66.035, Wis. Stats., and notice thereof has been provided by publication on December 12, 2008 in the Rhinelander Daily News;

**NOW, THEREFORE, THE ONEIDA COUNTY BOARD OF SUPERVISORS DOES ORDAIN AS FOLLOWS:**

Section 1. The Code of Ordinances in book form entitled: General Code of Oneida County, Wisconsin, as amended through December 9, 2008 shall be and hereby is adopted as the general ordinances in and for the County of Oneida, Wisconsin.

Section 2. Any ordinance in conflict with this ordinance shall be and hereby is repealed as far as any conflict exists.

Section 3. This ordinance shall take effect the day after passage and publication as provided by law.

Approved by the Resolutions & Ordinances/Legislative Committee this 12<sup>th</sup> day of February 2009.  
Offered and passage moved by Supervisors David O'Melia, Andrew P. Smith and John R. Young.

**Roll call: 18 ayes 0 nay 3 absent (Rudolph, Sharon, Smith)**

**Student Representative: 4 ayes**

**Resolution #20-2009/General Code/OA** - offered by Supervisors of the Resolutions & Ordinances/Legislative Committee amending the Oneida County General Code.

**Ordinance Amendment offered by Supervisors of the Resolutions & Ordinances/Legislative Committee**

**Whereas**, for many years, the Board of Supervisors met only 6 times per year, and

**Whereas**, in April 1990, the Board deemed it appropriate to schedule monthly meetings, except the months of July and December, and

**Whereas**, in June 2002, the Board voted to include meetings in July and December, and

**Whereas**, the Resolutions & Ordinances/Legislative Committee has reviewed the number of resolutions the Board considers each month and other business it conducts and has determined that a reduction in the number of scheduled meetings is appropriate, and

**Whereas**, the Resolutions & Ordinances/Legislative Committee is recommending that the Board returns to 10 regularly scheduled meetings per year by eliminating the July and December meetings.

**NOW, THEREFORE, THE ONEIDA COUNTY BOARD OF SUPERVISORS DOES ORDAIN AS FOLLOWS:**

Section 1. Any existing ordinances, codes, resolutions, or portions thereof in conflict with this ordinance shall be and hereby are repealed as far as any conflict exists.

Section 2. This ordinance shall take effect the day after passage and publication as required by law.

Section 3. If any claims, provisions or portions of this ordinance are adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

Section 4. Section 2.16(1) of the General Code of Oneida County, Wisconsin, is amended as follows [additions noted by underline, deletions noted by strikethrough]:

**2.16 RULE 16: MEETINGS OF THE BOARD AND COMMITTEES.**

(1) **DATE OF MEETING.** (Am. #24-90; #61-2002) Except as provided in sub. (3), below, the Board shall meet in the County Courthouse in regular meetings on the following dates and shall be in session until adjourned:

(a) The 3rd Tuesday in January.

(b) The 3rd Tuesday in February.

(c) The 3rd Tuesday in March.

(d) The 3rd Tuesday in April (organizational meeting).

(e) The 3rd Tuesday in May.

(f) The 3rd Tuesday in June.

~~(g) The 3rd Tuesday in July.~~

~~(h)~~ (g) The 3rd Tuesday in August.

(i) (h) The 3rd Tuesday in September.

(j) (i) The 3rd Tuesday in October.

~~(k)~~ (j) The 1st Tuesday following the second Monday in November (annual meeting). (Am. #133-99)

~~(l) The 2nd Tuesday in December.~~

Sections 2 and 3 remain unchanged.

ONEIDA COUNTY

FISCAL IMPACT

REMOVE 2 COUNTY BOARD MEETINGS

COUNTY BOARD  
2009 RATES

	# OF MEETINGS	ESTIMATED COST PER MEETING	ESTIMATED COST OF TWO MEETINGS
County Board meeting	2	1,575	3,150
Social Security		120	241
Retirement-er		7	14
Retirement-ee		2	5
Workers Compensation		<u>2</u>	<u>5</u>
		1,707	3,414
Estimated Mileage Amount	2	<u>362</u>	<u>724</u>
Savings		2,069	4,138

Revenue Source: Tax Levy

Approved by the Resolutions & Ordinances/Legislative Committee on February 12, 2009.  
Offered and passage moved by Supervisors David O'Melia, Andrew P. Smith and John R. Young.

**Roll call: 18 ayes 0 nay 3 absent (Rudolph, Sharon, Smith)**  
**Student Representatives: 4 ayes.**

**Resolution #21-2009/General Code/OA** - offered by Supervisors of the Planning and Zoning Committee regarding the creation of a "Comprehensive Plan Oversight Committee".

Resolved by the Board of Supervisors of Oneida County, Wisconsin:

**WHEREAS**, the Oneida County Board of Supervisors approved Resolution #12-2008; allowing for Oneida County to begin the Comprehensive Plan process; and

**WHEREAS**, the Oneida County Board of Supervisors approved resolution #116-2008 approving the formation of the Comprehensive Plan Oversight Committee to coordinate the Planning Process; and

**WHEREAS**, as part of developing a County Comprehensive Plan an "oversight" or "Ad-hoc" Committee must be appointed to coordinate the Planning Process;

**NOW, THEREFORE, BE IT RESOLVED**, the Oneida County Board of Supervisors does hereby create the "Comprehensive Plan Oversight Committee comprised of two (2) members of the Planning & Zoning Committee, three (3) additional County Board Supervisors, three (3) elected or appointed Town Officials and one (1) elected or appointed City of Rhinelander Official for a total of (9) Committee Members, and

**BE IT FURTHER RESOLVED**, should an elected or appointed official appointed to the Comprehensive Plan Oversight Committee fail to be re-elected the County Board Chairman shall appoint a replacement; and

**BE IT FURTHER RESOLVED**, that the Comprehensive Plan Oversight Committee shall review the chapters of the Plan as they are prepared, solicit public input on the plan, coordinate assembly of the Town and City Plans into a County Plan and to recommend the final Plan document to the County Board, and

**BE IT FURTHER RESOLVED**, the Comprehensive Plan Oversight Committee shall be in effect until such time as the County Board adopts a Comprehensive Plan for Oneida County; and

**BE IT FURTHER RESOLVED**, costs of the Comprehensive Plan Oversight Committee shall be in conformity with the fiscal impact statement, which is attached hereto and made a part here of.

**ONEIDA COUNTY  
FISCAL IMPACT  
Comprehensive Plan Oversight Committee**

Per Diem	11 meetings/5 Co Bd Members	2,585
Social Security		198
Workers Comp		<u>5</u>
Subtotal		2,788
Mileage estimated		<u>850</u>
		3,638

Mileage dependant on members selected

Funding Source: Commission and Committee Budget for Per Diems, Fringe Benefits and Mileage

Approved by the Planning and Zoning Committee this 18<sup>th</sup> day of February, 2009.  
Offered and passage moved by Supervisors Scott Holewinski, Charles Wickman, Frank H. Greb, Larry Greschner and Ted Cushing.

**Motion/second Holewinski/Greschner** to amend Resolution #21-2009 at Line 20, after the words “fail to be re-elected” add “or re-appointed”.

**Roll call to amend: 18 aye 0 nay 3 absent (Rudolph, Sharon, Smith)**  
**Student Representatives: 4 ayes.**

**Roll call on amended resolution: 18 ayes 0 nay 3 absent (Rudolph, Sharon, Smith)**  
**Student Representatives: 4 ayes.**

**Resolution #22-2009/OA** – offered by Supervisors of the Planning and Zoning Committee amending Chapter 9 – Section 9.55 – Adult Oriented Business Ordinance.

Resolved by the Board of Supervisors of Oneida County, Wisconsin:

**WHEREAS**, the Planning & Zoning Committee, having considered Ordinance Amendment #2-2009, (copy attached) which was filed January 29, 2009 to amend the Oneida County Zoning and Shoreland Protection Ordinance, and having given notice thereof as provided by law and having held a public hearing thereon February 18, 2009 pursuant to Section 59.69(5), Wisconsin Statutes, and having been informed of the facts pertinent to the changes which are as follows:

**WHEREAS**, the Oneida County Board of Supervisors approved Resolution 19-2006 / Ordinance Amendment 29-2005 at their February 21<sup>st</sup>, 2006 Board meeting; and

**WHEREAS**, Resolution 19-2006 / Ordinance Amendment 29-2005 created 9.55 Adult Oriented Business Ordinance; and

**WHEREAS**, the Oneida County Board of Supervisors requested the Planning and Zoning Committee to work with the owner of an Adult Oriented Business to make amendment to Section 9.55 Adult Oriented Business Ordinance; and

**WHEREAS**, the Planning and Zoning Committee directed staff and outside legal counsel to develop language as follows:

- 1) Allow expansion of the existing footprint of adult oriented business 100 percent.
- 2) Allow alcohol to be served on the premise
- 3) Allow contact with the entertainers
- 4) Clean-up language from the original adoption.

**WHEREAS**, all Towns were provided with written notice of said changes and no Town objected; and

**WHEREAS**, the Planning and Zoning Committee received no written comments for or against the proposal; and

**WHEREAS**, the Planning & Zoning Committee has carefully studied the proposed changes after listening to comments made at the public hearing, (two (2) in support, zero (0) against), and recommends approval; and

**NOW THEREFORE, THE ONEIDA COUNTY BOARD OF SUPERVIORS DOES ORDAIN AS FOLLOWS:**

Section 1: Any existing ordinances, codes, resolutions, or portion thereof in conflict with this ordinance shall be and are hereby repealed as far as any conflict exists.

Section 2: This ordinance shall take effect the day after passage and publication as required by law.

Section 3: If any claims, provisions, or portions of this ordinance are adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected thereby.

Section 4: Additions noted by underline; deletions noted by ~~strike through~~.

Chapter 9 of the Oneida County Zoning & Shoreland Protection Ordinance is amended as follows:

**9.55 ADULT ORIENTED BUSINESS ORDINANCE**

**A. PURPOSE AND INTENT**

1. Purpose and Intent. It is the purpose of this ordinance to regulate the location of sexually oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of the County, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the County. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene material.

**B. DEFINITIONS**

1. ADULT ARCADE means any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by their emphasis on "specified sexual activities" or "specified anatomical areas."
2. ADULT BOOKSTORE, ADULT NOVELTY STORE OR ADULT VIDEO STORE means a commercial establishment which, as one of its principal purposes, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, streaming videos, DVDs, Blu-ray or other visual representations which are distinguished or characterized by their emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas."

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as ADULT BOOKSTORE, ADULT NOVELTY STORE, or ADULT VIDEO STORE. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an ADULT BOOKSTORE, ADULT NOVELTY STORE, or ADULT VIDEO STORE so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which are distinguished or characterized by their emphasis on "specified sexual activities" or "specified anatomical areas."

This definition shall expressly exclude films, motion pictures, video cassettes, slides or other similar photographic reproductions given an "R" or "NC-17" rating by the Motion Picture Association of America.

3. ADULT CABARET means a nightclub, bar, restaurant, or similar commercial establishment which regularly features:
  - (a) persons who appear in a state of nudity or semi-nude; or
  - (b) live performances which are distinguished or characterized by their emphasis on the exposure of "specified anatomical areas" or ~~by~~ "specified sexual activities"; or
  - (c) films, motion pictures, video cassettes, slides or other photographic reproductions which are distinguished or characterized by their emphasis on "specified sexual activities" or "specified anatomical areas." This definition shall expressly exclude films, motion pictures, video cassettes,

slides or other similar photographic reproductions given an "R" or "NC-17" rating by the Motion Picture Association of America.

4. ADULT MOTION PICTURE THEATER means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are distinguished or characterized by their emphasis on "specified sexual activities" or "specified anatomical areas." This definition shall expressly exclude films, motion pictures, video cassettes, slides or other similar photographic reproductions given an "R" or "NC-17" rating by the Motion Picture Association of America.
5. ADULT THEATER means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nude, or live performances which are characterized by their emphasis on the exposure of "specified anatomical areas" ~~or by~~ or "specified sexual activities."
6. DISTINGUISHED or CHARACTERIZED BY means the dominant or principal theme of the object referenced. For instance, when the phrase refers to films "which are distinguished or characterized by an emphasis upon the exhibition or display of specified sexual activities or specified anatomical areas," the films so described are those whose dominant or principal character and theme are the exhibition or display of "specified sexual activities" or "specified anatomical areas."
7. EMPLOYEE means a person who performs any service on the premises of a sexually oriented business on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise and whether or not said person is paid a salary, wage or other compensation by the operator of said business. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.
8. ESCORT means a person who, for consideration, agrees or offers to privately model lingerie or to privately perform a striptease for another person.
9. ESCORT AGENCY means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.
10. ESTABLISHMENT means and includes any of the following:
  - (a) the opening or commencement of any sexually oriented business as a new business;
  - (b) the conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
  - (c) the additions of any sexually oriented business to any other existing sexually oriented business;  
or
  - (d) the relocation of any sexually oriented business.
11. NUDITY or a STATE OF NUDITY means the showing of the human male or female genitals, pubic area, vulva, or anus, with less than a complete opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple or the areola, or the showing of the covered male genitals in a discernibly turgid state.
12. PERMITTEE means a person in whose name a permit to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a permit.
13. PERSON means an individual, proprietorship, partnership, corporation, association, or other legal entity.
14. REGULARLY FEATURES or REGULARLY SHOWS means a consistent or substantial course of conduct, such that the films or performances exhibited constitute a substantial portion of the films or performances offered as part of the ongoing business of the sexually oriented business.
15. SEMI-NUDE or in a SEMI-NUDE CONDITION means the showing of the human male or female genitals, pubic area, vulva, or anus, with not more than a complete opaque covering, or the showing of the female

breast with not more than a complete opaque covering of the nipple or areola.

16. SEXUALLY ORIENTED BUSINESS means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motion picture theater, adult theater, or escort agency.
17. SPECIFIED ANATOMICAL AREAS means:
  - (a) the human male genitals in a discernibly turgid state, even if completely and opaquely covered;
  - (b) less than completely and opaquely covered human genitals, pubic region, vulva, anus or the nipple and areola of the human female breast.
18. SPECIFIED SEXUAL ACTIVITIES means any of the following:
  - (a) the fondling or other erotic touching of another person's human genitals, pubic region, buttocks, anus, or female breasts;
  - (b) sex acts, normal or perverted, ~~actual or simulated~~, including but not limited to intercourse, oral copulation, masturbation, or sodomy; or
  - (c) excretory functions as part of or in connection with any of the activities set forth in (a) through (b) above.
19. TRANSFER OF OWNERSHIP OR CONTROL of a sexually oriented business permit means and includes any of the following:
  - (a) the sale, lease, or sublease of the sexually oriented business;
  - (b) the transfer of securities which constitute a controlling interest in the sexually oriented business, whether by sale, exchange, or similar means; or
  - (c) the establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the sexually oriented business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

#### **Subsection C to remain unchanged.**

#### **D. PERMIT REQUIRED – SEXUALLY ORIENTED BUSINESS PERMIT REQUIRED (SO BP)**

1. A permit, under this ordinance section, shall be required for the establishment of a sexually oriented business and it shall be a violation of this ordinance section for any person to operate a sexually oriented business without a valid sexually oriented business permit issued by the County under this ordinance section and each day that the operation continues is to be considered a separate and distinct violation subject to civil forfeiture.
2. ~~Any sexually oriented business lawfully operating before February 26, 2006 shall be deemed a legal pre-existing use and not subject to the permit requirements of this ordinance section as long as the legal pre-existing use conforms to the requirements of section 9.50 of the Oneida County Zoning & Shoreland Protection Ordinance and that the establishment of a new sexually oriented business does not occur on the premises or within the structure of that legal pre-existing use.~~

##### 2. a. Applicability

Any sexually oriented business as defined in section 9.55 of this ordinance lawfully operating before February 26, 2006 shall be deemed a legal pre-existing use, is not subject to the requirements of section 9.55, and may be continued although such use does not conform with the provisions of section 9.55, subject to the conditions of this subsection. Nothing in this subsection shall be construed as allowing the establishment of a new sexually oriented business on the premises or within the structure of a legal pre-existing use.

##### b. Burden of Proof

The property owner shall have the burden to prove that:

(1). The legal pre-existing use or structure was legally established and in existence at the time the applicable provision of this ordinance became effective.

(2). The use of the property prior to the effective date of the ordinance provision was so active and actual and was not merely casual and occasional, or incidental to the principal use, such that the property owner has acquired a "vested interest" in the continuance of such a use.

##### c. Legal Pre-Existing Uses and Structures

No structural alteration to, addition to, or repair of any building or structure with a legal pre-existing sexually oriented business use over the life of the building or structure, shall exceed 100 percent of its current building footprint at the time it became a legal pre-existing use unless it is permanently changed to conform to the requirements of this ordinance.

d. Permitting.

An application with respect to the structural alteration of, addition to, or repair of a building or structure with a legal pre-existing sexually-oriented business use must be made on a form provided by the Planning and Zoning Department. Within 30 days after receipt of such a completed permit application, the Planning and Zoning Department or Administrator shall approve or deny the issuance of a permit to an applicant. The County shall approve the issuance of a permit to an applicant unless it is determined by a preponderance of the evidence that the proposed structural alteration of, addition to, or repair of the building or structure would be non-compliant with any applicable laws and ordinances other than section 9.55 of this ordinance. If any such application is denied, the Planning and Zoning Director shall, within 5 days of the denial, issue to the applicant written notification as to why the permit was denied. Judicial review of such a denial shall be available via Section 9.55(K) of this ordinance.

3. An application for a permit must be made on a form provided by the County.
4. All applicants must be qualified according to the provisions of this ordinance. The application may request and the applicant shall provide such information as to enable the County to determine whether the applicant meets the qualifications established in this ordinance.
5. A person who wishes to operate a sexually oriented business, must sign the application for a permit as an applicant. If a person other than an individual wishes to operate a sexually oriented business, all persons legally responsible for the operations of the sexually oriented business or who have power to control or direct its operations must sign the application for a permit as applicant. Such persons include, but are not limited to, general partners, corporate officers, corporate directors, and controlling shareholder(s). Each application must be qualified under the following section and each applicant shall be considered a permittee if a permit is granted.
6. The completed application for a sexually oriented business permit shall contain the following information and shall be accompanied by the following documents:
  - a. If the applicant is:
    - (1) an individual, the individual shall state his/her legal name and any aliases and submit proof that he/she is 18 years of age or older;
    - (2) a corporation, the corporation shall state its complete name, the date and state of its incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation, the names and capacity of all officers, directors and controlling stockholders, and the name of the registered corporate agent and the address of the registered office for service of process.
    - (3) a partnership, joint venture, limited liability entity, or other type of business organization where two (2) or more persons have a financial interest, the entity shall state its complete name, the type of entity, and the names of persons having a financial interest in the entity.
  - b. If the applicant intends to operate the sexually oriented business under a name other than that of the applicant; he or she must state 1) the fictitious name of the sexually oriented business's fictitious name and 2) submit the required registration documents.
  - c. The single classification of permit for which the applicant is filing.
  - d. The location of the proposed sexually oriented business, including a legal description of the property, street address, and telephone number(s), if any.
  - e. The applicant's mailing address or registered agent's mailing address.
  - f. A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.
  - g. A current certificate and straight-line drawing prepared within thirty (30) days prior to application by a registered land surveyor depicting the property lines and the structures containing any existing sexually oriented businesses within 500 feet of the property to be certified; the property lines of any established religious institution/synagogue or school within 500 feet of the property to be certified. For purposes of this Section, a use shall be considered existing or established if it is in existence at the time an application is submitted.
  - h. If an applicant wishes to operate a sexually oriented business, which shall exhibit on the premises, in

a viewing room or booth of less than one hundred fifty (150) square feet of floor space, films, video cassettes, other video reproductions, or live entertainment which ~~depict~~ are distinguished or characterized by their emphasis on the depiction of specified sexual activities or specified anatomical areas, then the applicant shall comply with the application requirements set forth in Section N.

#### E. ISSUANCE OF PERMIT

1. A permit granted pursuant to this section shall be subject to bi-annual renewal upon the written application of the applicant, using the standard adult business permit application provided by the Planning and Zoning Department and a finding by the County that the applicant has not committed any act during the existence of the previous permit, which would be grounds to deny the initial permit application as set forth in subsection (2) below. Sexually oriented business owners shall be required to seek a renewal permit every two years after the date of issuance of their sexually oriented business permit, and two years after each renewal permit is granted. A completed renewal application must be submitted to the Planning & Zoning Department no later than forty-five (45) days prior to the expiration of the permit in question. The renewal of the permit shall be subject to the payment of the fee as set forth in Section F, and follow the timeline set forth in subsection (2) below.
2. Within 30 days after receipt of a completed sexually oriented business application or renewal application the Planning and Zoning Department or Administrator shall approve or deny the issuance of a permit to an applicant. The County shall approve the issuance of a permit to an applicant unless it is determined by a preponderance of the evidence that one or more of the following findings is true:
  - a. An applicant is under eighteen (18) years of age.
  - b. An applicant has failed to provide information reasonably necessary for issuance of the permit or has falsely answered a question or request for information on the application form.
  - c. The premises to be used for the sexually oriented business have ~~not~~ been found by the health department, fire department, Planning and Zoning Department or appropriate building official as being non-compliant with applicable laws and ordinances.
  - d. The permit fee required by this ordinance has not been paid.
  - e. ~~The applicant will permit or cause the use or consumption of alcoholic beverage on the premises.~~
  - e.f. An applicant of the proposed establishment is otherwise in violation of, or is not in compliance with any of the provisions of this ordinance.
3. The permit, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the sexually oriented business and the classification for which the permit is issued pursuant to Section C. All permits shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that they may be easily read at any time.
4. The health department, fire department, Planning and Zoning Department or appropriate building official shall complete their certification that the premises is in compliance or not in compliance with applicable laws and ordinances within twenty (20) days of receipt of the completed application by the County. If such certification is not completed within 20 days, the premise shall be deemed to be in compliance for the purposes of issuing the permit.
5. A sexually oriented business permit shall issue for only one classification as found in Section C.
6. If any application is denied, the Planning and Zoning administrator shall, within ~~45~~ 30 days of the County's receipt of the completed application, issue to the applicant written notification as to why the permit was denied.

#### F. FEES.

1. Every application for a new sexually oriented business permit (~~whether for a new permit or for renewal of an existing permit~~) shall be accompanied by a \$250.00 non-refundable fee.
2. In addition to the application and investigation fee required above, every sexually oriented business that is granted a renewal permit (~~new or renewal~~) shall pay to the County a bi-annual non-refundable permit renewal fee of ~~\$250.00~~ \$75.00 within thirty (30) days of permit issuance ~~or renewal~~.
3. All permit applications and fees shall be submitted to the Planning and Zoning Department of Oneida County.

**Subsection G & H to remain unchanged.**

#### I. SUSPENSION.

1. The County shall suspend a permit for a period not to exceed thirty (30) days if it determines that a permittee or an employee of a permittee has:
  - a. violated or is not in compliance with any section of this ordinance; or
  - b. refused to allow an inspection of the sexually oriented business premises as authorized by this chapter.
2. If the Planning and Zoning Department determines that facts exist warranting the suspension of a permit under this Ordinance, the Department shall notify the permittee, in writing and by personal delivery or certified mail, of the Department's intent to suspend the permit, including the grounds for such a suspension. Within five (5) business days of receipt of such notice, the permittee may provide to the Department, in writing, a response that shall include a statement of reasons why the permit should not be suspended.

If the permittee provides no such written response to the Department within the time specified above, the Department shall notify the permittee in writing and by personal delivery or certified mail, that the permit has been suspended and the reasons for said suspension. Such notice shall include a statement advising the permittee of the right to challenge the suspension in a court of competent jurisdiction pursuant to Section K of this Ordinance. If the permittee provides a timely written response, the Department shall, within three (3) business days of its receipt of said response, place on the agenda for a meeting of the Planning and Zoning Committee a hearing to consider the suspension of the permit and notify the permittee in writing of the date and time of the hearing before the Committee.

A hearing pursuant to that described above shall be conducted within fourteen (14) days of the Department's receipt of a permittee's written response to a notice of intent to suspend. At said hearing, the Department shall present such evidence and witnesses as it believes warrant a suspension of the permit. At said hearing, the permittee shall have the opportunity to be represented by counsel, to present evidence and witnesses on his or her behalf, and to cross-examine witnesses presented by the Department. At said hearing, the Planning and Zoning Committee shall determine if sufficient grounds exist to warrant the suspension of the permit. If the Committee determines that such grounds exist and determines to suspend the permit, the Committee shall provide notice to the permittee, in writing and by personal delivery or by certified mail, of the fact of the suspension and the grounds for the suspension. Such notice shall include a statement advising the permittee of the right to challenge the suspension in a court of competent jurisdiction pursuant to Section K of this Ordinance.

All notifications to the permittee described herein shall be directed to the most current business address of the permittee on file with the Department.

#### J. REVOCATION.

1. The County shall revoke a permit if a cause of suspension in Section I occurs and the permit has been suspended within the preceding twelve (12) months.
2. The County shall also revoke a permit if it determines that:
  - a. a permittee gave false or misleading information in the material submitted during the application process or omits material facts;
  - b. a permittee has knowingly allowed possession, use, or sale of controlled substances on the premises;
  - c. a permittee has knowingly allowed prostitution on the premises;
  - d. a permittee knowingly operated the sexually oriented business during a period of time when the permittee's permit was suspended;
  - e. a permittee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sex act to occur in or on the permitted premises; or
  - f. a permittee is delinquent in payment to the Town, County, or State for any fees past due required under this ordinance.
  - ~~g. The permittee, operator or any employee of the permittee, violates any provisions of this ordinance or any rules or regulation adopted by the Board pursuant to this ordinance; provided, however, that in the case of a first offense by a licensee where the conduct was solely that of an employee, the penalty shall not exceed a suspension of thirty (30) days, if the Planning and Zoning Committee shall find that the licensee had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge.~~

~~g.h.~~ The permittee has become ineligible to obtain a permit.

~~i.~~ ~~The permittee has caused or permitted the sale, use or consumption of alcoholic beverages on the premises.~~

3. When the County revokes a permit, the revocation shall continue for one (1) year, and the permittee shall not be issued a sexually oriented business permit for one (1) year from the date the revocation became effective. If, subsequent to revocation, the County finds that the basis for the revocation has been corrected or abated, the applicant may be granted a permit if at least ninety (90) days have elapsed since the date the revocation became effective.
- ~~4. If any permit is revoked, the Planning and Zoning administrator shall, within 15 days, issue to the permit holder written notification of why the permit was revoked.~~

If the Planning and Zoning Department determines that facts exist warranting the revocation of a permit under this Ordinance, the Department shall notify the permittee, in writing and by personal delivery or certified mail, of the Department's intent to revoke the permit, including the grounds for such a revocation. Within five (5) business days of receipt of such notice, the permittee may provide to the Department, in writing, a response that shall include a statement of reasons why the permit should not be revoked.

If the permittee provides no such written response to the Department within the time specified above, the Department shall notify the permittee, in writing and by personal delivery or certified mail, that the permit has been revoked and the reasons for said revocation. Such notice shall include a statement advising the permittee of the right to challenge the revocation in a court of competent jurisdiction pursuant to Section K of this Ordinance. If the permittee provides a timely written response, the Department shall, within three business (3) days of its receipt of said response, place on the agenda for a meeting of the Planning and Zoning Committee a hearing to consider the revocation of the permit and notify the permittee in writing of the date and time of the hearing before the Committee.

A hearing pursuant to that described above shall be conducted within fourteen (14) days of the Department's receipt of a permittee's written response to a notice of intent to revoke. At said hearing, the Department shall present such evidence and witnesses as it believes warrants a revocation of the permit. At said hearing, the permittee shall have the opportunity to be represented by counsel, to present evidence and witnesses on his or her behalf, and to cross-examine witnesses presented by the Department. At said hearing, the Planning and Zoning Committee shall determine if sufficient grounds exist to warrant the revocation of the permit. If the Committee determines that such grounds exist and determines to revoke the permit, the Committee shall provide notice to the permittee, in writing and by personal delivery or by certified mail, of the fact of the revocation and the grounds for the revocation. Such notice shall include a statement advising the permittee of the right to challenge the revocation in a court of competent jurisdiction pursuant to Section K of this Ordinance.

All notifications to the permittee described herein shall be directed to the most current business address of the permittee on file with the Department.

#### **Subsection K&L to remain unchanged.**

#### **M. LOCATION OF SEXUALLY ORIENTED BUSINESSES.**

1. A person commits a violation of this ordinance if that person operates or causes to be operated a sexually oriented business in any zoning district other than District 10 General Use, as defined and described in the Oneida County Zoning and Shorelands Protection Ordinance. A sexually oriented business shall be considered a permitted use in District 10 – General Use Zoning District. Each day that the operation continues is consider considered a separate and distinct violation subject to civil forfeiture.
2. A person commits a violation of this ordinance if the person operates or causes to be operated a sexually oriented business within 500 feet of:
  - a. A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;
  - b. A public or private educational facility including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; school includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a

school;

c. A boundary of a single family residential district, multi-family residential district, rural residential district or residential retail district as defined in the Oneida County Zoning & Shoreland Protection Ordinance;

~~d. An entertainment business which has a primary emphasis on children or family entertainment.~~

Each day that the operation continues is to be considered a separate and distinct violation subject to civil forfeiture.

3. A person commits a violation of this ordinance if that person causes or permits the ~~operation, establishment, substantial enlargement,~~ or transfer of ownership or control of a sexually oriented business within 500 feet of another sexually oriented business. Each day that the operation continues is to be considered a separate and distinct violation subject to civil forfeiture.
- ~~4. A person commits a violation of this ordinance if that person causes or permits the sale, use or consumption of alcoholic beverages on the premises of a sexually oriented business permitted under this ordinance. Each day the violation occurs is to be considered a separate violation subject to civil forfeiture.~~
- ~~4.5. A person commits a violation of this ordinance if that person causes or permits the operation, establishment, or maintenance of more than one sexually oriented business in the same building, structure, or portion thereof, or the increase of floor area of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business. Each day that the operation continues is to be considered a separate and distinct violation subject to civil forfeiture.~~
- 5.6. For the purpose of subsection 2 of this Section, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a use listed in subsection 2. Presence of a county or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this Section.
- ~~6.7. For purposes of subsection 3 of this Section, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the closest exterior wall of the structure in which each business is located.~~
- 7.8. Any sexually oriented business lawfully operating on February 26, 2006, that is in violation of subsection 1 through ~~7~~ 6 of this Section shall be deemed a legal pre-existing use. The legal pre-existing use will be permitted to continue ~~within the parameters of section 9.50 of the Oneida County Zoning and Shoreland Protection Ordinance~~ so long as the establishment of a new sexually oriented business does not occur on the premises or within the structure as defined in § B(10) hereof and as provisions of Section D(2) are satisfied.
- 8.9. A sexually oriented business lawfully operating with a permit issued under this ordinance sections is not in violation of this ordinance by the location, subsequent to the grant or renewal of the sexually oriented business permit, of a use listed in subsection 2 and 3 of this Section within 500 feet of the sexually oriented business. This provision applies only to the renewal of a valid permit, and does not apply when an application for a permit is submitted after a permit has expired or been revoked.

#### **Subsection N & O to remain unchanged.**

#### **~~P. ADDITIONAL REGULATIONS CONCERNING PUBLIC NUDITY.~~**

- ~~1. It shall be a violation of this ordinance for a person to knowingly and or intentionally, in a sexually oriented business, appear in a state of nudity. Each appearance is to be considered a separate and distinct violation subject to civil forfeiture.~~
- ~~2. It shall be a violation of this ordinance for a person to knowingly or intentionally in a sexually oriented business appear in a semi-nude condition unless the person is an employee who, while semi-nude, shall be at least five (5) feet from any patron or customer and on a stage at least two (2) feet from the floor. Each appearance or disregard of the distance requirements is to be considered a separate and distinct violation subject to civil forfeiture.~~
- ~~3. It shall be a violation of this ordinance for an employee, while semi-nude in a sexually oriented business, to directly solicit any pay or gratuity from any patron or customer or for any patron or customer to pay or give any gratuity to any employee, while said employee is semi-nude in a sexually oriented business. Each solicitation is to be considered a separate and distinct violation subject to civil forfeiture.~~

~~4. It shall be a violation of this ordinance for an employee, while semi-nude, to touch a customer or the clothing of a customer.~~

Subsection ~~Q~~ P and ~~R~~ Q to remain unchanged.

#### R. RESPONSIBILITIES OF THE PERMITTEE

1. Any act or omission of an employee constituting the violation of the provisions of this Ordinance shall be deemed the act or omission of the permittee for the purposes of determining whether the permittee's license shall be revoked, suspended or renewed.

#### S. EXCEPTIONS.

The provisions of this ordinance do not apply to the following establishments: theaters, performing arts centers, civic centers, and dinner theaters where live dance, ballet, music and dramatic performances of serious artistic merit are offered on a regular basis; and in which the predominant business or attraction is not the offering of entertainment which is intended for sexual interests or titillation of customers; and where the establishment is not distinguished by an emphasis on or the advertising or promotion of nude or semi-nude performances. While expressive live nudity may occur within these establishments, this ordinance seeks only to minimize and prevent the secondary effects of sexually oriented businesses on the community. Negative secondary effects have not been associated with the establishments referenced in this section.

#### T. INJUNCTION.

A person who operates or causes to be operated a sexually oriented business without a valid permit or ~~in violation of Section J~~ otherwise in violation of this ordinance is subject to a suit for injunction as well as prosecution for criminal violations. Such violations shall be punishable by a fine of \$25.00 to \$250.00 for each violation. Each day a sexually oriented business so operates is a separate offense or violation.

#### U. SEVERABILITY.

If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected.

#### V. CONFLICTING ORDINANCES REPEALED.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

#### W. EFFECTIVE DATE.

This ordinance shall be enforced from and after February 26, 2006.

The County Clerk shall, within seven (7) days after adoption of Ordinance Amendment #2-2009 by the Oneida County Board of Supervisors, cause a certified copy thereof to be transmitted by mail to all Town Clerks and the Wisconsin Department of Natural Resources.

Approved by the Planning and Zoning Committee this 4th day of March, 2009.

Offered and passage moved by Supervisors Scott Holewinski, Frank H. Greb, Larry Greschner and Ted Cushing.

**Motion/second Holewinski/Cushing** to waive the reading of Resolution #22-2009/OA and read only Lines 5 through 45.

**Roll call: 14 ayes 4 nay (Petroskey, Paszak, Hoffman, Matteson) 3 absent (Rudolph, Sharon, Smith)**

**Student Representatives: 1 aye 3 nay.**

**Resolution #23-2009/OA** – offered by Supervisors of the Planning and Zoning Committee amending Chapter 9 – Section 9.50 – Legal Pre-Existing Structures and Uses in Non-Shoreland Areas.

Resolved by the Board of Supervisors of Oneida County, Wisconsin:

**WHEREAS**, the Planning & Zoning Committee, having considered Ordinance Amendment #4-2009, (copy attached) which was filed January 29, 2009 to amend the Oneida County Zoning and Shoreland Protection Ordinance, and having given notice thereof as provided by law and having held a public hearing thereon February

18, 2009 pursuant to Section 59.69(5), Wisconsin Statutes, and having been informed of the facts pertinent to the changes which are as follows:

**WHEREAS**, the Planning and Zoning Committee through Resolution #2-2009 is proposing to allow the expansion of Adult Oriented Businesses by 100 percent of the footprint; and

**WHEREAS**, the Planning and Zoning Committee wanted to be consistent in the treatment of all legal pre-existing uses and structures both in the non-shoreland and Shoreland areas; and

**WHEREAS**, this Ordinance Amendment would allow 100 percent expansion of the building foot print of a legal pre-existing use; and

**WHEREAS**, all Towns were provided with written notice of said changes and no Town objected; and

**WHEREAS**, the Planning & Zoning Committee has carefully studied the proposed changes after listening to comments made at the public hearing two (2) in support and zero (0) against, and recommends approval; and

**NOW THEREFORE, THE ONEIDA COUNTY BOARD OF SUPERVIORS DOES ORDAIN AS FOLLOWS:**

Section 1: Any existing ordinances, codes, resolutions, or portion thereof in conflict with this ordinance shall be and are hereby repealed as far as any conflict exists.

Section 2: This ordinance shall take effect the day after passage and publication as required by law.

Section 3: If any claims, provisions, or portions of this ordinance are adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected thereby.

Section 4: Additions noted by underline; deletions noted by ~~striketrough~~.

Chapter 9 of the Oneida County Zoning & Shoreland Protection Ordinance is amended as follows:

9.50 LEGAL PRE -EXISTING STRUCTURES AND USES IN NON-SHORELAND AREAS (#25-2004)

Subsection A & B to remain unchanged

**C. Legal Pre-Existing Uses**

- 1. ~~No expansion:~~ A legal pre-existing use of a structure or premise shall ~~not be~~ may be expanded or enlarged upon issuance of an administrative review permit. ~~No such use shall be expanded within a structure which, on the date the use became legal pre-existing, was only partially devoted to such use.~~ No structural alteration, addition or repair to any building or structure with a legal pre-existing use, over the life of the building or structure shall exceed 100 percent of its building footprint at the time it became legal pre-existing unless it is permanently changed to conform to the requirements of this ordinance and provided that the requirements of Section 9.50 and 9.99 are met.**

The remainder of Subsection to remain unchanged

PART C

9.99 SHORELAND USES AND STRUCTURES

Section A & B to remain unchanged

**C. Legal Pre-Existing Uses**

**A legal pre-existing use of a structure or premises shall ~~not be~~ may be expanded or enlarged upon issuance of an administrative review permit. ~~No such use shall be expanded within a structure which, on the date the use became legal pre-existing, was only partially devoted to such use.~~ No structural alteration, addition or repair to any building or structure with a legal pre-existing use, over the life of the building or structure shall exceed 100 percent of its building footprint at the time it became legal pre-existing unless it is permanently changed to conform to the requirements of this ordinance and provided that the requirements of Section 9.50 and 9.99 are met.**

The remainder of Subsection to remain unchanged.

The County Clerk shall, within seven (7) days after adoption of Ordinance Amendment #4-2009 by the Oneida County Board of Supervisors, cause a certified copy thereof to be transmitted by mail to all Town Clerks and the Wisconsin Department of Natural Resources.

Approved by the Planning and Zoning Committee this 4th day of March, 2009.

Offered and passage moved by Supervisors Scott Holewinski, Frank H. Greb, Larry Greschner and Ted Cushing.

**Motion/second Greschner/Vandervest** to waive the reading of Resolution #23-2009/OA. All “ayes” on voice vote.

**Roll call: 18 ayes 0 nay 3 absent (Rudolph, Sharon, Smith)**

**Student Representatives: 4 ayes.**

**Resolution #24-2009** – offered by Supervisors of the Finance and Insurance Committee regarding 2008 Line Item Transfers.

**Resolved by the Board of Supervisors of Oneida County, Wisconsin:**

**WHEREAS**, Section 65.90(5)(a) dictates that appropriations in the Oneida County budget may not be changed unless authorized by a vote of two-thirds of the entire membership of the County Board of Supervisors, and

**WHEREAS**, the Finance and Insurance Committee has reviewed and does recommend the 2008 transfers listed below,

**NOW, THEREFORE, BE IT RESOLVED** the Oneida County Board of Supervisors authorizes and directs the budget transfers as listed below:

Transfer from:	Comm: Finance and Insurance Applied Continuing Appn-Upgrade
Transfer to:	Information Technology Services Capital Expenses
Amount:	\$5,700
Re:	To apply carryforward balances to 2008 budget

Transfer from:	Comm: Land and Water Conservation State Aid-Wildlife Damage
Transfer to:	Wildlife Damage Expenses
Amount:	\$2,150
Re:	To apply additional revenues received to related expenses

Transfer from:	Comm: Emergency Management State Aid-HAZMAT
Transfer to:	HAZMAT Expenses
Amount:	\$3,551
Re:	To apply additional revenues received to related expenses

Transfer from:	Comm: Social Services State Aid-Burials
Transfer to:	Burial Expenses
Amount:	\$299
Re:	To apply additional revenues received to related expenses

Transfer from:	Comm: Social Services County Share of Fraud
Transfer to:	Social Services Base Expenses
Amount:	\$792
Re:	To apply additional revenues received to related expenses

Transfer from:	Comm: Finance and Insurance Applied Continuing Appn-Land Record Fee
Transfer to:	Information Technology Services Expenses
Amount:	\$5,129
Re:	To apply carryforward balances to 2008 budget

Transfer from:	Comm: Land Information Applied Continuing Appn-Remonumentation
Transfer to:	Land Information Expenses
Amount:	\$3,321
Re:	To apply carryforward balances to 2008 budget

Transfer from:	Comm: Land Information Applied Continuing Appn-Land Records Fee
Transfer to:	Land Information Expenses

Amount:	\$71,650
Re:	To apply carryforward balances to 2008 budget

  

Transfer from:	Comm: Building and Grounds Applied Continuing Appn-Equipment
Transfer to:	Building and Grounds Capital Outlay
Amount:	\$28,947
Re:	To apply carryforward balances to 2008 budget

  

Transfer from:	Comm: Forestry Applied Continuing Appn-Parks
Transfer to:	Parks Capital Outlay
Amount:	\$35,533
Re:	To apply carryforward balances to 2008 budget

  

Transfer from:	Comm: Forestry Donations-Parks
Transfer to:	Parks Capital Outlay
Amount:	\$37,190
Re:	To apply additional revenues received to related expenses

  

Transfer from:	Comm: Forestry State Aid-Parks
Transfer to:	Parks Capital Outlay
Amount:	\$8,300
Re:	To apply additional revenues received to related expenses

  

Transfer from:	Comm: Forestry State Aid-Snowmobile Trails
Transfer to:	Snowmobile Trail Expenses
Amount:	\$8,502
Re:	To apply additional revenues received to related expenses

  

Transfer from:	Comm: Finance and Insurance Fund Balance Applied-Construction
Transfer to:	Construction Fund
Amount:	\$11,688
Re:	To apply carryforward balances to 2008 budget

  

Transfer from:	Comm: Finance and Insurance Fund Balance Applied-Health Ins Trust
Transfer to:	Health Insurance Trust Expenses
Amount:	\$4,820
Re:	To apply carryforward balances to 2008 budget

  

Transfer from:	Comm: Finance and Insurance Charges to Dept-Central Purchasing
Transfer to:	Central Purchasing Expenses
Amount:	\$703
Re:	To apply additional revenues received to related expenses

  

Transfer from:	Comm: Finance and Insurance State Aid-Human Service Center
Transfer to:	Human Service Center Expenses
Amount:	\$32,869
Re:	To apply additional revenues received to related expenses

  

Transfer from:	Comm: Finance and Insurance Rent of Building
Transfer to:	Human Service Center Expenses
Amount:	\$584
Re:	To apply additional revenues received to related expenses

  

Transfer from:	Comm: Law Enforcement District Attorney Revenues
Transfer to:	District Attorney Expenses

Amount:	\$11,623
Re:	To apply additional revenues received to related expenses

  

Transfer from:	Comm: Finance and Insurance Charges to Dept-Postage
Transfer to:	Postage Expenses
Amount:	\$3,636
Re:	To apply additional revenues received to related expenses

  

Transfer from:	Comm: Commission on Aging State Aid-USDA Revenues
Transfer to:	Meal Expenses
Amount:	\$3,248
Re:	To apply additional revenues received to related expenses

  

Transfer from:	Comm: Commission on Aging Benefit Specialist Program Income
Transfer to:	Benefit Specialist Expenses
Amount:	\$2,000
Re:	To apply additional revenues received to related expenses

  

Transfer from:	Comm: Commission on Aging Fund Balance Applied-State Aid Restricted
Transfer to:	Nutrition Expenses
Amount:	\$3,074
Re:	To apply carryforward balance to 2008 budget

  

Transfer from:	Comm: Commission on Aging Senior Center Program Income
Transfer to:	Senior Center Expenses
Amount:	\$5,403
Re:	To apply additional revenues received to related expenses

  

Transfer from:	Comm: Commission on Aging Fund Balance Applied DOT Trust
Transfer to:	Transportation Expenses
Amount:	\$2,427
Re:	To apply carryforward balance to 2008 budget

  

Transfer from:	Comm: Emergency Management Applied Continuing Appn-Ambulance
Transfer to:	Ambulance Automotive Equipment
Amount:	\$10,537
Re:	To apply carryforward balance to 2008 budget

  

Transfer from:	Comm: Board of Health Fund Balance Applied-WIC
Transfer to:	Women, Infants and Children Expenses
Amount:	\$6,704
Re:	To apply carryforward balance to 2008 budget

  

Transfer from:	Comm: Board of Health Intergovernmental Revenues
Transfer to:	Public Health Expenses
Amount:	\$1,848
Re:	To apply additional revenues received to related expenses

  

Transfer from:	Comm: Board of Health Family Planning Program Income
Transfer to:	Family Planning Expenses
Amount:	\$1,578
Re:	To apply additional revenues received to related expenses

  

Transfer from:	Comm: Social Services Child Support Fees
Transfer to:	Social Services Overhead Expenses

Amount:	\$265
Re:	To apply additional revenues received to related expenses

Approved by the Finance Committee this \_\_9th\_\_ day of \_\_March\_\_ 2009.  
 Offered and passage moved by Supervisors Frank H. Greb, John Hoffman, Andrew P. Smith, Ted Cushing and John R. Young.

**Motion/second Hoffman/Petroskey** to waive the reading of Resolution #24-2009. All “ayes” on voice vote.

**Roll call: 18 ayes 0 nay 3 absent (Rudolph, Sharon, Smith)**  
**Student Representatives: 4 ayes.**

**Resolution #25 -2009/Rezone Petition #1-2009** – offered by Supervisors of the Planning and Zoning Committee amending the Master Zoning District Document and the Oneida County Official Zoning District Boundary Map – Town of Nokomis.

Resolved by the Board of Supervisors of Oneida County, Wisconsin:

**WHEREAS**, the Planning & Zoning Committee, having considered Petition #1-2009, (copy attached) which was filed January 5, 2009, to amend the Master Zoning District Document and the Oneida County Official Zoning District Boundary Map, and having given notice thereof as provided by law and having held a public hearing thereon March 4, 2009 pursuant to Section 59.69(5), Wisconsin Statutes, and having been informed of the facts pertinent to the changes which are as follows:

To rezone the following described lands from District 1-A Forestry to District #4 Residential Farming:

- Part A: NE SW, Section 29, T36N, R6E,
- Part B: SE SW, Section 29, T36N, R6E

And being duly advised of the wishes of the people in the area affected as follows:

This land has recently been purchased by the petitioner. His plans include subdividing this into larger size residential lots for year round use. New owners could also raise animals on the property if they chose to. Adjoining landowners were provided with a written notice of said change and no one objected to this request. No written objections were received and no one appeared at the public hearing opposed to said change.

The Town of Nokomis approved the request in writing (copy attached). The Planning & Zoning Committee has reviewed the general standards as specified in Section 9.86F of the Oneida County Zoning & Shoreland Protection Ordinance and concluded that the standards have been met. The Planning & Zoning Committee recommends passage.

**NOW THEREFORE, THE ONEIDA COUNTY BOARD OF SUPERVISORS DOES ORDAIN AS FOLLOWS:** Petition #1-2009.

Section 1: Any existing ordinances, codes, resolutions, or portion thereof in conflict with this ordinance shall be and are hereby repealed as far as any conflict exists.

Section 2: The ordinance shall take effect the day after passage and publication as required by law.

Section 3: If any claims, provisions, or portions of this ordinance are adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected thereby.

Section 4: Rezone Petition #1-2009 is hereby adopted amending the Master Zoning District Document and the Oneida County Official Zoning District Boundary Map, by changing the zoning district classification District 1-A Forestry to District #4 Residential and Farming on property described as follows:

To rezone the following described lands from District 1-A Forestry to District #4 Residential Farming:

- Part A: NE SW, Section 29, T36N, R6E, Town of Nokomis.
- Part B: SE SW, Section 29, T36N, R6E, Town of Nokomis.

The County Clerk shall, within seven (7) days after adoption of Rezone Petition #1-2009 by the Oneida County Board of Supervisors, cause a certified copy thereof to be transmitted by mail to the Nokomis Town Clerk.

Approved by the Planning and Zoning Committee this 9<sup>th</sup> day of March, 2009.  
 Offered and passage moved by Supervisors Ted Cushing, Larry Greschner, Frank H. Greb and Charles Wickman.

**Motion/second Cushing/Baier** to amend Resolution #25-2009/Rezone Petition #1-2009 and delete lines 45 and 46.

**Roll call: 18 ayes 0 nay 3 absent (Rudolph, Sharon, Smith)**

**Student Representatives: 4 ayes. Resolution Amended.**

**Roll call on amended resolution: 18 aye 0 nay 3 absent (Rudolph, Sharon, Smith)**

**Student Representatives: 4 ayes.**

**Resolution #26-2009/Rezone Petition #5-2009** – offered by Supervisors of the Planning and Zoning Committee amending the Master Zoning District Document and the Oneida County Official Zoning District Boundary Map – Town of Nokomis.

Resolved by the Board of Supervisors of Oneida County, Wisconsin:

**WHEREAS**, the Planning & Zoning Committee, having considered Petition #05-2009, (copy attached) which was filed February 17, 2009, to amend the Master Zoning District Document and the Oneida County Official Zoning District Boundary Map, and having given notice thereof as provided by law and having held a public hearing thereon March 4, 2009 pursuant to Section 59.69(5), Wisconsin Statutes, and having been informed of the facts pertinent to the changes which are as follows:

To rezone the following lands from District #02 Single Family Residential to District #07 Business.

Part A: That part of Gov't Lot 2 lying north of Bearskin Creek, parcels NO 24-2 and NO 24-1 located in Section 2, T36N, R6E and

Part B: That part of the SW NE lying north of Bearskin Creek parcel NO 19 located in Section 2, T36N, R6E. Said lands being located in Nokomis, Oneida County Wisconsin.

And being duly advised of the wishes of the people in the area affected as follows:

This area involves three (3) parcels. All owners have been notified of said request. The largest of the three parcels has recently been sold. The new owner wishes to develop his parcel for business purposes, which is currently prohibited pursuant to single family residential zoning district requirements. The Town of Nokomis authored the request in writing (copy attached) and also owns one (1) of the parcels within this request. No written objections were received and no one appeared at the public hearing in opposition to the change. The Planning and Zoning Committee has reviewed the general standards as specified in Section 9.86 F of the Oneida County Zoning and Shoreland Protection Ordinance and concluded that the standards have been met. The Planning and Zoning Committee unanimously recommends passage.

The Planning & Zoning Committee has reviewed the general standards as specified in Section 9.86F of the Oneida County Zoning & Shoreland Protection Ordinance and concluded that the standards have been met. The Planning & Zoning Committee recommends passage.

**NOW THEREFORE, THE ONEIDA COUNTY BOARD OF SUPERVISORS DOES ORDAIN AS FOLLOWS:** Petition #5-2009:

Section 1: Any existing ordinances, codes, resolutions, or portion thereof in conflict with this ordinance shall be and are hereby repealed as far as any conflict exists.

Section 2: The ordinance shall take effect the day after passage and publication as required by law.

Section 3: If any claims, provisions, or portions of this ordinance are adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected thereby.

Section 4: Rezone Petition #5-2009 is hereby adopted amending the Master Zoning District Document and the Oneida County Official Zoning District Boundary Map, by changing the zoning district classification from District #02 Single Family Residential to District #7 Business on property described as follows:

Part A: That part of Gov't Lot 2 lying north of Bearskin Creek, parcels NO 24-2 and NO 24-1 located in Section 2, T36N, R6E and

Part B: That part of the SW NE lying north of Bearskin Creek parcel NO 19 located in Section 2, T36N, R6E. Said lands being located in Nokomis, Oneida County Wisconsin.

The County Clerk shall, within seven (7) days after adoption of Rezone Petition #5-2009 by the Oneida County Board of Supervisors, cause a certified copy thereof to be transmitted by mail to the Nokomis Town Clerk.

Approved by the Planning and Zoning Committee this 4<sup>th</sup> day of March 2009.  
Offered and passage moved by Supervisors Scott Holewinski, Frank H. Greb, Larry Greschner, Ted Cushing and Charles Wickman.

**Roll call: 18 ayes 0 nay 3 absent (Rudolph, Sharon, Smith)**  
**Student Representatives: 4 ayes.**

Vice Chair Greb asks that Supervisor Cushing steps in as Chair. All “ayes” on voice vote. Supervisor Greschner seconds Supervisor Greb’s Resolution #27-2009.

**Resolution #27-2009** – offered by Supervisor Franklin Greb regarding removal of the deed restriction upon an unknown number of lots in the Gary Post Tribune Subdivision – Town of Three Lakes.

Resolved by the Board of Supervisors of Oneida County, Wisconsin:

**WHEREAS**, Oneida County placed a deed restriction upon an unknown number of lots in the Gary Post Tribune Subdivision (complete list of lots attached hereto) after tax delinquent property sales which reads: “This conveyance is made upon the expressed condition that the above descriptions shall not be used for permanent residential purposes.”; and

**WHEREAS**, owners and prospective purchasers of these properties have sought to have the deed restriction set forth above removed from the title of the property; and

**WHEREAS**, Oneida County Code sec. 18.07 requires that an application for the removal of the deed restriction and a \$500.00 administrative fee be paid in order to process this transaction; and

**WHEREAS**, Frank Greb, Supervisor for the Town of Three Lakes, respectfully request that the County Board waives the ordinance requirement that the owner of the property file an application and pay a \$500.00 administrative fee in order to process the removal of the deed restriction from the above noted property.

**NOW, THEREFORE, BE IT RESOLVED** that the Oneida County Board of Supervisors hereby removes the above referenced deed restriction from any lot (as set forth in the attached list) in the Gary Post Tribune Plat; and

**BE IT FURTHER RESOLVED** that the Oneida County Board of Supervisors waives the necessity of application and payment of a \$500.00 administration fee for this transaction.

**BE IT FURTHER RESOLVED** that an affidavit will be prepared by the Corporation Counsel and the County Clerk shall sign and place the Oneida County seal upon a said affidavit releasing the above referenced deed restriction with a copy of this resolution attached as proof of the County Board’s action to remove this restriction.

Dated this 11th day of March 2009.

Offered and passage moved by Supervisor Frank H. Greb. Second by Greschner.

**Motion/second O’Melia/Vandervest** to amend Resolution #27-2009 at Line 72 and add “17<sup>th</sup>”, March 2009.”

**Roll call on resolution as amended: 18 aye 0 nay 3 absent (Rudolph, Sharon, Smith)**

**Student Representatives; 4 ayes.**

**Resolution is amended.**

**Roll call on amended resolution: 18 ayes 0 nay 3 absent (Rudolph, Sharon, Smith)**

**Student Representatives: 4 ayes.**

**Resolution #28-2009** – offered by Supervisors of the Labor Relations and Employee Services Committee regarding the creation of a new, full time, Economic Support Specialist position.

**Resolved by the Board of Supervisors of Oneida County, Wisconsin:**

**WHEREAS**, the Oneida County Department of Social Services is seeking to establish a new, full time, Economic Support Specialist position (see attached job description and fiscal impact statement) pursuant to the procedures outlined in Oneida County Code section 4.20(4); and

**WHEREAS**, the deepening recession and subsequent demand for food stamps and medical assistance (BadgerCare), current staff are unable to keep up with and maintain the ever increasing workload (see attached caseload breakdowns), creating extraordinary and unanticipated circumstances necessitating the additional position; and

**WHEREAS**, the County Coordinator and Auditor/Finance director have reviewed this request and approved the additional position; and

**WHEREAS**, the Social Services committee has reviewed this request and approved the additional position on January 30, 2009; and

**WHEREAS**, the Labor Relations and Employee Services Committee reviewed this request and approved the additional position on February 10, 2009; and

**WHEREAS**, the Finance and Insurance Committee has reviewed this request and approved the additional position on February 23<sup>rd</sup>, 2009; and

**NOW, THEREFORE, BE IT RESOLVED**, the Oneida County Board of Supervisors does hereby approve the additional Economic Support Position for the Oneida County Department of Social Services consistent with the attached Job Description and Fiscal Impact Statement; and

**BE IT FURTHER RESOLVED**, that the Oneida County Board of Supervisors finds that the extraordinary and unexpected circumstances as cited by the Oneida County Department of Social Services justifies the addition of this position pursuant to the provisions of Oneida County Code section 4.20; and

**BE IT FURTHER RESOLVED**, that the position costs for 2009 will be paid for by a 50% Economic Support Federal Overmatch and anticipated third party revenues.

Approved by the Labor Relations Employee Services Committee this 11<sup>th</sup> day of March, 2009.

Offered and passage moved by Supervisors John R. Young, Paul Dean, Ted Cushing, Scott Holewinski and Charles Wickman.

**ONEIDA COUNTY  
FISCAL IMPACT  
Economic Support**

**2008 Wage Rates, 2009 Health Insurance Rates**

**Economic Support  
Grade 6, Step 1  
Courthouse Union**

	<b>Annual</b>
Wages	26,491
Social Security	2,027
Retirement-er	1,457
Retirement-ee	1,563
Health Ins-Maximum	19,061
Life Ins-Estimated	20
Workers Comp	686
Income Continuation Ins	<u>68</u>
	51,372
Estimated State Aids 50%	25,686
Tax Levy	25,686

Revenue Source: State Aids and Tax Levy

**Roll call: 18 ayes 0 nay 3 absent (Rudolph, Sharon, Smith)  
Student Representatives: 4 ayes.**

**Resolution #29-2009/General Code/OA** – offered by Supervisors of the Land Records Committee amending Chapter 18 – Sections 18.02, 18.05, 18.08.

**Ordinance Amendment offered by Supervisors of the Land Records Committee**

**Whereas**, Chapter 18 is titled County Real Estate Transactions, and

**Whereas**, The Land Records Committee was assigned the jurisdiction of said Chapter per Resolution #35-2007, and

**Whereas**, The Committee recommends that the Ordinance be revised as set forth below.

**NOW, THEREFORE, THE ONEIDA COUNTY BOARD OF SUPERVISORS DOES ORDAIN AS FOLLOWS:**

Section 1. Any existing ordinances, codes, resolutions, or portions thereof in conflict with this ordinance shall be and hereby are repealed as far as any conflict exists.

Section 2. This ordinance shall take effect the day after passage and publication as required by law.

~~Section 3. If any claims, provisions or portions of this ordinance are adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.~~

Section 4. Chapter 18 of the General Code of Oneida County, Wisconsin, is amended as follows [additions noted by underline, deletions noted by strikethrough]:

A) Section 18.02 (2) (b) (1) is amended as follows: For real estate acquired through tax deed or in rem tax foreclosure judgment, the values to be used for minimum bid amounts at the first advertised sale of those properties with a last known estimated fair market value of \$25,000 or greater as listed in the tax roll, shall be offered for no less than the last known fair market value as listed in the tax roll, or at the discretion of the Committee, for the value determined by an appraisal conducted by a certified appraiser.

B) Section 18.05 (3) (d) is amended as follows: The Committee shall determine if it would be in the best interest of the County to obtain an appraisal of the land to determine its value or may choose to classify and sell the land as follows: 1) commercial/business (\$1000/acre), 2) upland (\$625/acre) or 3) lowland/wetland (\$250/acre). The lands shall be sold at a minimum of \$3000 per acre. Upon final approval from the County Board the requestor has 60 days to make payment. Upon receipt of payment for the real estate and recording fees and as directed by County Board action, the County Clerk shall issue and record a quit claim deed to the landowner titled in the same manner to which the land is to be attached.

C) Section 18.08 is amended as follows: Renumber Section 18.08 to 18.09.

D) Section 18.08 USE OF PROPERTY is created as follows: Oneida County property that is under the jurisdiction of this Chapter shall be open for public use unless the County provides public notice that the property is closed or restricted against certain uses. No overnight camping including tents, trailers, cars, trucks, hunting or fishing structures is permitted on these properties. All motorized vehicles, except those which are authorized by the Committee, are prohibited from traveling off-road, off-trail, or cross-country and must remain on roads or trails open to them. Any damage to, manipulation of, or attempt to circumvent, a gate, sign, rocks, or earthen berm is prohibited. The dumping of litter, rubbish, debris, dirt, stone, lawn clippings, or brush any other materials shall be prohibited on all these properties. No posting of unauthorized signs, handbills, markers, marking material or advertising matter will be permitted. Disturbing, defacing, removing or destroying any trees, shrubs, plants or other natural growth is prohibited. Driving nails, placing screws, or other metal in trees is prohibited. Removing, injuring or defacing in any manner any structures including buildings, signs, fences, tables or other County property is prohibited. The cutting and/or removal of trees or wood products including, but not limited to, branches, tree tops, logging residue, firewood, pulpwood, boltwood or sawlogs from these properties is prohibited unless the person doing the cutting or removal is the holder of a valid written permit that has been issued by the Committee.

Approved by the Land Records Committee on March 11th, 2009.

Offered and passage moved by Supervisors Gary Baier, David O'Melia, Denny Thompson, Peter Wolk and Frank H. Greb.

**Motion/second Petroskey/Martinson** to waive the reading of Resolution #29-2009/General Code/OA. All "ayes" on voice vote.

**Roll call: 18 ayes 0 nay 3 absent (Rudolph, Sharon, Smith)**

**Student Representatives: 4 ayes.**

**County Treasurer declaration of unlawful tax WI Stats 74.35/74.33.**

**Motion/second Cushing/Baier** to approve the County Treasurer declaration of unlawful tax WI Stats 74.35/74.33.

**Roll call: 18 aye 0 nay 3 absent (Rudolph, Sharon, Smith)**

**Student Representatives: 4 ayes.**

Ben Bruso, Alternate TAG, excused from meeting at 11:09 a.m.

**Other business** - NONE

**Appointments to committees, commissions and other organizations**

- Reappoint Wilbur Petroskey to serve a 6 year term on the Rhinelander/Oneida County Airport Commission, which will expire in April 2015.
- Appoint Harland Lee to the Human Service Board for a term of three years starting April 1, 2009 and ending March 31, 2012.

**Motion/second Greschner/O'Melia** to accept the reappointment of Wilbur Petroskey to serve a six year term on the Rhinelander/Oneida County Airport Commission and the appointment of Harland Lee to the Human Service Board for a term of three years. All "ayes" on voice vote.

**Adjournment - Motion/second O'Melia/Cushing** to adjourn at 11:10 a.m. All "ayes" on voice vote.