

REGULAR MEETING

DELAWARE COUNTY BOARD OF SUPERVISORS MARCH 12, 2014

The regular meeting of the Delaware County Board of Supervisors was held Wednesday, March 12, 2014 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 Mr. Rowe and Mr. Hynes.

Mr. Marshfield offered the invocation.

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

The minutes of the previous meeting were accepted as presented.

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

Chairman Eisel granted privilege of the floor to Mr. Triolo. Mr. Triolo introduced Commissioner of Watershed Affairs Dean Frazier to provide a brief overview of the Flood Mitigation Program.

Commissioner Frazier stated that the proposed Flood Mitigation Program is a voluntary, community-driven program borne out of negotiations following Hurricane Irene and Tropical Storm Lee. The program provides alternative opportunities that could benefit communities should they choose to use it. The purpose of the program is to reduce the risk of flooding, protect life and property, reduce pollutant loading, and protect public safety while retaining the community's character and tax base. The Delaware County CORE group has been instrumental in negotiating and developing the program. The details of the volunteer buyout and relocation portions of the program are still under negotiation/discussion and are not likely to be available before the end of 2014.

Commissioner Frazier introduced Stream Program Coordinator Graydon Dutcher to provide further detail on post-recovery flood projects.

Mr. Dutcher explained the role Delaware County Soil & Water Conservation District (DCSWCD) plays in the local municipality stating that through New York State (NYS) and Delaware County legislation, the DCSWCD is charged with the preservation of soil and water resources, for the improvement of water quality, the control and prevention of soil erosion, floodwater, and sediment damages, as well as to protect and promote the health and safety of the people of New York.

After Hurricane Irene and Tropical Storm Lee in 2011 municipalities throughout Delaware County were faced with significant and costly flood recovery challenges. Through a series of before and after photographs, Mr. Dutcher provided a detailed and informative presentation showing the destruction and associated Emergency Watershed Protection (EPA)

Projects completed in the Towns of Colchester, Delhi, Deposit, Hamden, Harpersfield, Middletown, Sidney, Tompkins and Walton totaling over \$3.3 million dollars.

Mr. Dutcher noted that DCSWCD was recently recognized with the “Partner of the Year” award by the Natural Resource Conservation Service (NRCS) on behalf of the DCSWCD Stream Corridor Management Program and by the New York Association of Conservation Districts for the development of the Post-Flood Emergency Stream Intervention (ESI) Training Program.

He explained that participants in the ESI Training Program learn how to use the stream’s natural tendencies to provide immediate, environmentally-friendly, post-flood corrective actions or triage. Continued post-flood emergency stream intervention training has helped municipalities gain an understanding of stream management and long-term stability. Additionally, it has prepared county, town and village officials to react quicker and recover sooner from an event.

Mr. Dutcher stated that 100 percent of the municipality’s eligible project costs were covered by grant funding. Grant funding through the Natural Resource Conservation Service (NRCS) was cost shared by the DCSWCD’s Stream Management Program within the New York City (NYC) Watershed. The DCSWCD provided survey, design, and construction inspection for all the projects in Delaware County except CR 17, which was completed by the Department of Public Works. Grant funding received through the NYS Empire Grant Program and administrated through the Department of Watershed Affairs covered the towns’ local cost share for projects outside of the NYC watershed.

In response to questions about the Local Flood Hazard Mitigation Analysis (LFA), Mr. Dutcher stated that participation in the LFA is voluntary and implemented by the community. It is a two-phase scientific analysis of a community's option for reducing flood risks. Phase I consists of a flood engineering analysis and Phase II is the development of the LFA.

Mr. Dutcher shared that it is through the combined efforts of county agencies, local sponsors and partners that the county has been able to achieve its current level of education, services and funding.

Supervisors were given a copy of the *Delaware County Natural Resource Conservation Service Emergency Watershed Protection Projects 2012-2013* and a copy of the December 2013 issue *Soil & Water Advocate*.

Chairman Eisel thanked Commissioner Frazier and Mr. Dutcher for their informative presentations and congratulated the DCSWCD for receiving the NYS Environmental Excellence Award.

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

RESOLUTION NO. 50

**TITLE: 2014 BUDGET AMENDMENT
TRANSFER OF FUNDS
COUNTY INSURANCE**

WHEREAS, it is necessary to fund the County Insurance account to cover premiums on purchased policies for 2014 incidental liability claims, administrative costs and continued funding of the insurance reserve account

NOW, THEREFORE, BE IT RESOLVED that the following expenditures are authorized:

FROM:

10-11325-54350200	County Treasurer	\$800.00
10-11410-54350200	County Clerk	5,800.00
10-11450-54350200	Board of Elections	400.00
10-11620-54350200	Buildings	7,200.00
10-13110-54350200	Sheriff	34,810.00
10-13140-54350200	Probation	22,000.00
10-13144-54350200	Probation CSS	900.00
10-13150-54350200	Jail	40,000.00
10-13640-54350200	Emergency Service	1,700.00
10-14012-54350200	Public Health	25,000.00
10-14310-54350200	Mental Health Clinic	10,000.00
10-14317-54350200	Alcoholism	4,500.00
10-14321-54350200	Expanded Mental Health Programs	500.00
10-16010-54350200	Social Services	40,000.00
10-16326-54350200	Economic Development	550.00
10-16510-54350200	Veteran's Service Agency	1,180.00
10-16610-54350200	Sealer of Weights & Measures	390.00
10-16772-54350200	Office for Aging	2,600.00
10-18020-54350200	Planning Department	1,010.00
10-18740-54350200	Watershed Affairs	400.00
22-18160-54350200	Solid Waste	26,000.00
26-15130-54350200	Highway Department	<u>98,800.00</u>
		Total: \$324,540.00

INCREASE REVENUE:

10-19000-42280100	Interfund Revenue Insurance	\$324,540.00
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INCREASE APPROPRIATION:

10-11910-54350200	Unallocated County Insurance	\$324,540.00
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BE IT FURTHER RESOLVED, that any unexpended year-end balance in account 10-11910-54350200 Unallocated County Insurance be transferred to 10-19901-59990200 Operating Transfer (out) for transfer to the Insurance Reserve Fund.

The resolution was seconded by Mr. Marshfield and adopted by the following vote: Ayes 4227, Noes 0, Absent 572 (Rowe, Hynes).

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

RESOLUTION NO. 51

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

LETTING OF FEBRUARY 28, 2014

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. 28-14	Purchase of New Single Axle Dump: Navistar Inc. (Ben Funk), 399 Albany Shaker Rd., Suite 202, Loudonville, NY 12211
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Bid Price: \$137,303.00

Towns may participate in this bid.

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. Haynes and Mr. Spaccaferno and adopted by the following vote: Ayes 3986, Noes 241 (Taggart), Absent 572 (Rowe, Hynes).

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

RESOLUTION NO. 52

**TITLE: APPROVAL TENTATIVE AGREEMENT DEPUTY SHERIFFS
PERSONNEL OFFICE**

WHEREAS, the Human Resources Committee has reached a tentative agreement with the Delaware County Deputy Sheriff's Police Benevolent Association for the terms and conditions of employment for the years 2014, 2015, 2016, 2017 and 2018.

NOW, THEREFORE, BE IT RESOLVED that said tentative agreement is hereby approved as presented to the Board; and

BE IT FURTHER RESOLVED that the Chairman of the Board is authorized to execute a collective bargaining agreement which incorporates the terms of said tentative agreement.

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

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

RESOLUTION NO. 53

TITLE: CALLING ON NEW YORK STATE LEGISLATURE TO REJECT GOVERNOR CUOMO'S PLANS TO REWARD PRISON INMATES BY PROVIDING THEM WITH COLLEGE EDUCATION AT TAXPAYER EXPENSE SHERIFF'S OFFICE

WHEREAS, even though rehabilitation is a noble and optimum goal, the purpose of prison is to punish those who have engaged in behavior that is morally and legally wrong, dangerous, threatening, or severely antisocial, including murder, rape, theft, and distribution of narcotics, among other serious crimes; and

WHEREAS, incarcerated individuals represent a continued threat to society, and are not deserving of rewards, but rather punishment for their actions; and

WHEREAS, Governor Andrew M. Cuomo did, on February 16, 2014, propose providing the prison segment of society with taxpayer-funded college tuition, a benefit unavailable to the children of the productive, law-abiding taxpayers who will be forced to finance Governor Cuomo's scheme; and

WHEREAS, Governor Cuomo expressed no concern for the educational opportunities lost by many of the victims, most notably those who were murdered by the hardened criminals he wishes to treat as valued members of society; and

WHEREAS, Governor Cuomo has estimated the cost of his program at \$5,000 per inmate, an obscene sum when contemplated as a reward for society's worst members, as well as a slap in the face of the taxpayer who would foot the bill; and

WHEREAS, such college tuition programs have been absent in New York State since the departure of Governor Cuomo's father as governor, having been discontinued by the Honorable George E. Pataki during the first year of his administration; and

WHEREAS, the Legislature of the County of Delaware endorses the notion that prison is punishment, and convicted inmates are undeserving of rewards such as free college tuition.

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Supervisors considers Governor Cuomo's proposal an outrageous insult to the law-abiding taxpayers and their families of this state and county; and

BE IT FURTHER RESOLVED that the Delaware County Board of Supervisors does hereby call upon its representatives in, and the leadership of, the New York State Senate and Assembly to reject this radical proposal and similar liberal meddling with the institution of justice; and

BE IT FURTHER RESOLVED that the Board of Supervisors calls upon Governor Cuomo to withdraw this proposal and apologize to those families that have been hurt by the very prison inmates he is attempting to coddle; and

BE IT FURTHER RESOLVED that copies of this resolution be sent to Governor Andrew Cuomo, Senator John Bonacic, Senator Tom Libous, Senator James Seward, Assemblywoman Claudia Tenney, Assemblyman Peter Lopez, Assemblyman Clifford Crouch, Superintendent of State Police Joseph D'Amico, New York State Association of Counties and the legislature of every County in the State of New York.

The resolution was seconded by Mr. Haynes and Mr. Spaccaforno.

Mr. Pigford shared that it costs about \$60,000 a year per inmate and that the Governor is attempting to minimize the incarceration process. He thought the Governor might have overstated his case but there is a value to educational training for the incarcerated. He stated that he is not in disagreement with the result of this resolution but is concerned about the rationale and language used in making the point. He noted that he is uncomfortable with the generalization of any population and questioned the consideration given to the statement made about a similar program under Governor Cuomo's father. He suggested that prior to voting on the resolution it go back to the Public Safety Committee for further research and review.

Ms. Miller suggested the Social Services Committee review the resolution as well.

Mr. Marshfield stated that he is not in support of Governor Cuomo's prison education program as it is proposed. He referenced studies concluding that educational programs provided prisoners have about a 29 percent decrease in incarceration. He noted that other states have similar programs offering educational benefits but none that pay \$5,000 a year per inmate. There are far more meaningful ways the money might be spent he opined suggesting giving the money to the children of the prisoners or the victims of the prisoners in the form of education reimbursement.

He referenced the seventh paragraph of the resolution commenting that the Public Safety Committee may want to meet with members of the newly formed Delaware County Drug Task Force in order to be consistent with our thinking.

Mr. Axtell explained that the Public Safety Committee modeled this resolution after one approved by a neighboring county. The Committee is opposed to the Governor's proposal based on his lack of consideration for law-abiding youth and adults that may not have the opportunity to attend college because of their finances. There are no firm figures and limited information on the proposed program. The Committee felt it imperative to act promptly due to state budgetary deadlines.

Mr. Taggart added that prisoners would receive a free education while law-abiding citizens will pay their own tuitions and have a student loan upon completion. He felt the Governor needed to give more thought to the effects of his proposal.

Mr. Axtell noted that the Committee did not specifically address some of the concerns mentioned but concluded that the resolution was intended to let the county's opposition to the proposal be known.

Ms. Miller supported Mr. Pigford's suggestion to table the resolution at this time. She would like to see it rewritten to reflect the language and values of Delaware County. She further stated that the incarcerated are people that will be transitioning back into our society.

Mr. Taggart commented that he is aware of in-prison educational programs that provide college courses to further the education of the incarcerated and is not opposed to education. He does not think this proposal is fair to the law-abiding people. He felt the matter needed to be addressed as soon as possible and did not want to table the resolution.

In answer to Mr. Marshfield, Undersheriff DuMond stated that he was not aware of any particular urgency requiring the resolution to be voted on at this meeting.

In response to Ms. Miller, Director of Public Health Bonnie Hamilton shared that the Drug Task Force recognizes that substance abuse is related to both mental health and addiction diagnoses. The group is working to come up with programming and release from jail planning that moves people into treatment and not back to the streets. Education and incentives are a major part of that plan. From that perspective, the language in the resolution is not consistent with the goals of the Drug Task Force.

Mr. Valente commented that he would support a motion to table and questioned if there was a motion on the floor at this time to table the resolution.

In response to Chairman Eisel, County Attorney Porter Kirkwood stated that from his understanding of the discussion he felt it was a motion to postpone the resolution rather than a motion to table at this time that was being asked of Mr. Axtell.

Mr. Axtell stated that he would prefer not to withdraw the resolution at this time. He felt the matter needed to be addressed at this meeting due to state budgetary deadlines.

Ms. Molé, Mr. Taggart and Mr. Spaccaforno expressed their support of the resolution and urgency for its vote.

Chairman Eisel agreed stating that he believed the resolution should move forward. He felt that the county's opposition to this proposal needed to be made known to the Governor immediately and called for a vote of the Board of Supervisors.

The resolution was adopted by the following vote: Ayes 2619, Noes 1608 (Valente, Marshfield, Miller, Pigford, Triolo), Absent 572 (Rowe, Hynes).

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

RESOLUTION NO. 54

TITLE: RESOLUTION URGING GOVERNOR CUOMO TO REFUND THE PROJECTED NEW YORK STATE TAX SURPLUSES TO THE TAXPAYERS

WHEREAS, Governor Cuomo in his State of the State address projected a 2.2 billion dollar surplus over the next three years; and

WHEREAS, the Governor has outlined a plan to expend that 2.2 billion dollar surplus through estate, corporate and real property tax relief, but only in counties which do not override the current 2% tax cap; and

WHEREAS, the Delaware County Board of Supervisors believes that such surplus should be used to help lower our unemployment rate and invigorate our local economies; and

WHEREAS, it has historically been proven that government does not create permanent, long-term jobs only the supply demand free market economy can achieve this; and

WHEREAS, the Delaware County Board of Supervisors further believes that it is the individual taxpayers who are in the best position to determine how their surplus tax dollars should be spent.

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Supervisors hereby urges Governor Cuomo to refund the projected 2.2 billion dollar surplus directly to the taxpayers of the State of New York; and

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

The resolution was seconded by Mr. Spaccaforo.

Chairman Eisel noted that this is not a new concept but a mindset that he believes should be considered again. Assembly members Clifford Crouch and Peter Lopez will sponsor this in the Assembly and Senators James Seward and John Bonacic will sponsor it in the Senate.

Mr. Marshfield commented that it is hard to believe the state could go from a 10 billion dollar deficit to a 2.2 billion dollar surplus over the next three years. His concern is that the surplus will be the result of cutbacks to programs and other expenses that may eventually fall back upon the municipalities in the form of mandates. He suggested that the surplus be given back to all municipalities to help offset unfunded mandates and reductions in program funding. Additionally, the burdens placed upon the municipalities in the form of unfunded mandates significantly increase its inability to comply with the 2 percent tax cap.

Mr. Spaccaforo stated that he sees this as a political move with the potential of hindering relationships between municipalities and the state.

Ms. Miller referenced the fourth paragraph of the resolution stating that she questioned whether “it has historically been proven that government does not create permanent, long-term jobs.” She pointed out that county government is an example of government providing permanent, long-term jobs.

Mr. Axtell commented that he sees this as a threat to home rule.

Chairman Eisel noted that the county’s sales tax revenue is down. He opined that if anything can be done to bring additional revenue into the economy it should be done. If the surplus does exist it should go back to the people.

Mr. Dolph, speaking as the county Budget Director, shared his concern that municipalities trying to keep their budget increase below the 2 percent tax cap will supplement it with the use of their fund balance. That practice could bankrupt a municipality. He opined that the Governor's plan to give back only to counties that do not override the 2 percent tax cap is dangerous and needs to be reconsidered.

The resolution was unanimously adopted.

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

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

RESOLUTION NO. 55

**TITLE: 2014 BUDGET AMENDMENT
NEW YORK STATE OFFICE OF HOMELAND SECURITY PROGRAM
DEPARTMENT OF EMERGENCY SERVICES**

WHEREAS, the Department of Emergency Services applied for and was awarded a grant (PS2012) from the FY12 New York State Office of Homeland Security Program to ensure progress towards the goals and milestones described in the Statewide Communications Interoperability Plan (SCIP); implement regional solutions via consortiums among local governments, state agencies and other public safety organizations; upgrade, expand, consolidate or replace existing communications systems through which statewide interoperable communication can be achieved to respond to large-scale or natural disasters; and

WHEREAS, the grant award will allow for a 911 system upgrade, including hardware, software, planning, licenses, management, workstations and related items; and

WHEREAS, this grant was awarded to Delaware County in the amount of \$179,210.

NOW, THEREFORE, BE IT RESOLVED that the 2014 budget be amended as follows:

INCREASE REVENUE:

10-13640-43330500/3640045/911	State Civil Defense	\$179,210.00
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INCREASE APPROPRIATION:

10-13640-52200221/3640045/911	Equipment	\$150,210.00
10-13640-54327200/3640045/911	Grant Contractual	\$29,000.00

The resolution was seconded by Mr. Spaccaforo.

In answer to Chairman Eisel, Director of Emergency Services Steve Hood stated that these funds would cover new hardware and hopefully some of the software.

The resolution was adopted by the following vote: Ayes 4227, Noes 0, Absent 572 (Rowe, Hynes).

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

RESOLUTION NO. 56

**TITLE: IN SUPPORT OF HOME RULE 543
“BLUE WATER NAVY VIETNAM VETERANS ACT OF 2013”
VETERANS’ SERVICE AGENCY**

WHEREAS, during the Vietnam War, the United States military sprayed 22 million gallons of Agent Orange and other herbicides over Vietnam to reduce forest cover and crops used by the enemy; and

WHEREAS, the United States Congress passed the Agent Orange Act of 1991, to address the plight of Veterans exposed to herbicides while serving in the Republic of Vietnam; the Act amended Title 38 of the United States Code to presumptively recognize, as service-connected, certain diseases among military personnel who served in Vietnam between 1962 and 1975; and

WHEREAS, pursuant to a 2001 directive, the United States Department of Veterans Affairs policy has denied the presumption of service connection for herbicide-related illnesses to Vietnam Veterans who cannot furnish written documentation that they had “boots on the ground” in-country, making it difficult for countless United States Navy, Marine and Air Force Veterans to pursue their claims for benefits; and

WHEREAS, the United States Navy has been excluded ever since Agent Orange has been verified, through various studies and reports, as a wide spreading chemical that was able to reach Navy ships through the air and waterborne distribution routes; and

WHEREAS, more than 30 Veterans Service Organizations support the Blue Water Navy Vietnam Veterans Act of 2013.

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Supervisors hereby respectfully urges the Congress of the United States to restore the presumption of a service connection for Agent Orange exposure to the United States Veterans who served on the inland waterways, in the territorial waters, and the airspace over the combat zone; and

BE IT FURTHER RESOLVED that the Clerk of the Board of Delaware County forward official copies of the resolution to the President of the United States, to the President of the Senate and Speaker of the House of Representative of the United States Congress, and to all the members of the New York delegation to Congress with the request that this resolution be officially entered into the Congressional Record as a memorial to the Congress of the United States of America.

The resolution was seconded by Mr. Spaccaforo.

Mr. Spaccaforo expressed concern that the United States Department of Veterans Affairs is having a difficult time understanding the service connection to the use of the herbicides. Additionally, not all veterans are being affected the same way.

Mr. Donnelly shared that during periods of water rationing salt water showers were commonplace while on ship increasing the chances of contamination.

The resolution was unanimously adopted.

Mr. Marshfield offered the following resolution and moved its adoption.

RESOLUTION NO. 57

TITLE: IN SUPPORT OF HOME RULE 1494 “BLUE WATER NAVY ACCOUNTABILITY ACT” VETERANS’ SERVICE AGENCY

WHEREAS, the Blue Water Accountability Act directs the Secretary of Defense to review the logs of each Navy ship under the authority of the Secretary of the Navy that is known to have operated in the waters near Vietnam during the Vietnam Era (January 9, 1962, through May 7, 1975), to determine, for each such ship, the date(s) so operated and its closest proximity to shore during such operation; and

WHEREAS, upon such determination that any such ship so operated, the Secretary of the Defense shall provide such determination, together with the information described about such ship, to the Secretary of Veteran Affairs, and

WHEREAS, the Secretary of Veterans Affairs shall make publicly available all unclassified information provided to the Secretary.

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Supervisors hereby supports the health and welfare of all Veterans as a priority and respectfully urges the Congress of the United States to pass H.R. 1494 “Blue Water Navy Accountability Act”; and

BE IT FURTHER RESOLVED that the Clerk of the Board of Delaware County forward official copies of the resolution to the President of the United States, to the President of the Senate and Speaker of the House of Representative of the United States Congress, and to all the members of the New York delegation to Congress with the request that this resolution be officially entered into the Congressional Record as a memorial to the Congress of the United States of America.

The resolution was seconded by Ms. Miller.

Congressman Gibson’s liaison Paula Brown commented that this and the previous resolution are bills sponsored by Congressman Gibson.

The resolution was unanimously adopted.

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

RESOLUTION NO. 58

TITLE: PAYMENT OF AUDIT

WHEREAS, bills and claims submitted and duly audited by the Clerk of the Board's office in the amount of \$1,285,172.78 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	\$911,632.09
OET	\$35,458.42
Public Safety Comm System	\$0.00
Highway Audits, as Follows:	
Weights and Measures	0.00
Landfill	\$51,428.16
Road	\$162,372.37
Machinery	\$96,989.42
Capital Road & Bridge	\$7,292.32
Capital Solid Waste	\$20,000.00

The resolution was seconded by Mr. Donnelly and adopted by the following vote: Ayes 4227, Noes 0, Absent 572 (Rowe, Hynes).

Upon a motion, the meeting adjourned at 2:35 p.m.