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OCCUPANCY TAX COORDINATION

DATE: May 22, 2017

Committee Supervisors:

**D. Dickinson, Chairman
E. Merlino
M. Simpson
J. Strough
D. Beaty
E. Frasier
C. Leggett
R. Montesi
M. MacDonald
K. Geraghty**

- I. Committee meeting called to order by Chairman.**
- II. Motion to approve minutes of meeting held on April 24, 2017**
- III. Report on Revenues from the County Treasurer**
- IV. Action Agenda:**
 - Revisit Adirondack Hot Air Balloon Festival - \$15,000**
 - Treasurer to discuss amending Occupancy Tax law relating to housekeeping cabins and nonprofit property exemptions**
 - Chairman to update committee on Airbnb**
- V. Adjourn.**
- VI. Pending Item:**

Chairman working on setting up a presentation by representatives of Airbnb to take place at a future Committee Meeting.



May 22, 2017

Ms. Leisa Grant
Principal Account Clerk
Warren County Tourism
County Route 9
Lake George, NY 12804

Dear Ms. Grant;

Planning is now well underway for the 45th Anniversary Celebration of the Adirondack Balloon Festival which will be held September 21-24, 2017. The Balloon Festival is one of the largest spectator event hosted within the County and we are very appreciative of the County's support of the event. The occupancy tax contribution assists the festival in paying its major expenses including special shape balloons, pilot lodging, propane, advertising, and insurance.

As a not for profit, the festival relies on Town and County Occupancy Tax support, as well as advertising and sponsorship revenue, merchandise sales, and vendor contributions to make this event such a huge success for our region. We are proud of the tremendous economic impact the event has on our region and we recently ranked 12th in the *Capital Region Business Review's "List of Top Festivals and Tourist Attractions"*. For comparison, Washington County Fair was ranked 13th, Americade 21st, and West Mountain 22nd. Saratoga Racino ranked first, and the Race Course was 2nd.

We are also proud to share that the Balloon Festival will be featured in Southwest Airlines fall publication and has been named one of their top fall events. This publication is seen by more than 5 million people across the country, wherever Southwest flies. This notoriety joins other recent exposure in prior years from live broadcasts from the *Weather Channel*, *Food Network*, *National ABC news*, and a *Martha Stewart Living Best Bet for 2016*.

Many of our local not-for profits rely on the Festival to be their largest fundraiser of the year. More than \$50,000 is raised by the World Awareness Children's Museum, Zonta, Rotary, Open Door and many

others to help fulfill their mission every year and to keep the money in our local community. There are few other events in our region that can make this claim.

For 2016, the Festival was approved for just over \$50,000 in funding, however we only vouchered based on need, for \$40,000. We have always said in the past, as a not for profit, we will never request funds we feel we do not need to start the following year's event. Our event is completely weather dependent.

For 2017, we would like to request the additional \$15,000 in funding from Tourism be reappropriated as occupancy tax funding to maintain a total funding level of \$40,000.

At the conclusion of this year's event, we will provide you with a wrap up as well as supporting documents to support the town's contribution.

On behalf of our Board of Directors, our sincere thanks for your ongoing support of this event which has such a tremendous impact on the quality of life of our region.

Sincerely;

A handwritten signature in black ink that reads "Mark Donahue". The signature is written in a cursive, slightly slanted style.

Mark Donahue

President

Board of Directors

Warren County
Occupancy Tax
2017

2017 Revenues

Revenue Collected through 5/19/17	\$ 349,368.17
Revenue Collected through 5/19/16	\$ 267,935.38
Increase/(Decrease) from 2017	<u>\$ 81,432.79</u>
Increase/(Decrease) from 2017	23.31%

Occupancy Tax Fund Balance

General Ledger Balance at 12/31/16	3,014,322.63
Appropriated 2017 Budget	(972,547.00)
Occupancy Tax Fund Balance at 12/31/16	<u>2,041,775.63</u>
Res#82 '17; Budget Amendment (A.6417 480)	(110,000.00)
Res#83 '17; Charles Wood Park Water Feature	(150,000.00)

1,781,775.63

Designated Reserve; per Res #558 '14 1,000,000.00

Reserve Balances Prior Years

<u>2004</u>		<u>2011</u>	
G/L Balance	2,049,475.22	G/L Balance	2,714,786.13
Approp 2005 Budget	(1,500,000.00)	Approp 2012 Budget	(1,866,673.00)
	<u>549,475.22</u>		<u>848,113.13</u>
<u>2005</u>		<u>2012</u>	
G/L Balance	2,280,971.34	G/L Balance	2,496,472.28
Approp 2006 Budget	(2,150,000.00)	Approp 2013 Budget	(1,890,353.00)
	<u>130,971.34</u>		<u>606,119.28</u>
<u>2006</u>		<u>2013</u>	
G/L Balance	2,247,400.00	G/L Balance	2,713,243.98
Approp 2007 Budget	(2,150,000.00)	Approp 2014 Budget	(2,031,239.00)
	<u>97,400.00</u>		<u>682,004.98</u>
<u>2007</u>		<u>2014</u>	
G/L Balance	2,481,414.57	G/L Balance	3,018,439.36
Approp 2008 Budget	(2,150,000.00)	Approp 2015 Budget	(179,889.00)
	<u>331,414.57</u>		<u>2,838,550.36</u>

WARREN COUNTY OFFICE OF TREASURER

**Warren County Occupancy Tax Law
Informational Memorandum**

Amendment - Housekeeping Cottages

This Memorandum is intended to amend a prior Informational Memorandum issued by this office and currently available on the Warren County website, and titled "Warren County Occupancy Tax Law Informational Memorandum - Housekeeping Cottages".

I. Amendment of Article IID(2)

Currently the lessor of "non-housekeeping cottages" or "bungalows" will not be considered to be the operator of a hotel or a motel, and hence, rent paid for the occupancy of the same is not subject to the occupancy tax if certain criteria are met, including the following criteria: "The required minimum rental of a facility is for at least one week at all times during the rental year". The purpose of this Memorandum is to amend the aforesaid to provide that in order to obtain the exemption for those times the facility is rented for seven days or more (assuming all other criteria under paragraph IID are met) it will not be necessary to have a minimal rental period of one week for a non-housekeeping cottage or bungalow at all times throughout the year. Please note that this amendment applies only to "non-housekeeping cottages" or "bungalows" and not to any other type of hotel or motel, as defined in Warren County Local Law No. 4 of 2003.

Paragraph D, as amended, shall now read as follows:

D. Rental for occupancy of Non-Housekeeping Cottages or Bungalows not subject to taxation.

A lessor of "non-housekeeping cottages" or "bungalows" will not be considered the operator of a hotel or motel and hence rent paid for occupancy of the same is not subject to the occupancy tax if all of the following criteria are met:

- 1) No centralized services are provided, including no maid, food or other common hotel services (for example: wake-up calls, Continental breakfasts, and concierge services) such as entertainment or planned activities. Providing a completely furnished cottage, including dishes, silverware, etc. and the furnishing of linens by the lessor without the service of changing the linens does not alter the nontaxable status; and
- 2) The required minimum rental of the facility is for at least one week; and
- 3) The name "housekeeping" does not appear in the advertised description of the cottages to be rented except that lessors may claim that lessor is leasing or

renting exempt non-housekeeping cottage(s) or bungalow(s) by demonstrating: (1) compliance with all other criteria set forth in this section; (2) that the advertisements where the description "housekeeping" appears were contracted for prior to the effective date of the Warren County Occupancy Tax Law; (3) the word "housekeeping" is not included in any future advertisements; and (4) the word "housekeeping" does not appear on any billboards or other signs relating to the premises.

Accordingly, Example No. 5 as set forth in the Housekeeping Cottages Informational Memorandum is also amended to read as follows:

Example: 5) DEF, Inc. operates 5 non-housekeeping cottages and will, during slow times of the year, rent the cottages for a minimum of three (3) nights. Linens are provided.

In the above example, the rent paid for the occupancy of the facilities *is* subject to taxation for those transactions where the non-housekeeping cottages are rented for less than seven nights. However, when those same non-housekeeping cottages are rented for seven (7) nights or longer, the rental shall not be subject to taxation, provided that all other criteria set forth in D1 and 3 are met.

III. Reservation of Rights/Redetermination

This informational memorandum sets forth the views of the Warren County Treasurer's Office at this time concerning determinations to be made in connection with non-housekeeping cottages and bungalows. This informational memorandum is not the law but rather the determination of the Warren County Treasurer on how the law is to be administered. This informational memorandum is subject to revision and/or change in the future based on experience, additional information and/or future interpretations, provided through enactment of laws or decisions by Courts of Law. In the event this informational memorandum is changed, the same will be posted on the website and copies of any amendments to this informational memorandum will be sent to all reporting hotels or motels, in addition to the Tourism Department of Warren County and chambers of commerce identified by the Tourism Department and located in Warren County.

Permanent residency

For purposes of the Warren County Occupancy Tax administered by the Warren County Treasurer (other than New York State's 7¼% tax), an occupant of a room or rooms in a hotel for at least 30 consecutive days is considered a permanent resident with regard to the period of such occupancy. For purposes of New York State's 7¼% tax, it is noted that a different period of time must elapse before a person is considered a permanent resident for Sales Tax administered by the State Tax Department, and you are advised to refer to state law and New York State Tax Department bulletins concerning the period of time that must elapse before a person is considered a permanent resident.

Determining whether a business qualifies as a permanent resident, under the Warren County Occupancy Tax Law

Follow State practices - see TSB-M-03(1)S from New York State Department of Taxation and Finance website at <http://www.tax.state.ny.us/>

Hotel/Motel operators must collect and remit occupancy tax

Follow State practices - see TSB-M-03(1)S from New York State Department of Taxation and Finance website at <http://www.tax.state.ny.us/>, except substitute 30 days for 90 days

Refunds for permanent residents

Follow State practices - see TSB-M-03(1)S from New York State Department of Taxation and Finance website at <http://www.tax.state.ny.us/>, except substitute 30 days for 90 days

Responsibility of hotel operators

Follow State practices - see TSB-M-03(1)S from New York State Department of Taxation and Finance website at <http://www.tax.state.ny.us/>

On and after January 1, 2007, and in addition to any other tax previously authorized and imposed pursuant to Article 28 or 29 of the Tax Law or any other law, there is imposed and there shall be paid a tax of four percent (4%) upon the rent for every occupancy of a room or rooms in a hotel or motel located within the County, except that such tax shall not be imposed upon (a) a permanent resident of a hotel or motel or (b) housekeeping cottages having less than four (4) rentable units.

Section 5. *Transitional Provisions.*

The tax imposed by this local law shall be paid upon any occupancy on and after the date set forth in Section 4 hereof, although such occupancy is pursuant to a prior contract, lease, or other arrangement. Where rent is paid on a weekly or other term basis, the rent shall be subject to the tax imposed by this local law to the extent that it covers any period on and after the date set forth in Section 4 hereof.

Section 6. *Exempt Organizations.*

Except as otherwise provided in this section, any use or occupancy by any of the following shall not be subject to the tax imposed by this local law:

- (a) The State of New York, any public corporation (including those created pursuant to agreement or compact with another state or the Dominion of Canada), improvement district or other political subdivision of the State;
- (b) The United States of America, insofar as it is immune from taxation; and
- (c) Any corporation or association, or trust, or community chest, fund or foundation, organized and operated exclusively for religious, charitable or educational purposes, or for the prevention of cruelty to children or animals, and no part of the net earnings of which inures to the benefit of any private shareholder or individual and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation; provided, however, that nothing in this paragraph shall include an organization operated for the primary purpose of carrying on a trade or business for profit, whether or not all of its profits are payable to one or more organizations described in this paragraph.

Section 7. *Territorial Limitations.*

The tax imposed by this local law shall apply only within the territorial limits of Warren County.

Section 8. *Registration.*

- (a) Unless an operator is already registered with the Treasurer under the previous local law, within twenty (20) days after the effective date of this local law, or in the case of an operator commencing business after such effective date within three (3)

RESOLUTION REQUEST FORM NO. 20

MISCELLANEOUS

**Please List All Other Requests Not Covered by Previous Resolution Request Forms Here.
Please attach any backup information available and be as detailed as possible.*

DEPARTMENT NAME: TOURISM

DATE: 5/22/17

(a) Purpose of Request:

**To appropriate \$15,000 from A.881, Reserve-Occupancy Tax to A.6417 480,
Special Events for Adirondack Hot Air Balloon Festival, Inc.**

(b) Details:

**\$25,000 awarded at 12/15/16 Occupancy Tax Workshop; \$40,000 needed to put on
quality event as in past**

(c) Previous Resolution Number:

Res# 555 of 2016

(d) Where are the Funds (if required)? List Budget Code, Object Code, Full Title* and
Amount:

A.881, Reserve-Occupancy Tax \$15,000

Sample: A.8021 470 Planning & Community Development – Contract

* as listed in budget and LOGOS

RESOLUTION REQUEST FORM NO. 20

MISCELLANEOUS

****Please List All Other Requests Not Covered by Previous Resolution Request Forms Here.
Please attach any backup information available and be as detailed as possible.***

DEPARTMENT NAME: Tourism

DATE: 5/22/17

- (a) Purpose of Request: to amend Res# 555 of 2016 to award an additional \$15,000 to the Adirondack Hot Air Balloon Festival, Inc.

- (b) Details: \$25,000 was awarded at the 12/15/16 Occupancy Tax Workshop; award amended to \$40,000

- (c) Previous Resolution Number: Res# 555 of 2016

- (d) Where are the Funds (if required)? List Budget Code, Object Code, Full Title* and Amount: A.881, Reserve, Occupancy Tax, \$15,000

Sample: A.8021 470 Planning & Community Development – Contract

* as listed in budget and LOGOS