

## REGULAR MEETING

### DELAWARE COUNTY BOARD OF SUPERVISORS MARCH 13, 2013

The regular meeting of the Delaware County Board of Supervisors was held Wednesday, March 13, 2013 at 1:00 p.m. in the Supervisors' Room of the Senator Charles D. Cook County Office Building, 111 Main Street, Delhi, New York, Chairman James E. Eisel, Sr. presiding.

The Clerk called the roll and all Supervisors were present except Mrs. Donofrio and Mr. Hynes.

Mr. Marshfield offered the invocation.

Mr. Valente led the Board in the Pledge of Allegiance to the Flag.

The minutes of the previous meeting were accepted as presented.

The Clerk reported that a copy of Assemblyman Clifford Crouch's response to Resolution No. 34 entitled: *Opposition to the NY SAFE Act of 2013* adopted at the February 27<sup>th</sup> meeting has been placed on each Supervisor's desk. Assemblyman Crouch has started a petition on his NYS Assembly website to repeal the NY SAFE Act of 2013. Those in opposition to the NY SAFE Act of 2013 are encouraged to sign the petition at the following website: <http://www.assembly.state.ny.us/mem/Clifford-W-Crouch/story/50749>.

The Clerk reported all other communications received have been referred to their respective committees for review.

Chairman Eisel granted privilege of the floor to Mr. Rowe. Mr. Rowe introduced Commissioner of Public Works Wayne Reynolds to provide a presentation detailing what the Department of Public Works has been doing to preserve the county's bridges.

Commissioner Reynolds' presentation entitled: *Bridge Maintenance Review 2012* provided a background and overview of the Bridge Maintenance Program from its inception in 2009 to what the department hopes to accomplish in 2013.

In 1994, the county recognizing the importance of its infrastructure developed the Delaware County 21<sup>st</sup> Century Bridge Program. The Bridge Maintenance Program supports the objects set forth in the 21<sup>st</sup> Century Bridge Program and was established in 2009 with the decision to close the Deposit Patrol Garage and use that crew more effectively in the county.

The Department of Public Works was very disappointed by how quickly the county structures started to deteriorate based upon the condition ratings established by the New York State Department of Transportation (NYSDOT) for structures 20 feet or greater in length. These structures are inspected and rated biannually by NYSDOT bridge inspection teams using condition ratings from 1 totally deteriorated to 7 brand new. The Bridge Maintenance Program prioritized the newest and highest rated bridges in an effort to slow down the rate of deterioration thereby protecting the county's investment and enhancing the lifespan of its structures.

The county's inventory in 2009 included 130 bridges less than 15 years old or rated six or higher, 101 bridges rated between five and six, 40 bridges rated between four and five and 140 culverts, defined as less than 20 feet in length and rated by the department.

By 2012, the bridge crew had met its original goal of cleaning 271 structures. The cleaning consisted of several time-consuming efforts that included the removal of dirt and debris from the decks and along the curbs of the bridges, removal of dirt berms under the approach rails, cutting thick brush and woody vegetation, and sealing cracks and voids in asphalt surfaces.

In 2012 the county inventory increased by twenty new bridges. The additional bridges represented town bridges built to county standards and taken over by the county as well as found bridges through the small structure study. The crew's objectives for 2012 included cleaning the original bridges for a second time, cleaning the newly acquired bridges and spending the remainder of the year working on structures smaller than 20 feet on county roads. The maintenance effort since 2009 has made a significant improvement and as a result less time is required to clean each structure increasing the number of structures the crew is able to complete in a year. By the end of 2012, 142 priority bridges, 19 non-priority bridges and 91 small structures (culverts) were completed. The county's inventory in 2013 includes 142 priority bridges, 149 non-priorities and 144 culverts. The department continues to focus on bridge maintenance committing to a minimum of approximately one hundred days of bridge maintenance to achieve its goal set for 2013.

Commissioner Reynolds referenced several maintenance photographs included in his powerpoint presentation. Among them was one of a bobcat with an attachment cleaning under a guiderail. He pointed out with pride that the attachment was designed by the department and has proven to be a real asset. Another was of a recently purchased piece of equipment used to seal bridge deck cracks.

In conclusion, Commissioner Reynolds stated that since the 21<sup>st</sup> Century Bridge Program and the Bridge Maintenance Program began the condition of the county bridges has shifted from very poor to very good. The only exception is bridge 28-1 in the Town of Hancock which is the focus for 2013. The key is to maintain the investment and make sure the structures do not prematurely deteriorate.

In response to Chairman Eisel, Commissioner Reynolds explained that New York State used the 588 weathering steel for their guiderails in the Catskill State Park. The state was greatly disappointed with the lifespan of the 588 weathering steel and replaced it with galvanized steel painted to match the brown used throughout the park.

The 588 weathering steel was specially designed under a grant from the Federal Highway Administration to come up with a steel that would not need to be painted. The 588 weathering steel was a product that would oxidize to protect itself preventing the need for painting. The 21<sup>st</sup> Century Bridge Program supported and encouraged the use of the 588 weathering steel. It was later determined that in many applications the steel did not oxidize properly.

The county has also moved away from the 588 weathering steel preferring the galvanized steel. The county prefabs its steel in the winter and transports it to Harrisburg, Pennsylvania for galvanizing. The process is inconvenient because there are limited galvanizing locations and the steel has to be moved to the location. However, galvanized steel does not have to be painted and

lasts longer. Replacing the 588 weathering steel as needed with the galvanized steel along with the bridge maintenance program should achieve an expected lifespan of seventy years.

Chairman Eisel commented on the great condition of the county's bridges adding that they are second to none in this state.

In reply to Mr. Marshfield, Commissioner Reynolds explained that the department, with funding from the U.S. Army Corps of Engineers and the Soil & Water Conservation District, is performing a small structure study in the New York City Watershed on bridges that are less than twenty feet and are not regularly inspected or rated by anyone. Once the study is complete, a report will be generated for each town in the watershed detailing the condition of the bridges, prioritizing repairs and offering some idea of how to maintain the structures in the future. In addition, the county will share what it has learned through its experiences and what is currently being done to maintain county structures.

He further stated that because the grant received from the Soil and Water Conservation District is funded by New York City it is restricted to the watershed. However, the knowledge gained from this small structure study in the watershed will provide a template for how structures outside of the watershed should be maintained.

Commissioner Reynolds stated in answer to Mr. Bracci, that the bridge he is referencing in the Town of Delhi was one of the fifty top priorities given to the U.S. Army Corps of Engineers for evaluation. The hope was that the evaluation performed by the U.S. Army Corps of Engineers would find something the Department of Public Works did not. To date there has been no report back from U.S. Army Corps of Engineers fostering the assumption that their evaluation has not come up with any another options.

In response to Mr. Dolph, Commissioner Reynolds stated that the town highway superintendents have not seen this presentation. The initial thought of the Public Works Committee was a presentation for the Board of Supervisors. Mr. Dolph felt that offering this presentation as well as an invitation to the town highway superintendents to see a demonstration of the application and use of the equipment would be a terrific learning opportunity.

Ms. Miller, Mr. Triolo and Mr. Dolph felt this presentation should be shared with town superintendents prior to the conclusion of the small structure study to allow them time to review what the county is doing and ask questions. Commissioner Reynolds agreed and noted that the presentation could be shared at an upcoming meeting of the Delaware County Highway Superintendents.

Mr. Rowe and Commissioner Reynolds acknowledged the Bridge Crew for their commitment and dedication to the program. The crew had no prior experience in bridge maintenance, their desire to develop skills and knowledge in this field has helped make the program successful.

Chairman Eisel noted that their efforts will save the county a great deal of money in the future. He thanked Commissioner Reynolds for a very informative presentation.

For standing committee reports Chairman of the Public Works Committee Samuel Rowe stated that the Director of Solid Waste Management Susan McIntyre is preparing a presentation for a future meeting outlining the direction the Solid Waste Management Facility is moving in.

Mr. Triolo offered the following resolution and moved its adoption:

**RESOLUTION NO. 38**

**TITLE: 2013 BUDGET AMENDMENT  
REIMBURSEMENT OF EXPENDITURES UNDER  
NEW YORK STATE OFFICE OF COMMUNITY RENEWAL  
NEW YORK MAIN STREET FLOOD RELIEF GRANT FUNDS  
DEPARTMENT OF ECONOMIC DEVELOPMENT**

**WHEREAS**, Delaware County was awarded a New York Main Street Grant in the amount of \$373,750 from the NYS Office of Community Renewal for the purpose of providing local commercial building owners with grant funds to aid in the ongoing recovery from the flooding events of 2011; and

**WHEREAS**, the County of Delaware entered into a subrecipient agreement with the Delaware County Local Development Corporation (DCLDC), whereby the DCLDC, on behalf of the County, will assume responsibility for the delivery and administration of the CDBG funds; and

**WHEREAS**, the DCLDC is supported by the Delaware County Department of Economic Development staff; and

**WHEREAS**, the DCLDC will reimburse the Department of Economic Development for expenditures relating to the administration and delivery of the grant;

**NOW, THEREFORE, BE IT RESOLVED** that the 2013 budget be amended as follows:

**INCREASE REVENUES:**

10-16326-42238906	Misc Rev Fr DCLDC	\$28,031.00
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**INCREASE APPROPRIATIONS:**

10-16326-54308000	Future Development	\$5,000.00
10-16326-54415080	Maint & Repair Srvcs Vehicles	1,000.00
10-16326-54421000	Marketing	6,000.00
10-16326-54625010	Travel Department	1,000.00
10-16326-54595320	Supplies Office	1,500.00
10-16326-52200000	Equipment	6,170.00
10-16326-51000000	Personal Services Exp-EcoDev	6,476.00
10-16326-54580000	Software	885.00

The resolution was seconded by Mr. Rowe.

Director of Economic Development Glenn Nealis explained in reply to Mrs. Capouya, that the county was awarded a New York Main Street Grant in the amount of \$373,000 from the NYS Office of Community Renewal to aid in flood recovery efforts after Hurricane Irene and Tropical Storm Lee. The grant specified the amount of \$28,031 to be used towards

administrative costs associated with the grant. The grant is now complete and this resolution is allocating the administrative funds.

The resolution was adopted by the following vote: Ayes 4341, Noes 0, Absent 458 (Donofrio, Hynes).

Mr. Bracci offered the following resolution and moved its adoption:

**RESOLUTION NO. 39**

**TITLE: EXCEPTION TO RESOLUTION NO. 269-1990  
DEPARTMENT OF SOCIAL SERVICES AND DISTRICT ATTORNEY'S OFFICE**

**WHEREAS**, Resolution No. 269 of 1990 prohibited full-time County employees from holding more than one County position simultaneously except if such dual employment is specifically authorized by resolution of the Board of Supervisors;

**NOW, THEREFORE, BE IT RESOLVED** that Resolution No. 269 of 1990 is hereby temporarily waived until December 31, 2013 for Department of Social Services Investigators also working part time for the District Attorney's Office.

The resolution was seconded by Mr. Valente.

Chairman Eisel stated in response to Mr. Spaccaforno, that there are several departments that benefit from the dual employment policy. A resolution making an exception to Resolution No. 269-1990 must be passed for any county employee holding more than one county position at a time. In order to not have to pass a resolution each time an employee holds more than one position with the county Resolution No. 269-1990 would have to be rescinded.

The resolution was adopted by the following vote: Ayes 3764, Noes 577 (McCarthy), Absent 458 (Donofrio, Hynes.)

Mr. Bracci offered the following resolution and moved its adoption:

**RESOLUTION NO. 40**

**TITLE: 2013 BUDGET AMENDMENT  
DISTRICT ATTORNEY/SOCIAL SERVICES INVESTIGATORS  
DISTRICT ATTORNEY OFFICE  
DEPARTMENT OF SOCIAL SERVICES**

**WHEREAS**, Social Services Investigators have been part-time Deputy Sheriffs for the past 25 years following a model that permitted them to perform certain designated law enforcement functions at the direction of the Sheriff; and

**WHEREAS**, a continuation of this part-time model is no longer possible with the Sheriff's Department but the part-time model would be appropriate and consistent with the law enforcement functions in the Office of the District Attorney as provided in CPL §1.20 paragraph 34 (g);

**NOW, THEREFORE, BE IT RESOLVED** that four Social Services Investigator positions are hereby authorized on a part-time basis in the District Attorney's Office as District Attorney Investigators, and

**BE IT FURTHER RESOLVED** that the 2013 budget be amended as follows:

**DISTRICT ATTORNEY BUDGET**

**INCREASE REVENUES:**

10-11165-41128901	Otr Gnrl Dept Inc Otr Depts	\$35,708.00
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**INCREASE APPROPRIATIONS:**

10-11165-51000000	Personal Services	\$22,137.00
10-11165-58100000	State Retirement System	4,936.00
10-11165-58300000	Social Security Employer Contribution	1,373.00
10-11165-58550000	Disability Insurance	35.00
10-11165-58600000	Hospital & Medical Insurance	6,906.00
10-11165-58900000	Medicare Employer Contribution	321.00

**SOCIAL SERVICES BUDGET**

**TRANSFER FROM:**

10-16010-51000000	Personal Services	\$22,137.00
10-16010-58100000	State Retirement System	4,936.00
10-16010-58300000	Social Security Employer Contribution	1,373.00
10-16010-58550000	Disability Insurance	35.00
10-16010-58600000	Hospital & Medical Insurance	6,906.00
10-16010-58900000	Medicare Employer Contribution	321.00

**TRANSFER TO:**

10-16010-54438000	DA Fraud & Abuse	\$35,708.00
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The resolution was seconded by Mr. Marshfield and adopted by the following vote: Ayes 3764, Noes 577 (McCarthy), Absent 458 (Donofrio, Hynes).

Mr. Rowe offered the following resolution and moved its adoption:

**RESOLUTION NO. 41**

**TITLE: AUTHORIZATION FOR AWARDS -  
DEPARTMENT OF PUBLIC WORKS  
LETTING OF MARCH 5, 2013**

Notice to bidders and proposals received having been filed and the bidding procedures and documents having been approved by the County Attorney:

**BE IT RESOLVED**, that the County Department of Public Works is authorized to make awards to the lowest bidders meeting specifications as follows:

PROPOSAL NO. SW2-13:

Purchase of Roll-Off Containers to: United Services GP Inc.  
15 Havenshire Road

Rochester, NY 14625

Bid Price: See Summary Sheet

All original bids and a summary sheet of the bids received are on file for inspection at the office of the Clerk of the Board of Supervisors.

The resolution was seconded by Mr. Valente.

Director of Solid Waste Management Susan McIntyre stated in response to Mr. Marshfield, that the bid is for the purchase of four boxes, three garbage boxes at \$6,885 each and one enclosed box at \$8,345 for a total of \$29,000.

In answer to Chairman Eisel, Ms. McIntyre stated that the pricing has remained flat for the past two years.

The resolution was adopted by the following vote: Ayes 4341, Noes 0, Absent 458 (Donofrio, Hynes).

Mr. Rowe offered the following resolution and moved its adoption:

**RESOLUTION NO. 42**

**TITLE: AUTHORIZATION FOR AWARDS -  
DEPARTMENT OF PUBLIC WORKS**

**WHEREAS**, the Department of Public Works has identified County Bridge number 26-3, County Route 26 over Telford Hollow Brook, BIN 3351970 as a structure in need of replacement and

**WHEREAS**, due to workload, the Department is not able to design or construct the structure in house; and

**WHEREAS**, the Department has participated in a federally approved consultant selection process to shortlist engineering firms qualified to do bridge and highway designs; and

**WHEREAS**, the Department has negotiated a proposed contract to complete the work

**NOW, THEREFORE, BE IT RESOLVED** that the County Department of Public Works is authorized to make awards to:

Modjeski and Masters, Inc.  
301 Manchester Road, Suite 102  
Poughkeepsie, NY 12603

Proposal fee: Maximum amount payable \$114,650.

The resolution was seconded by Mr. Valente.

Commissioner Reynolds stated in reply to Chairman Eisel, that the department's hydrology study only increased the span by about 20 feet.

In response to Mr. Marshfield, Commissioner Reynolds stated that the project will be county funded.

The resolution was adopted by the following vote: Ayes 4341, Noes 0, Absent 458 (Donofrio, Hynes).

Mr. Rowe offered the following resolution and moved its adoption:

**RESOLUTION NO. 43**

**TITLE: CERTIFICATION OF FINDINGS ON THE PROPOSED DELAWARE COUNTY NEW MATERIALS RECOVERY FACILITY SOLID WASTE MANAGEMENT CENTER**

**WHEREAS**, the Delaware County Solid Waste Management Plan directs the County to develop and maintain a high quality recycling program to service all residents of Delaware County; and

**WHEREAS**, the Delaware County Department of Public Works – Solid Waste Division is proposing to construct and operate a new Materials Recovery Facility (MRF) to provide expanded opportunity and convenience for recycling; and

**WHEREAS**, the County is Lead Agency and has completed a coordinated SEQR review of the proposed new MRF

**NOW, THEREFORE, BE IT RESOLVED** that the Delaware County Board of Supervisors, as lead agency, has fully considered the environmental impacts of the new MRF development, and based upon its review, the Delaware County Board of Supervisors hereby issues its SEQR Finding, as attached and incorporated herein, and directs the Commissioner of the Department of Public Works to file these Findings as required by SEQR and to take such other actions as may be necessary and desirable to comply with SEQR.

The resolution was seconded by Mr. Valente and Mr. Spaccaforo and unanimously adopted.

Mr. Rowe offered the following resolution and moved its adoption:

**RESOLUTION NO. 44**

**TITLE: NOTICE OF DETERMINATION OF NON-SIGNIFICANCE – SEQR NEGATIVE DECLARATION FOR THE CONSTRUCTION AND OPERATION OF THE PROPOSED DELAWARE COUNTY NEW MATERIALS RECOVERY FACILITY AT SOLID WASTE MANAGEMENT CENTER**

**WHEREAS**, the Delaware County Department of Public Works – Solid Waste Division has submitted permit application for the construction and operation of a new Materials Recovery Facility (MRF) at the Solid Waste Management Center in Walton; and



**WHEREAS**, engineering design has been developed and reviewed by the County, identifying the environmental impacts and associated mitigation actions outlined in the design, construction, and operation of the new MRF; and

**WHEREAS**, Delaware County is lead agency for purposes of SEQR review proceedings, consistent with its role as lead agent during the development of the Delaware County Solid Waste Management Plan; and

**WHEREAS**, the construction and operation of the new MRF is consistent with the operational plans stipulated in the Solid Waste Management Plan;

**NOW, THEREFORE, BE IT RESOLVED** that for the reasons set forth in the SEQR - FINDINGS STATEMENT Notice of Determination of Non-Significance, the Delaware County Board of Supervisors, as lead agency, pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review) of the Environmental Conservation Law, has fully considered the environmental impacts of the proposed new MRF, has determined that the proposed action (i) will not have a significant effect on the environment, (ii) is consistent with the Delaware County Solid Waste Management Plan, and (iii) the environmental impacts arising from the project have been adequately addressed in the foregoing documents and the Board's Findings issued today.

The resolution was seconded by Mr. Valente and Mr. Spaccaforo.

Ms. McIntyre stated that the new Materials Recovery Facility (MRF) is expected to break ground in 2013 and be operational in 2014.

In answer to Mr. Marshfield, Ms. McIntyre stated that the reference to greater customer convenience in the Supervisor's memo focused on haulers. Currently, haulers cannot drive fully into the facility to unload their truck.

Mr. Marshfield noted that he visited the facility about five years ago and thought it was in dire need of attention. The new MRF will provide a much better working environment for the employees as well as greater recycling opportunities and customer convenience.

The resolution was unanimously adopted.

Mr. Dolph offered the following resolution and moved its adoption:

#### **RESOLUTION NO. 45**

#### **TITLE: RESOLUTION SUPPORTING THE CONTINUANCE OF THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP) SUBSIDIES AND FOR AN IMMEDIATE START TO THE NATIONAL ACADEMY OF SCIENCES STUDY ON THE AFFORDABILITY OF FLOOD INSURANCE COUNTY INSURANCE**

**WHEREAS**, the "Biggert-Waters Flood Insurance Reform Act of 2012" (the Act) passed by Congress became effective July 1, 2012 and included changes to the National Flood Insurance Program (NFIP); and

**WHEREAS**, the Act removes subsidized rates for several classes of structures such as: any residential property that is not the primary residence of an individual; any severe repetitive

loss property; any property that has incurred flood related damages that cumulatively exceed the fair market value of the property; any business property; any new or lapsed policy or any policy for a newly purchased property; any property that after the date of the Act has incurred substantial damage or has experienced substantial improvement exceeding 30% of the fair market value of the property; any policy for which the owner has refused a FEMA mitigation offer under HMPG, or for a repetitive loss property or severe repetitive loss property, **and allows rates to increase by 25% per year until actuarial rates are achieved;** and

**WHEREAS**, many towns in Delaware County contain flood prone areas, that in recent years have suffered millions of dollars in losses due to devastating weather events such as Hurricane Irene; and

**WHEREAS**, precipitation has increased over the past decades for a variety of reasons, making us more vulnerable to high water events; and

**WHEREAS**, Delaware County has a robust flood mitigation program and has aggressively pursued Hazard Mitigation Program Grant funds to implement flood mitigation programs and projects; and

**WHEREAS**, towns and villages in Delaware County through a variety of methods, have made flood mitigation a priority, planning long- and short-term remedies to the destruction of residential and commercial properties, are considering or entering Federal Emergency Management Agency's Community Rating System (CRS) program, as well as, appointing CRS coordinators and trained Flood Plain Managers; and

**WHEREAS**, towns in Delaware County, such as Walton and Middletown, along with various regional partners and the neighboring Towns in Ulster and Greene County, have formed, respectively, the West Branch and East Branch Flood Commissions toward coordinated local and regional flood mitigation planning; and

**WHEREAS**, the removal of flood insurance subsidies would profoundly and negatively impact affected towns in the County and region when new/revised flood maps are issued and property changes ownership, making it more difficult to sell homes in the Special Flood Hazard Area, due to the removal of "grandfathering" for existing policies, as well as the loss of subsidies for business properties when many of our businesses are already struggling from the last flood and other economic factors

**NOW, THEREFORE, BE IT RESOLVED** that the Delaware County Board of Supervisors formally requests that the Governor of the State of New York, and publicly elected and appointed officials at all levels advocate for the continuation of National Flood Insurance Program subsidies as well as for an immediate start to the National Academy of Sciences study on the affordability of flood insurance; and

**BE IT FURTHER RESOLVED** that this resolution be forwarded to the Administrator of Federal Emergency Management Agency, the New York State Department of Environmental Conservation, the State Office of Emergency Management, our elected State and Federal representatives and any other involved state and federal agencies.

The resolution was seconded by Ms. Miller and unanimously adopted.

Mr. Smith offered the following resolution and moved its adoption:

**RESOLUTION NO. 46**

**TITLE: RESOLUTION TO OPPOSE NEW YORK STATE GOVERNOR CUOMO'S  
PROPOSAL TO PREVENT PLEA BARGAINING OF TRAFFIC INFRACTIONS  
DISTRICT ATTORNEY**

**WHEREAS**, approximately three years ago the New York State Police implemented a policy whereby its Troopers are no longer authorized to negotiate plea bargains on traffic tickets they issue; and

**WHEREAS**, the Delaware County District Attorney's Office, which has limited personnel and resources, has been thereby burdened with the responsibility of prosecuting all of those routine traffic violations; and

**WHEREAS**, the Governor of New York State, in his Executive Budget, is proposing to advance legislation which will restrict plea bargaining in these routine vehicle and traffic infraction cases except in limited circumstances; and

**WHEREAS**, the prosecution of traffic tickets has been an important revenue stream for the County of Delaware which has been relied upon in the County's 2013 Budget; and

**WHEREAS**, the Governor's proposed change in the plea bargaining requirements would seriously decrease this revenue stream and simultaneously cause an increase in legal expenses, which renders this proposal another unfunded state mandate.

**NOW, THEREFORE, BE IT RESOLVED** that the Delaware County Board of Supervisors strongly opposes any change in the law which restricts or otherwise hampers the prosecutorial powers of the prosecuting attorneys in the Delaware County District Attorney's Office; and

**BE IT FURTHER RESOLVED** that any restrictions placed by New York State on the ability to plea bargain routine traffic tickets will place an unfair burden on the County by restricting the prosecutorial discretion to accomplish just and fair results and will require greater time requirements, at additional significant expense to the County. Furthermore, it will place an unfair financial burden on the New York State Police and local law enforcement as well as all of the local Justice Courts in the County; and

**BE IT FURTHER RESOLVED** that the Delaware County Board of Supervisors calls upon the Governor to abandon his proposal to restrict prosecutorial discretion in the plea bargaining of Traffic Infractions; and

**BE IT FURTHER RESOLVED** that the Clerk of the Board of Supervisors shall forward certified copies of this resolution to Governor Andrew M. Cuomo, Senator John Bonacic, Senator James L. Seward, Senator Thomas W. Libous, Assemblyman Clifford W. Crouch, Assemblyman Peter D. Lopez and Assemblywoman Claudia Tenney, other New York Counties, and the New York State Association of Counties (NYSAC).

The resolution was seconded by Mr. Valente.

Mr. Bracci stated that he sees this legislation as another extraction of local funds to further the Governor's endeavors.

Chairman Eisel commented he believes the Governor's proposal will overburden staff and create a significant financial impact to the county and its municipalities. He added that another unfunded mandate will come before the Board as a not pre-filed resolution later in the meeting.

The resolution was unanimously adopted.

Ms. Molé offered the following resolution and moved its adoption:

**RESOLUTION NO. 47**

**TITLE: RESOLUTION CALLING ON NEW YORK STATE GOVERNOR CUOMO AND THE STATE LEGISLATURE TO AMEND THE SECURE AMMUNITION AND FIREARMS ENFORCEMENT ACT (NY SAFE ACT OF 2013) TO ADDRESS ISSUES RELATED TO COUNTY COSTS AND IMPLEMENTATION OF PROVISIONS RELATED TO MENTAL HEALTH DEPARTMENT OF MENTAL HEALTH**

**WHEREAS**, Chapter 1 of the Laws of 2013, the Secure Ammunition and Firearms Enforcement Act of 2013 (SAFE Act), was signed into law in early 2013; and

**WHEREAS**, this new law requires the local Director of Community Services (DCS) or his or her designee to receive reports from all mental health professionals who believe that their patient is likely to engage in conduct that would result in serious harm to self or others; and

**WHEREAS**, such local director of community services or designee must investigate each report to confirm the identity and professional status of such mental health practitioner, and to determine whether they agree with the practitioner's assessment; and

**WHEREAS**, upon such agreement with a reporting mental health practitioner, the DCS or designee shall be required to file a report with the Division of Criminal Justice Services; and

**WHEREAS**, NYS Department of Health SPARCS hospitalization data indicate that over 210,000 psychiatric unit discharges occurred in the 2010 calendar year, which may now be reported to Directors of Community Services under the Mental Hygiene Law 9.46 standard; and

**WHEREAS**, the reporting of all or even a portion of such psychiatric admissions to DCSs annually would require county governments to increase staff and would significantly increase local costs; not including the numerous other cases that will be reported by mental health practitioners in non-hospital settings; and

**WHEREAS**, the requirement that county Directors of Community Services and their designees receive, investigate, and file reports pursuant to the new Mental Hygiene Law 9.46 would create an unfunded mandate and new costs for counties who do not have the infrastructure or funds to implement; and

**WHEREAS**, this provision of the bill will be effective on March 16, 2013; and

**WHEREAS**, the NY SAFE Act expressly states that no costs of this law shall be borne by local governments, however, many county departments will experience increased workload due to the new requirements the law creates;

**NOW, THEREFORE, BE IT RESOLVED** that the Delaware County Board of Supervisors calls on the Legislature and Governor Andrew M. Cuomo to work with counties to amend the New York Secure Ammunition and Firearms Enforcement Act of 2013 in order to address the reporting process under the new Section 9.46 of Mental Hygiene Law; and

**BE IT FURTHER RESOLVED** that the Delaware County Board of Supervisors suggests consideration be given to the removal of the Director of Community Services reporting requirement from Mental Hygiene Law 9.46, and allow mental health practitioners to file reports directly with the Division of Criminal Justice Services; and

**BE IT FURTHER RESOLVED** that the Clerk of this Board of Supervisors shall forward certified copies of this Resolution to Governor Andrew M. Cuomo, Senator James L. Seward, Senator John J. Bonacic, Senator Thomas W. Libous, Assemblyman Clifford W. Crouch, Assemblywoman Claudia Tenney, Assemblyman Peter Lopez, other New York counties, and the New York State Association of Counties (NYSAC).

The resolution was seconded by Mr. Donnelly

Director of Mental Health Cynthia Heaney explained that the NYS SAFE Act requires the local Director of Community Services to receive reports from all mental health professionals, defined as, any physician, nurse, psychologist or social worker, who believes their patient is likely to engage in conduct that would result in serious harm to themselves or others prior to sending the report to the Division of Criminal Justice Services.

The amount of reports one person would be responsible to review and assess would be overwhelming. There are hundreds of individuals hospitalized annually, plus an unknown number of others that a medical professional may refer based on a concern. If a report were not submitted by the Director of Community Services to the Division of Criminal Justice and that person had a problem, the consequences would fall back onto the county.

She felt that the county should be removed from the process and reporting should go directly to the Division of Criminal Justice Services.

Ms. Molé pointed out that the provisions of the NYS Safe Act become effective March 16, 2013.

In answer to Mr. Marshfield, Ms. Heaney stated that the NYS SAFE Act will create unfunded mandates for the county as it attempts to provide the resources to meet the requirements.

Mr. Bracci noted that he is in opposition to the NYS SAFE Act of 2013. The Act as it relates to mental health professionals will place a burden on those professionals, medical doctors and the county. He felt an undue burden is being placed upon the doctor/client relationship as it

relates to privileged information and confidentiality. In addition, there is no financial aspect to this Act to help the county meet the requirements it sets forth.

Chairman Eisel opined that he felt mandatory reporting by the medical doctor is appropriate but to achieve this, it creates an unfunded mandate.

Mr. Rowe stated that he will be voting in favor of this resolution but he would like to see the NYS SAFE Act of 2013 be done away with entirely rather than amended as stated in the resolution. He read that a significant number of veterans being treated for post-traumatic stress disorder might be categorized by this legislation as unable to possess a firearm.

Mr. Donnelly shared that the NYS SAFE Act of 2013 may prevent someone from seeking help based on the fact that anything they say in treatment can and will be held against them. He further stated that Governor Cuomo in his budget proposal is cutting the budget for mental health and yet he has passed this legislation with no mention of funding for the county to meet its requirements.

Mr. Spaccaforno stated that he agrees with Mr. Rowe and Mr. Donnelly, the NYS SAFE Act of 2013 should be done away with completely as it creates unfunded mandates in many areas of county government without a provision for revenue to offset the financial burden.

Chairman Eisel noted that the county's Pistol Clerk Marilyn Olsen advised that there are 14,000 permitted pistol holders. Requiring a renewal every five years would be an overwhelming amount of work for the current staff.

Mr. Spaccaforno shared that Ms. Olsen noted that the department continues to receive requests from pistol permit holders who do not want their name listed in the newspapers.

Chairman Eisel stated for all of the reasons mentioned it is imperative that the county get these resolutions in opposition to the Governor and our local representatives.

The resolution was unanimously adopted.

Mr. Dolph offered the following resolution and moved its adoption:

#### **RESOLUTION NO. 48**

#### **TITLE: RESOLUTION PROCLAIMING THAT THE BINDING ARBITRATION LAW SHOULD BE PERMITTED TO SUNSET ON JULY 1, 2013 PERSONNEL OFFICE**

**WHEREAS**, on July 1, 2013, Civil Service Law Section 209 which requires public employers to use binding arbitration for certain public employee contracts, sunsets, negating this mandate; and

**WHEREAS**, public employee contract binding arbitration leaves the final say to an outside arbitrator who does not need to answer to the public when and if that public feels the contract is not consistent to a local fair pay and benefits package; and

**WHEREAS**, the State-imposed two percent property tax cap and insufficient relief from State-imposed mandates has placed an unprecedented strain on local governments to provide more services with less and less funding; and

**WHEREAS**, this outside arbitrator does not contemplate a municipality's ability to pay in light of the State imposed property tax cap; and

**WHEREAS**, to address the fiscal crisis local governments are facing, local leaders need to be given the ability to have direct control over contract negotiations and over mandates in general; and

**WHEREAS**, local legislative leaders are in a better position than an outside arbitrator to understand what is a fair wage and benefit package in the region as well as a better understanding of how each public employee contract can impact all other local services to their residents; and

**WHEREAS**, the County commends the Governor for placing within the 2013-2014 Executive Budget the requirement that a public arbitration panel must be required to determine if the municipality is a "distressed public employer" when considering the ability for the public to pay, and that upon that finding the public arbitration panel may not award, for the first two years of the new contract, more than a two percent increase of the aggregate amount expended by the public employer.

**NOW, THEREFORE, BE IT RESOLVED** that Delaware County does hereby urge the State Legislature to allow the Binding Arbitration Law (Civil Service Law Section 209) to sunset on July 1, 2013 as a way to provide local government more direct control over local government spending; and

**BE IT FURTHER RESOLVED** that Delaware County supports the Governor's proposal to limit arbitration awards and, if the State Legislature extends the Binding Arbitration Law, the award should be limited to not more than two percent of the total contract costs.

**BE IT FURTHER RESOLVED** that Delaware County shall forward copies of this resolution to Governor Andrew M. Cuomo and members of the New York State Legislature representing Delaware County and all others deemed necessary and proper.

The resolution was seconded by Mr. Spaccaforo.

Chairman Eisel noted that the Binding Arbitration Law affects the Sheriff's deputies, adding hopefully it will sunset on July 1, 2013 and that will be the end of it.

The resolution was unanimously adopted.

Chairman Eisel waived Board Rule 10 to permit the introduction without objection of the following not-prefiled resolutions.

Mr. Rowe offered the following resolution and moved its adoption:

**RESOLUTION NO. 49**

**TITLE: SUPPORT OF INCREASED FUNDING FOR CHIPS  
DEPARTMENT OF PUBLIC WORKS**

**WHEREAS**, local roads and bridges are extremely important to the State's transportation system; and

**WHEREAS**, the State Comptroller, Thomas DiNapoli has published a report that indicates that 87% of the Public roads and 52% of the bridges in the State are maintained by local governments; and

**WHEREAS**, the report also indicates that approximately 33% of the local bridges are structurally deficient and that approximately 40% of all local roads are graded as only fair or poor; and

**WHEREAS**, the local governments depend on New York State CHIPS funds to make improvements on these systems; and

**WHEREAS**, the CHIPS funding has been held flat since 2009 and therefore has not kept up with inflation.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors herewith encourages the State government to increase the CHIPS funding in the 2013-2014 State Budget; and

**BE IT FURTHER RESOLVED** that the Clerk of this Board of Supervisors shall forward certified copies of this Resolution to Governor Andrew M. Cuomo, Senator James L. Seward, Senator John J. Bonacic, Senator Thomas W. Libous, Assemblyman Clifford W. Crouch, Assemblywoman Claudia Tenney, and Assemblyman Peter Lopez.

The resolution was seconded by Mr. Spaccaforno.

Mr. Rowe noted that Commissioner Reynolds and Senator Seward met with the Highway Superintendents within his district. Senator Seward has written a letter to President Pro Tempore and Majority Coalition Leader Dean Skelos urging that the senate prioritize and ensure adequate levels of state aid to local road and bridges, specifically the Consolidated Highway Improvement Program (CHIPS). He shared the following from Senator Seward's letter "fuel cost is up 190 percent, asphalt 206 percent and materials 57 percent over the last ten years." He suggested this information be included in resolutions written by the towns supporting an increase in the CHIPS funding. CHIPS funding has not been increased since 2009 and the current spending plan calls for another five years of no increases for CHIPS.

He referenced an article in the Thursday, March 7, 2013 edition of The Corning Leader entitled: *Lawmakers Seek Money For Roads* stating that approximately seventy legislative members are urging more CHIPS funding. Governor Cumo is proposing \$363 million in CHIPS funding, the Assembly is seeking an increase of \$15 million and the Senate is seeking an increase of \$100 million.



Ms. Molé advised that the State Senate budget proposal is asking for an increase of \$100 million statewide for CHIPS funding.

Chairman Eisel noted that he learned this morning that one of the issues holding up the Governor's budget is funding for local roads and bridges. He felt there was an understanding of the issue and the recognition that funding needed to increase.

The resolution was unanimously adopted.

Mr. Smith offered the following resolution and moved its adoption:

### **RESOLUTION NO. 50**

#### **TITLE: OPPOSITION TO THE PASSAGE OF LEGISLATION TO ALLOW EARLY VOTING OR TO ALLOW COUNTIES TO OPT-IN TO EARLY VOTING OPPORTUNITIES AND FOR THE STATE TO FULLY FUND ANY INCREASED COSTS ASSOCIATED WITH EARLY VOTING BOARD OF ELECTIONS**

**WHEREAS**, A.689 (Silver)/S.1461 (Stewart-Cousins) has been introduced in the New York State Legislature establishing early voting in primary, general and special elections in the State of New York; and

**WHEREAS**, this bill would allow early voting to take place up to 14 days before a general election and up to a week before a primary or special election, from 8:00 am until 7:00 pm on every early voting day including Saturday and Sunday; and

**WHEREAS**, county boards of elections would be required to select a minimum of five polling places throughout each county and provide election inspectors at each location; and

**WHEREAS**, county boards of elections would also be required to follow the same polling place protocols that are observed on election day on all early voting days; and

**WHEREAS**, there will be costs associated with staffing early voting locations, and printing and county paper ballots associated with early voting; and

**WHEREAS**, the 2 percent tax cap and insufficient relief from state-imposed mandates has placed an unprecedented strain on local governments to provide more services with less funding.

**NOW, THEREFORE, BE IT RESOLVED** that the Delaware County Board of Supervisors does hereby oppose the passage of legislation requiring counties to implement early voting; and

**BE IT FURTHER RESOLVED** that if the proposal is enacted, counties should be allowed to opt-in thereby providing early voting opportunities and in addition the State needs to fully fund the cost of early voting for those counties that provide early voting

**BE IT FURTHER RESOLVED** that the Clerk of the Board of Supervisors shall forward certified copies of this resolution to Governor Andrew Cuomo, New York State Senators

John J. Bonacic, James Seward, and Thomas W. Libous, Assembly Speaker Sheldon Silver, New York State Assemblymembers Clifford Crouch, Claudia Tenney, and Peter Lopez, and the New York State Association of Counties (NYSAC).

The resolution was seconded by Ms. Molé and Mr. Rowe.

Chairman Eisel noted that this is a model resolution from the New York State Association of Counties (NYSAC).

Republican Commissioner William Campbell and Democratic Commissioner Judy Garrison pointed out that Speaker Sheldon Silver introduced an Early Voting bill that would require five polling sites around the county to remain open from 8 a.m. to 7 p.m. for each of the fourteen days before a General Election and each of the seven days before a Primary, Saturdays and Sunday included. In largely populated areas there are significant benefits to early voting and the 36 states across the country that currently have early voting find it beneficial but very costly.

The number of registered voters in Delaware County has been declining in recent years. As a result, the Board of Elections has been gradually closing polling sites and combining districts to be cost effective.

If Delaware County were mandated to offer early voting, the additional use of Election Inspectors for the 14 days prior to a General Election would roughly cost \$29,400 and for the seven days before a Primary \$15,390. In addition, there are other costs such as paper ballots specific for each town and printing estimated at \$35,000, voting machine delivery teams, additional hours and days for staff of the Sheriff's Office and Board of Elections. Estimating the various expenses, Commissioner Campbell said that his figure of about \$80,000 per election may be on the low side.

Those that desire to vote but are unable to make it to the polls on Election Day ( students, military personnel, nursing home residents, or anyone away from home for a variety of reasons), may vote by Absentee Ballot. For Delaware County Absentee Ballots serve the desired effect of early voting for those who cannot make it to the polls.

Commissioner Campbell stated in conclusion, that Delaware County would not gain any benefit from early voting. This legislation is inappropriate and ineffective for small rural areas like Delaware County. In addition, there is no statistical evidence that early voting by itself has caused a significant increase in voter turnout. It is important that the county go on record stating it cannot afford early voting and therefore the state should provide a provision to allow an opt-in system fully funded by the state.

In answer to Ms. Miller, Commissioner Campbell advised that there are 27,000 eligible voters in the county. Commissioner Garrison added that 71 percent of registered Democrats and 75 percent of registered Republicans voted in the 2012 General Election.

Commissioner Garrison stated that the Commissioners receive updates on a regular basis from the Election Commissioners Association of New York State and there has been no mention of early voting.

The resolution was unanimously adopted.

Mr. Donnelly offered the following resolution and moved its adoption:

**RESOLUTION NO. 51**

**TITLE: PAYMENT OF AUDIT**

**WHEREAS**, bills and claims submitted and duly audited by the Clerk of the Board's office in the amount of \$1,088,031.29 are hereby presented to the Board of Supervisors for approval of payment;

**NOW, THEREFORE, BE IT RESOLVED** that the County Treasurer be directed to pay said expenditures as listed below:

General Fund	\$695,990.08
OET	\$51,462.01
Public Safety Comm System	\$7,402.82
Highway Audits, as Follows:	
Weights and Measures	\$207.11
Landfill	\$41,703.36
Road	\$131,131.93
Machinery	\$106,170.45
Capital Road & Bridge	\$29,359.94
Capital Solid Waste	\$24,603.59

The resolution was seconded by Mr. Marshfield and Mr. Dolph and adopted by the following vote: Ayes 4341, Noes 0, Absent 458 (Donofrio, Hynes).

Upon a motion, the meeting adjourned at 2:38 p.m.