

## REGULAR MEETING

### DELAWARE COUNTY BOARD OF SUPERVISORS

January 26, 2005

The regular meeting of the Delaware County Board of Supervisors was held Wednesday, January 26, 2005 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. Bachler and Mr. Shelton.

Mr. Donnelly offered the invocation.

Mr. Meredith 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 Countryside Care Center Director Kurt Apthorpe who presented Sally Bennett as Employee of the Month.

Mrs. Bennett started with Countryside in March of 1986 as a Food Service Helper in the Nutritional Services Department. In 1989, she was promoted to cook with her primary responsibilities being cooking nutritious meals for residents and staff as well as supervision of Nutritional Services personnel.

Mr. Apthorpe stated that he is very fortunate to have Mrs. Bennett as part of Countryside's team and complimented her strong work ethics and integrity. Mrs. Bennett is a role model to the other employees he said, as she is a dedicated employee who takes pride in her work. Mr. Apthorpe said that Mrs. Bennett is conscientious, hard working and values the residents, making sure they receive quality meals and service.

Mr. Apthorpe presented Mrs. Bennett with a \$100.00 Savings Bond and thanked her for her dedication. Chairman Eisel presented her with Certificate of Employee of the Month and thanked her for her dedicated service.

Mrs. Bennett thanked everyone for the award.

Chairman Eisel granted privilege of the floor to Mr. Utter who introduced Commissioner of Public Works Wayne Reynolds to advise the Board of information received from the Comporac Composting Plant located in Tracy, Quebec.

Commissioner Reynolds announced that the maturation building in Tracy, Quebec, where the final carrying of product takes place had collapsed. He explained the reason as poor maintenance through the years along with the weight of about 18 inches of snow on the roof, followed by a substantial amount of rain.

He said our building is the same design as the one at the Tracy plant, adding their building is a HONCO and ours is a Belhan building. He explained the environment in these buildings is very humid and conducive to corrosion. The reason the Tracy building went down was because the roof was extremely rusty and perforated in spots could not structurally sustain the weight of the snow.

Commissioner Reynolds said that Delaware County was very much aware of the corrosion problem throughout the project and that is why we chose to spend an additional \$40,000 to put stainless steel in our maturation building. Furthermore, what happened at the Tracy plant makes a good point for continued maintenance, adding that it is unfortunate that the

Tracy plant did not take the necessary steps to prevent this from happening.

In reply to Mr. Thomas, Commissioner Reynolds said that the building collapsed just prior to Christmas, adding the employees were at their Christmas party when a call was received from the security personnel advising them that a door was open only to find the building was collapsed.

Commissioner Reynolds in response to Mr. Marshfield said that the building was 12 years old and that operations at the plant had not ceased. He explained that the bio-reactor continues to operate and that they are carrying the product outside to the parking lot to cure. They have already gotten prices for the removal and reconstruction of a new stainless steel building and are just waiting for a release from the insurance company.

Chairman Eisel commented that we recognized the corrosion problem early on after visiting the plant in Tracy and feel our stainless steel plant is state of the art.

Mr. Utter remarked that he and the Capital Projects Committee noticed the corrosion when they visited the building in Tracy. He said that our designers were instructed to come up with better material and stainless steel is what they came up with.

Mr. Thomas introduced Countryside Care Center Director Kurt Apthorpe who presented follow-up information in regards to statements made by the proposed buyer Leatherstocking Healthcare, LLC.

Mr. Apthorpe said that Leatherstocking Healthcare, LLC had made statements about building renovations that may have sounded like Delaware County could do something other than build a new building. He explained that he confirmed with the New York Association of Homes and Services for the Aging (NYAHS) that the new owner could renovate the building without meeting the standards of a new building. New owners would only be required to make some of the bathrooms ADA-compliant. However, a new building would require a higher standard of improvement.

In order for Delaware County to rebase, we are forced to build a new building. The State will not rebase if we only renovate the existing building. It should also be noted that the Beardsley design for renovation would not allow us to rebase or improve operational efficiency. The only alternative would be to build a new facility.

With regard to equity contribution, Mr. Apthorpe pointed out that the State historically required only a 10% equity contribution from an owner when building or renovating. This past month, the State is considering a change in contribution requirements to an increase of 25% with some variance allowed based on owners' circumstances. Mr. Apthorpe explained that our Association met with the Governor's staff yesterday to verify the county's current 10% equity requirement, especially since we already submitted our Certificate of Need application prior to this proposed rule change. Further stating, new owners will be subject to the proposed rule change for equity requirements.

Mr. Apthorpe advised the Board that since the proposed buyers are required to provide the State with pro forma financial statements for the first three years of operating the new facility, he has requested that the buyer provide this information to the county prior to the county making a decision.

Mr. Marshfield asked if the county would remain under the 10% equity requirement because a Certificate of Need had been filed. In reply, Mr. Apthorpe said that is his understanding but, he has no written proof of that.

Chairman Eisel noted that the Certificate of Need was filed for a new building. Mr. Apthorpe explained that Countryside filed the Certificate of Need for a new 126 bed facility in December of 2003 but, that there would still be an equity requirement if the county chooses to renovate the existing building.

Mr. Marshfield commented that an increase to a 25% equity requirement could be very

substantial to the owner.

In response to Mr. Donnelly, Mr. Apthorpe said that the purchase of land to build a new facility would go toward the equity requirement.

Mr. Marshfield noted that if the county was to build a \$20 million facility the equity requirement would be \$2 million. Mr. Apthorpe pointed out that the county could borrow the 10% equity requirement and would receive full reimbursement for 90 percent of the borrowed amount.

Chairman Eisel remarked that Leatherstocking Healthcare, LLC was correct when they said there would be a different standard for them if they renovate the facility. Mr. Apthorpe said the county would have to meet a different standard because they own the building.

Mr. Hynes commented that he was not in agreement with the statement that the Beardsley design would not have improved the operational efficiency of Countryside. Mr. Apthorpe explained that there were efficiencies in the heating and cooling that were proposed but, when he speaks about operational efficiency he includes staff which in his opinion is the most expensive piece of the operation. The Beardsley design would not have provided any operational efficiencies, from a staff standpoint.

Mr. Marshfield declared it irritates him that it is the same building but a new owner would be treated differently than the existing owner.

Chairman Eisel said he read in the paper that there is talk about changing the tax to nursing homes from 5% to 6%, adding why would they consider something like that when there isn't a public facility that isn't hurting financially.

Mr. Apthorpe stated in reply to Ms. Freyer, that the comments made to Banjo Radio Host Terry Doyle were based on the information presented to the Supervisors at the January 13, 2005 meeting. He added that he is still talking with the State Comptroller to see how legitimate the option of the sale to a not-for-profit agency really is.

Ms. Freyer said when she heard the statement on the radio she was not aware that a not-for-profit was an option for Countryside. Several Supervisors indicated they had not heard the radio announcement and if they had been approached for comment they would not have been prepared to respond. In her opinion, the announcement was premature and came over the radio sounding like a viable option the Supervisors were considering.

In reply to Ms. Freyer, Mr. Apthorpe remarked he felt he was caught in a very difficult situation, the Board wants to provide a good service and a the community-based, not-for-profit corporation would maintain the level of services the Board requires but, would require a subsidy. He added that he is speaking with the County Attorney Richard Spinney regarding the issue of paying a subsidy to the not-for-profit.

Ms. Freyer expressed concern that an announcement of this importance was made on the radio before Mr. Apthorpe had a full understanding of the legality of the option and before the Supervisors had an opportunity to hear about it.

Mr. Marshfield commented that he appreciates Mr. Apthorpe looking into every possible option for Countryside but, agrees with Ms. Freyer the radio announcement may have been putting the cart before the horse.

Mr. Thomas stated, in fairness to Mr. Apthorpe, that it was mentioned at the January 13, 2005 meeting as option number three that would cost the county approximately \$2 million in subsidy.

Ms. Freyer stated that her point is that the not-for-profit option had not been discussed thoroughly in this forum.

Mr. Thomas referenced an article in the January 25, 2005 Daily Star and commented on

how easy it is to be misled by headlines. The headline inferred that Otsego County would be receiving a grant in the amount of \$416,000 to help create jobs. The real story upon reading the article, he said, is that it is a revolving loan fund, not a grant.

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

**RESOLUTION NO. 25**

**TITLE: ESTABLISHMENT OF ACCOUNTS  
DELAWARE COUNTY COUNTRYSIDE CARE CENTER**

**WHEREAS**, Countryside Care Center has entered into an agreement to provide prescription pharmaceuticals, over-the-counter medication, and general medical supplies for the Delaware County Correctional Facility; and

**WHEREAS**, Countryside will on occasion purchase medical stock items for other departments as needed; and

**WHEREAS**, Countryside is required to correctly record this activity in accounts separate from the skilled nursing facility

**THEREFORE, BE IT RESOLVED**, that the following accounts and budgeted appropriations be established effective January 1, 2005:

**REVENUES**

42-69500-42277000	Other Misc. Revenue – Jail Contract	\$70,000.00
42-69510-42277000	Other Misc. Revenue – Co. Departments	1,000.00

**APPROPRIATIONS**

42-69500-54595260	Supplies Medications – Prescription	\$50,000.00
42-69500-54595240	Supplies Medications – OTC	14,000.00
42-69500-54595220	Supplies Medical – Stock Items	5,500.00
42-69500-54595320	Supplies – Administrative	500.00
42-69510-54595220	Supplies Medical – Stock Items	1,000.00

The resolution was seconded by Mr. Hynes.

Mr. Apthorpe stated that the Correctional Facility was included in the pharmaceutical bid that went out at the end of last year. It was determined that the Correctional Facility would get the best price on pharmaceuticals by purchasing through the Countryside agreement. Countryside would pass on the charges to the Correctional Facility with an additional charge for prisoners boarded in from other correctional facilities.

The resolution was adopted by the following vote: Ayes: 4536, Noes 0, Absent 270.

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

**RESOLUTION NO. 26**

**TITLE: AUTHORIZATION FOR EXPENDITURES FROM  
DELAWARE COUNTY COUNTRYSIDE CARE CENTER'S MEMORIAL FUND**

**WHEREAS**, donations are received by Delaware County Countryside Care Center for the Resident Memorial Fund for the purpose of providing additional items for the residents and their environment that normal funding does not provide; and

**WHEREAS**, it has been determined that residents would benefit from the purchase of two pair of flush-mount ceiling speakers with wire for the auditorium at a cost of no more than \$300

**THEREFORE, BE IT RESOLVED**, that the authorization be given to make payment from the facility's Memorial Fund monies toward this purchase.

The resolution was seconded by Mr. Marshfield and adopted by the following vote: Ayes: 4536, Noes 0, Absent 270.

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

**RESOLUTION NO. 27**

**TITLE: AUTHORIZING FOR PROFESSIONAL SERVICES,  
SUPPLEMENT #1 FOR BRIDGE #5, BIN 3352060  
DELAWARE COUNTY DEPARTMENT OF PUBLIC WORKS**

**WHEREAS**, Resolution No. 82 of 2004 authorized the Department of Public Works to enter into an agreement with Modjeski & Masters, P.C. for professional services relating to the rehabilitation of Bridge #5; and

**WHEREAS**, during the development of the Design Report for the project, two important issues arose that were not included in the original scope; the need to replace the main cable anchorages at the south end of the bridge while providing the temporary support of the bridge, and hydraulic conditions at the bridge require the installation of a control structure to protect the existing abutments and pier from scour damage.

**NOW, THEREFORE BE IT RESOLVED** that the Department of Public Works is herewith authorized to execute Supplemental Agreement #1 with Modjeski & Masters, P.C. for \$25,603 which will raise the maximum amount payable to \$209,130.

The resolution was seconded by Mr. Rider.

Mr. Utter stated the Corbett bridge located in the town of Colchester, is a historic cable suspension bridge built by the Roebling family were the designers of the Brooklyn bridge. He added this is for a study to bring the bridge up to standards that will make it last for many more years.

In reply to Chairman Eisel, Commissioner Reynolds said the bridge was built in the early 1900's and is still in use.

Mr. Donnelly asked if the bridge is part of the 21<sup>st</sup> Century Bridge Program that has been an excellent service to this county and is copied by the state, to which Mr. Utter replied yes.

The resolution was adopted by the following vote: Ayes: 4536, Noes 0, Absent 270.

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

**RESOLUTION NO. 28**

**TITLE: AUTHORIZATION FOR AWARD  
DELAWARE COUNTY DEPARTMENT OF PUBLIC WORKS**

**WHEREAS**, the flood of September 18, 2004 caused significant damage to gabion retaining walls along the base of the County Route 22 roadway embankment just west of East Brook Dam Road in the Town of Walton; and

**WHEREAS**, professional services in the form of geotechnical investigations, slope stability analysis, retaining wall design, right of way acquisition maps prepared and final bidding documents prepared are required; and

**WHEREAS**, the Department of Public Works has undertaken a consultant selection process and has completed the negotiating phase

**NOW, THEREFORE, BE IT RESOLVED** that the Delaware County Department of Public Works is authorized to make award to C&S Engineers, Inc., Syracuse Hancock International Airport, Syracuse, NY 13212 in the amount of \$74,180.

The resolution was seconded by Mr. Meredith.

Mr. Utter stated the damage is a result of highwater and floods this past fall. He said that dealing with FEMA is very difficult and that you don't know what you are going to receive until you get the check from them.

The resolution was adopted by the following vote: Ayes: 4536, Noes 0, Absent 270.

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

**RESOLUTION NO. 29**

**TITLE: AUTHORIZATION FOR PROFESSIONAL SERVICES,  
SUPPLEMENT #2 FOR BRIDGE 14-1, BIN 3352230  
DELAWARE COUNTY DEPARTMENT OF PUBLIC WORKS**

**WHEREAS**, Resolution No. 234 of 2001 authorized the Department of Public Works to enter into an agreement with McFarland Johnson, Inc. for the design phase of a federally funded project to reconstruct County Bridge 14-1, BIN 3352230; and

**WHEREAS**, Resolution No. 93 of 2003 authorized Department of Public Works to execute Supplemental Agreement #1 raising the total maximum amount payable to \$305,652; and

**WHEREAS**, the actual total number of right of way taking maps increased from the number identified in the original agreement; and

**WHEREAS**, additional survey was required to flatten the roadway side slopes than was originally anticipated.

**NOW, THEREFORE, BE IT RESOLVED** that the Department of Public Works is herewith authorized to execute Supplemental Agreement #2 with McFarland Johnson Inc., for \$5,371.00 to cover the above referenced work which will raise the maximum amount payable to \$311,023.

The resolution was seconded by Mr. Woodford.

Mr. Utter explained that this is the first bridge out of Delhi on County Route 14 on the Ralph Hunt property. This resolution is for different grading of approaches and roadway slopes that were not taken into consideration on the original design.

The resolution was adopted by the following vote: Ayes: 4536, Noes 0, Absent 270.

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

**RESOLUTION NO. 30**

**TITLE: PURCHASE OF HIGHWAY RIGHT OF WAY  
DELAWARE COUNTY DEPARTMENT OF PUBLIC WORKS**

**WHEREAS**, Resolution No.80 of 2004 authorized the Department of Public Works to acquire Right of Way for the reconstruction of County Bridge 33-1, BIN 3352790 and its approaches; and

**WHEREAS**, the Department of Public Works followed all the Federal requirements for

acquiring the highway right of way including appraisals and appraisal reviews; and

**WHEREAS**, the proposed plans for the highway relocation did not call for the removal of certain trees on the parcel identified as Map No. 2, Parcel No. 2 owned by Laura and Harry W. Clum Jr. and therefore was not in the appraisal for the property; and

**WHEREAS**, during construction it became evident that the trees had to be removed in order to complete the relocation of a fire hydrant.

**NOW, THEREFORE, BE IT RESOLVED** that the Delaware County Department of Public Works is authorized to compensate the owners of the following parcel for damages in the form of loss of trees.

<u>Map No. 2, Parcel No. 2</u>	<u>Fee</u>
Laura & Harry W. Clum Jr.	\$500.00

The resolution was seconded by Mr. Rowe and adopted by the following vote: Ayes: 4536, Noes 0, Absent 270.

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

#### **RESOLUTION NO. 31**

##### **TITLE: AUTHORIZATION FOR AWARD DELAWARE COUNTY DEPARTMENT OF EMERGENCY SERVICES Letting of December 15, 2004**

**WHEREAS**, notice to bidders and proposals received have been filed and the bidding procedures and documents having been approved by the County Attorney; and

**WHEREAS**, Resolution No. 108 of 2004 authorizes standardization of E911 hardware and software to InterAct Public Safety Systems

**NOW, THEREFORE BE IT RESOLVED**, that the Delaware County Department of Emergency Services is authorized to award it Turnkey Wireless Enhanced 911 Answering Point Backup System including Computer Aided Dispatch and Telephone answering Equipment to:

InterAct Public Safety Systems  
45 Patton Avenue  
Asheville, North Carolina 28801

At a cost of: \$151,453.80

The resolution was seconded by Mr. Utter and adopted by the following vote: Ayes: 4536, Noes 0, Absent 270.

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

#### **RESOLUTION NO. 32**

##### **TITLE: DELEGATION OF TAX CORRECTION OFFICIAL**

**WHEREAS**, Real Property Tax Law provides for the annual delegation to an official, the authority to correct tax rolls and authorize refunds of a sum not to exceed \$2,500.00; and

**WHEREAS**, said authority directs procedural disposition and monthly reporting of corrections processed to the Board of Supervisors; and

**WHEREAS**, the administration of corrections will proceed in appropriate compliance of statutorily established time lines

**BE IT RESOLVED** that Michael Sabansky, Director of Real Property Services be delegated as the official to authorize corrections as provided in section 556(9)(a) of the Real Property Tax Law.

The resolution was seconded by Mr. Thomas and adopted by the following vote: Ayes: 4536, Noes 0, Absent 270.

Chairman Eisel waived Board Rule 10 to permit the introduction of the following resolutions which were not pre-filed.

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

**RESOLUTION NO. 33**

**TITLE: DESIGNATION OF DELAWARE COUNTY AS LOCAL SPONSOR FOR SNOWMOBILE GRANT**

**WHEREAS**, the New York State Office of Parks, Recreation and Historic Preservation has made funds available to develop and/or maintain snowmobile trails in New York State; and

**WHEREAS**, applications for grants for such development and/or maintenance of snowmobile trails require a local government sponsor; and

**WHEREAS**, the Delaware Otsego Chenango Snowriders, the Hamden Hill Ridge Riders, the Maywood Snow Riders, the Otego Snow-Goers, The Delaware Valley Ridge Riders and the Central Catskill Trail Association have applied for said funds for the development and/or maintenance of snowmobile trails in Delaware County;

**NOW, THEREFORE, BE IT RESOLVED** that Delaware County is hereby declared as the Local Sponsor for this application under the New York State Office of Parks, Recreation and Historic Preservation Snowmobile Grant Program;

**FURTHER, BE IT RESOLVED** that the Planning Department budget be amended to receive and dispense these moneys in compliance with the requirements of the Preservation Snowmobile Trails Grant Program as follows:

**INCREASE REVENUE ACCOUNT**

10-17989-43388900	Snowmobile Recreation	\$142,400.00
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**INCREASE APPROPRIATION ACCOUNT**

10-17989-54555000	Recreation Snowmobile Grant	\$142,400.00
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The resolution was seconded by Mr. Maddalone and adopted by the following vote: Ayes: 4536, Noes 0, Absent 270.

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

**RESOLUTION NO. 34**

**TITLE: CANCELLATION OF RELEVIED SCHOOL TAXES**

**WHEREAS** after reviewing the records of the Real Property Tax Services, it has been determined the following property has been deleted.

**NOW THEREFORE BE IT RESOLVED** that the returned 2004-2005 school taxes be cancelled in the County Treasurer's Office:

Town of Davenport: Tax Map No. 22.3-1-1.2, assessed to Brian C. Beams in the Charlotte



Valley School District. Cancel relieved school taxes in the amount of \$2,574.40.

The resolution was seconded by Mr. Rider and adopted by the following: Ayes: 4536, Noes 0, Absent 270.

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

**RESOLUTION NO. 35**

**TITLE: NAPIS SOFTWARE CONTRACT  
OFFICE FOR THE AGING**

**WHEREAS**, the Delaware County Office for the Aging is mandated by federal regulations to be NAPIS (National Aging Program Information System Reporting) compliant; and

**WHEREAS**, the Delaware County Office for the Aging has requested bid proposals from software companies that have developed NAPIS systems; and

**WHEREAS**, Jaw Networks of Rochester, NY has submitted a bid that best meets the long term needs of the agency;

**THEREFORE, BE IT RESOLVED**, that the Delaware County Office for the Aging shall enter into contract with Jaw Networks to develop and maintain a NAPIS compliant information reporting system for a cost of \$13,365 for program setup and an annual maintenance fee of \$3,984.

The resolution was seconded by Mr. Maddalone.

In reply to Mr. Thomas, Office of the Aging Director Thomas Briggs explained that being NAPIS compliant will achieve additional accountability to the State. He said this is not something he really wants to do because staff will be spending more and more time in front of the computers filling in the blanks.

In reply to Mr. Thomas, Mr. Briggs said that the State provided a grant in the amount of \$2,600.00.

Chairman Eisel remarked that this is a requirement of the State, but will cost more time at the computer for the staff.

Mr. Briggs explained the money will be taken out of the Title III funding and will not cost the county any money. However, what it will cost is reduced services because staff will be spending more time providing the required information.

The resolution was adopted by the following vote: Ayes: 4536, Noes 0, Absent 270.

Upon a motion the meeting was adjourned for a short recess and reconvened with all Supervisors present except Mr. Rider, Mr. Bachler and Mr. Shelton.

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

**RESOLUTION NO. 36**

**TITLE: PAYMENT OF AUDIT**

**WHEREAS**, bills and claims submitted and duly audited by the Clerk of the Board's office in the amount of \$2,864,860.03 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	\$1,420,375.25
Countryside Care Center	\$229,359.22
OET	\$30,523.82
Capital Jail	\$59,210.68

Highway Audits, as Follows:

Road	\$72,523.61
Machinery	\$148,403.04
Capital Road & Bridge	\$180,236.74
Capital Solid Waste	\$674,910.84
Solid Waste/Landfill	\$49,316.83

The resolution was seconded by Mr. Thomas and adopted by the following vote: Ayes: 4536, Noes 0, Absent 270.

Chairman Eisel made the following appointments to the Southern Tier East Regional Planning Development Board:

Joseph Maddalone  
Director of Planning Nicole Franzese  
Director of Economic Development Glen Nealis.

Chairman Eisel appointed the following Supervisors to the following Supervisor to the Coalition of Watershed Towns:

Leonard Utter  
Thomas Hynes  
Frank Bachler,

Alternates:  
George Haynes  
Jack Thomas  
Peter Bracci.

Upon a motion, the meeting was adjourned at 2:18 P.M..