

REGULAR MEETING

DELAWARE COUNTY BOARD OF SUPERVISORS

MAY 25, 2005

The regular meeting of the Delaware County Board of Supervisors was held Wednesday, May 25, 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. Rowe and Mr. Maddalone.

Mr. Donnelly offered the invocation.

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

Chairman Eisel announced that Mr. Rowe could not be here due to town business and that Mr. Maddalone was attending a special meeting of The Hospital board.

The minutes of the previous meeting were accepted as presented.

The Clerk read letters of thanks from the family of Arretta Early and from Carolyn Anderson, President, Foundation Board of Directors of the Catskill Area Hospice for the donation made in her name by the Board of Supervisors.

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

Chairman Eisel granted privilege of the floor to Director of Public Health Bonnie Hamilton who presented Dawn Whiteside as Employee of the Month.

Mrs. Whiteside was hired as a per diem Home Health Aide in March of 1994 and became a full-time employee in August of 1999. Her responsibilities include a variety of tasks that enable her clients to remain in their own home. Mrs. Hamilton stated that Mrs. Whiteside has a great sense of humor, enjoys the one on one interactions with her clients and relates well with their families.

Mrs. Hamilton said that Mrs. Whiteside will travel anywhere in the county in any weather. She is very observant, reliable, and accountable to her clients and to her primary nurse. One of Mrs. Whiteside's clients summed it best when he said "the aide who was here gave 150% and always with a smile".

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

Mrs. Whiteside thanked the Board of Supervisors for this honor and stated it is a pleasure to work for the Department of Public Health.

Chairman Eisel granted privilege of the floor to Countryside Care Center Administrator Kurt Apthorpe who presented Adelfa Allen as the June Employee of the Month.

Mrs. Allen was hired in August of 1998 as a Nurses Aide. Her primary responsibility is to assist the residents with their care needs. Mr. Apthorpe pointed out that Mrs. Allen works with close to 100 nurse aides and stated that being recognized for this award is a significant accomplishment and a credit to Mrs. Allen.

Mr. Apthorpe stated that Mrs. Allen sets and maintains high standards in the care she provides to the residents. She is a team player and is always the first one to offer help to another member of the team. He further stated that Countryside Care Center is very fortunate to have Mrs. Allen as part of the care giving team. Mr. Apthorpe commented that Mrs. Allen was born in the Philippines and noted that approximately two years ago she

became a citizen of the United States.

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

Chairman Eisel introduced Delaware County's Poet Laureate Bertha Rogers.

Mrs. Rogers stated it is a great honor to represent Delaware County and thanked the Board of Supervisors for her appointment as Poet Laureate. She read her original poem about Delaware County during the Civil War period, written as a Pantounm, which she explained is an ancient Malaysian poetry form similar to a round containing much repetition. The poem will also be read in Treadwell on Memorial Day in honor of the 144th Infantry Regiment of Delaware County who served in the Civil War.

Chairman Eisel granted privilege of the floor to Mr. Thomas who introduced Commissioner William Moon.

Commissioner Moon referenced his first handout, entitled Delaware County Department of Social Services Commissioners Summary for May 2005 and noted a new Medicaid Management Information System (MMIS) Payer E-Med New York went on line in March 2005. He pointed out that the report shows slightly under a million dollar surplus which he explained is due to the way E-Med New York is processing the payments.

Referencing his second handout, Commissioner Moon noted the enlarged photocopy of a check in the amount \$366,533.29 on the cover, pointing out that this is the single largest case recovery in the history of the Department. He explained that the remainder of the handout is a copy of Delaware County Investment Management Program Report of Examination for the period of January 1, 2001 to November 5, 2002 prepared by the State of New York Office of the State Comptroller and Ms. Shield's reply to that report.

He stated that he is required to deposit the check into the Welfare Recoveries Account which is an account that County Treasurer Beverly Shields has been steadfast in her refusal to convert from a checking account to an interest bearing account. He informed the Board that he chose to place the check in the Commissioner's Money Market Account because the account earns interest rather than following the long-standing policy of placing the funds in the Welfare Recovery Account.

Commissioner Moon pointed out that Mrs. Shields filed her response to the report two months late and criticized her investment policy which he noted allowed large amounts of county funds to be held in banks without receiving interest. He pointed out that the Comptroller identified in the report that the County Treasurer could have minimally realized an additional \$46,000 in interest earnings if she were to follow a more effective investment plan.

The Commissioner stated he is asking that Mrs. Shields correct this matter and report back to the Finance Committee prior to the next Board meeting of June 22, 2005 otherwise he will come back to the Board asking the Supervisors to consider a resolution.

In response to Mr. Marshfield, Commissioner Moon stated that the Welfare Recovery Account consists of medicaid estate recoveries and noted that the check in the amount of \$366,533.29 is a medicaid estate recovery.

Commissioner Moon stated in reply to Mr. Ryan, that the Welfare Recovery Account averages several hundred thousand dollars. He cited an example of how the money is used referring to a home the Department of Social Services had listed to sell and noted that the Department was making payments out of that account to maintain the home while the individual resided in the nursing home.

In reply to Chairman Eisel, Commissioner Moon noted that the balance of Welfare Recovery Account is \$349,000 stating that the account is not an interest bearing account. He confirmed that

he deposited the recovery check into the Commissioner's Money Market account, adding the funds will be transferred to the Treasurer on May 31, 2005 at which time it will be listed as a medicaid recovery.

In response to Mr. Marshfield, Commissioner Moon replied in his opinion, the Board of Supervisors should ultimately be responsible for the county's investment policy, adding he really didn't think the county had an investment plan based on the paper Mrs. Shields filed with the State. He said the current policy affects the way he is able to do business, noting he does not have the ability to open or control his accounts, he has to go through the Treasurer.

Mrs. Shields stated in response to Ms. Freyer, that she will have to look into the matter, adding when the accounting division was under her control the money was put into certificate of deposits and other types of investments, adding since the department was divided she no longer has control over the money.

Mr. Marshfield requested a copy of the investment policy for the Finance Committee.

Chairman Eisel commented that the Department of Fiscal Affairs does not make the decision to invest funds and is not the custodian of the funds, adding the Treasurer is the Chief Fiduciary Officer.

In reply to Ms. Freyer, Mrs. Shields stated that the Department of Fiscal Affairs receives the money.

County Attorney Richard Spinney commented that is not the county's point in it's lawsuit against the County Treasurer. The funds of the county remain under the control of the County Treasurer.

Mr. Thomas stated every year we pass a resolution listing the banks and the amount of money they can collateralize, adding

we do have interest bearing accounts.

Mr. Bachler noted that the town tax collectors turn their funds over to the Treasurer's office. Mrs. Shields replied that the money comes into the Treasurer's Office and is turned over to the Department of Fiscal Affairs.

Mr. Thomas stated there is no question we have interest bearing accounts, adding this is the first time he has heard anything about this money.

Mr. Hynes remarked some of what is being said goes back to before the Department of Fiscal Affairs was even organized. He suggested that any further discussion be brought to the Finance Committee and not discussed on the Board floor.

Mr. Donnelly stated that he will provide copies of the investment policy to each of the Supervisors.

Chairman Eisel stated that prior to the meeting, Commissioner of Public Works Wayne Reynolds gave the Supervisors an extensive tour of the Composting Facility. He termed the facility "the seventh wonder of the world", adding that this facility is something to see and behold. The facility is well engineered and will be very productive. He thanked the Commissioner for the tour and his insight, adding he was very impressed.

Mr. Marshfield remarked that he was not on this tour but, noted that he thinks a lot of praise has to go towards Commissioner Reynolds and his department for construction of the facility. He noted the facility was constructed in a super way, adding it is a really nice well-built facility. He commented on the Commissioner's pride in the facility and expressed his own pride as well.

Mr. Ryan commented that he was so impressed with the facility and the tour that he felt the facility should be added to the Chamber of Commerce tourist attractions. He suggested when the

facility is up and running the children in our schools should go through the facility, adding it would make them aware of environmental concerns and the need for a facility like this.

Mr. Donnelly noted that this facility gives us an opportunity to take into consideration the quality of the staff we have working in our Delaware County offices and also noted his pride in the facility.

Mr. Bachler stated what was accomplished at the facility is monumental suggesting the department prepare a video tape of the facility to be provided to the schools.

Mr. Rider commented that the tour was very informative and also praised the Commissioner and his staff.

Mr. Utter expressed his regret that the facility was not placed in the center of the Village of Delhi or at least on Route 10. He told of his visit to the Tracey Plant saying that he arrived at what he thought was an office building located in the middle of the community. When it was time for the tour he thought he was going to get on a bus and go somewhere, instead they opened a door stepped through it and the facility was right there. He said our facility will serve the residents of Delaware County and will be an educational piece to the rest of the world and he was proud to be part of it.

In response to Mr. Utter, Mr. Bracci stated he agreed with everyone and jokingly asked him if he wanted the Village of Delhi to go from about 70% property tax exemption to about 90%. Mr. Utter replied it would just be something that the Village of Delhi could be proud of.

Chairman Eisel stated it is a beautiful building. He said he always told Commissioner Reynolds that there is money in garbage, adding maybe we can charge admission. He noted that there is 8,000 cubic yards of concrete in the facility and that there is not another facility like this. He said that another tour should be scheduled when the facility is up and running.

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

RESOLUTION NO. 133

**TITLE: TOURISM - MICRO ENTERPRISE GRANT
DEPARTMENT OF ECONOMIC DEVELOPMENT**

WHEREAS, Delaware County has been awarded a Community Development Block Grant in the amount of \$325,000.00 from the Governor's Office of Small Cities; and

WHEREAS, according to an existing agreement between Delaware County and the Delaware County Industrial Development Agency, this grant will be administered by the agency.

NOW THEREFORE BE IT RESOLVED, that the following budget modification be made:

INCREASE REVENUE:

10-16326-43388900/63326003/972	
State Otr Culture & Recreation	\$325,000.00

INCREASE APPROPRIATION:

10-16326-54327000/63326003/972	
General Grant Related Expenses	\$325,000.00

The resolution was seconded by Mr. Maddalone and adopted by the following vote: Ayes 3850, Noes 0, Absent 956 (Rowe, Maddalone).

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

RESOLUTION NO. 134

**TITLE: O'CONNOR FOUNDATION GRANT
SHERIFF'S DEPARTMENT**

WHEREAS, the Sheriff's Office is the recipient of a grant from O'Connor Foundation in the amount not to exceed \$5,000.00; and

WHEREAS, the grant was awarded for the specific purpose of purchasing bulletproof vests; and

WHEREAS, participation in this program will result in the award of a grant in an amount not to exceed \$5,000 toward the purchase of bulletproof vests and necessitates being matched with new money raised after the award of this grant; and

WHEREAS, the matching funds will be realized from another grant awarded by the Bulletproof Vests Program endorsed by the Bureau of Justice Assistance.

THEREFORE, BE IT RESOLVED that the estimated revenues and appropriations for the year 2005 be increased as follows:

ESTIMATED REVENUES

10-13110-42270604/3110018/907	
Grants from O'Connor	\$5,000.00

APPROPRIATIONS

10-13110-52200001/3110018/907	
Equipment, Bulletproof Vests	\$5,000.00

The resolution was seconded by Mr. Bachler and adopted by the following vote: Ayes 3850, Noes 0, Absent 956 (Rowe, Maddalone).

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

RESOLUTION NO. 135

**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 following purchases for the Enhanced Care Unit at Countryside:

	Corner Hutch	\$700.00
	27" Television	\$300.00
	Stereo Equipment	
\$600.00		
	Garden Bench	\$100.00

THEREFORE, BE IT RESOLVED, that the County Treasurer be authorized to make payment not to exceed \$1,700.00 from the Memorial Fund monies toward these purchases.

The resolution was seconded by Mr. Bracci and adopted by the following vote: Ayes 3850, Noes 0, Absent 956 (Rowe, Maddalone).

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

RESOLUTION NO. 136

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

LETTING OF MAY 17, 2005

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.SW5-05 Cell 6 Landfill Extension -
Contract 1G to:
Marcy Excavation Company, Inc.
PO Box 4310
Utica, NY 13504
Alternate Bid Price: \$1,838,806.50

PROPOSAL NO. SW5-05 Cell 6 Landfill Extension -
Contract 1E to:
Freer Electric
72 Honest Brook Road
Delhi, NY 13753

Alternate Bid Price: \$100,316.00

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. Copies of the summary sheet of the bids received have been supplied to each Supervisor.

The resolution was seconded by Mr. Rider.

In response to Mr. Marshfield, Commissioner Reynolds stated that the specifications for leachate collection had to be included even though none is going in the cell.

In response to Chairman Eisel, Commissioner Reynolds explained that residual is still considered a municipal solid waste and one of the things the committee will have us review in the future is how we deal with these residuals whether or not they might be more economically disposed of in some other way.

The resolution was adopted by the following vote: Ayes 3850, Noes 0, Absent 956 (Rowe, Maddalone).

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

RESOLUTION NO. 137

**TITLE: CHANGE ORDER NO. 2 FOR PROPOSAL NO. 30-04
DELAWARE COUNTY DEPARTMENT OF PUBLIC WORKS**

WHEREAS, Resolution No. 223 of 2004 authorized the Department of Public Works to make an award to F.P. Kane Construction, Inc. for the Bovina Community Wastewater System and Stormwater Improvement Project, in the amount of \$2,948,000.00; and

WHEREAS, Resolution No. 60 of 2005 authorized the Department of Public Works to execute Change Order No. 1 in the amount of \$870,653.00 increasing the total project cost to \$3,818,653.00; and

WHEREAS, field conditions required the DPW to change a pipe run from 42" round to 42" elliptical in order to avoid existing utilities resulting in a net increase of \$13,935.00 for the stormwater portion of the work; and

WHEREAS, the Town of Bovina has requested that the scope of work originally identified in the bid documents as Deductive Alternates numbered DA 1, DA 2 and DA 3 be completed at a net increase of \$198,000 for the sanitary portion of the work.

NOW, THEREFORE, BE IT RESOLVED, that the Department of Public Works is herewith authorized to execute Change Order No. 2 in the amount of \$211,935.00 increasing the total project cost to \$4,030,588.00.

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

Mr. Utter explained that the increase of \$13,935.00 representing the pipe and connections is a direct Delaware County cost on the stormwater portion of the project. The \$198,000.00 increase for the sanitary portion is a cost that will be borne by the Catskill Watershed Corporation (CWC).

Mr. Thomas noted that he believes the original bid has been exceeded by about 35 percent and questioned if that made a difference. County Attorney Richard Spinney replied that there is no dollar amount of restriction on change orders.

Mr. Utter noted this change order represents options that were available to the town of Bovina in the original bid but at that time Bovina was not sure if funding would be available.

Ms. Molé remarked that the town of Bovina anticipated doing these change orders but waited until the end to ensure funding was available. Mr. Utter stated that the town of Bovina was playing it safe because the cost over run would be the responsibility of the town of Bovina.

In reply to Mr. Thomas, Mr. Utter stated that the project is still within the realm of the original contract.

In answer to Mr. Marshfield, Chairman Eisel stated that an exact dollar amount of the costs to the county and town is unknown at this time as they are still in negotiations with the City and CWC.

Ms. Molé noted that there would be no cost at all to the town of Bovina on this project.

Mr. Utter commented that the money for this project promised by the Army CORPS had come to fruition.

Commissioner Reynolds stated that funding for this project

is coming from two sources in both portions of the project, CWC and Army CORPS. Noting at this point in time Delaware County's exposure is approximately a quarter of a million dollars.

The resolution was adopted by the following vote: Ayes 3850, Noes 0, Absent 956 (Rowe, Maddalone).

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

RESOLUTION NO. 138

**TITLE: SALE OF SCRAP STEEL FROM THE OLD JAIL FACILITY
BUILDING & MAINTENANCE DEPARTMENT**

WHEREAS, the old jail facility is under renovation to create office space for county departments; and

WHEREAS, removal of the jail cells will create between 25 to 50 tons of scrap steel that can be sold; and

WHEREAS, bids have been received for the purchase of said steel

NOW, THEREFORE, BE IT RESOLVED that the purchase of said steel be authorized to the highest bidder as follows:

Bidder: Ben Weitsman & Son
Scrap Recycling
PO Box 420
Owego, NY 13827

Bid Price: \$61.00 per net ton

The resolution was seconded by Mr. Woodford and unanimously adopted.

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

RESOLUTION NO. 139

**TITLE: APPROVAL OF MODIFICATIONS AND
RENEWAL OF
AGRICULTURAL DISTRICT #1**

WHEREAS, Delaware County has complied with the eight year review procedure of Agricultural District #1 in the Towns of Harpersfield, Kortright, Stamford & Roxbury; and

WHEREAS, the Delaware County Board of Supervisors held a Public Hearing on Wednesday, May 11, 2005 for any public comment; and

WHEREAS, the Agricultural and Farmland Protection Board and the County Planning Board have reviewed said District and have recommended that said Agricultural District #1 be renewed with the following modifications:

Town of Harpersfield

MODIFICATION	PARCELS	ACREAGE
Additions	3	209.14
Removed	41	1,019.33
After modifications	276	15,160.98

Town of Kortright

MODIFICATION	PARCELS	ACREAGE
Additions	0	0
Removed	3	142.67
After modifications	51	3,611.48

Town of Roxbury

MODIFICATION	PARCELS	ACREAGE
Additions	15	649.62
Removed	85	6,282.2
After modifications	223	14,292.46

Town of Stamford		
MODIFICATION	PARCELS	ACREAGE
Additions	3	166.77
Removed	25	938.81
After modifications	278	16,126.49

NOW, THEREFORE, BE IT RESOLVED that Agricultural District #1 be renewed with the above recommended modifications.

The resolution was seconded by Mr. Smith and unanimously adopted.

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

RESOLUTION NO. 140

TITLE: CONTRACT APPROVAL WITH DELAWARE SUPPORT AND SERVICES, INC. OFFICE FOR THE AGING

WHEREAS, the Office for the Aging has determined that it would be in the County’s best interest to engage the services of Delaware Support and Services, Inc. to assist that office with their Legacy Corps for Health and Independent Living Services Program as well as Federal and State long term care initiatives including the Medicare Part D program and Health Insurance Assistance services; and

WHEREAS, Delaware Support and Services, Inc. is authorized and capable of providing the services described in the foregoing;

NOW, THEREFORE, BE IT RESOLVED, that the Board approves the Office for the Aging entering into one or more agreements with Delaware Support and Services, Inc. to assist the Office for the Aging in providing the delivery of services in the described programs to eligible County residents.

The resolution was seconded by Mr. Bachler.

Mr. Briggs explained that the County was the original recipient of the program, however as the program progressed it was felt that subcontracting to Catholic Charities of Delaware and Otsego Counties would be in the best interest of the program. As a result of what appears to be a language change Catholic Charities would be required to hire as new employees the 35 Legacy volunteers. They have notified us that under the terms of the new Legacy program they no longer have the ability to run the program.

Mr. Briggs further explained this change presents the opportunity to engage the services of the county's not-for-profit Delaware Support and Services (DS&S).

In response to Mr. Marshfield, Mr. Briggs explained that the Office for the Aging will cover the bookkeeping through the transition, but eventually an employee hired under the grant will do the bookkeeping. He explained that the money for the program will come into the Office for the Aging and will be contracted to DS&S. He stated that this is a real positive thing for the Agency and he looked forward to the new contract.

In answer to Budget Director Joe Hanley, Mr. Briggs replied that DS&S is currently located in Commissioner Moon's filing cabinet and consists of a tax identification number and a checkbook.

In response to Mr. Hanley's questions regarding who will be hiring the employees and doing the payroll, Commissioner Moon stated that the volunteers will all be part time. DS&S will hire one employee and initially payroll will be contracted out. Further stating that as the not-for-profit grows additional services will be added.

Ms. Freyer addressed her concern saying that because these resolutions come before the Board it must be emphasized that DS&S and the county are two separate entities. Commissioner

Moon agreed but felt strongly that everything the not-for-profit was going to engage in would be brought before the Board. He noted that he is in the process of acquiring a physical space for DS&S and is slowly beginning to market its services to neighboring municipalities. Ms. Freyer commented that this is a new direction for the Board and said it is important that as a Board we are aware of every step that is taken.

Commissioner Moon stated that the articles of the corporation state in part that the not-for-profit was created to respond to some of the movements that have come about over the past 10 to 12 years, to shrink government and move discretionary items to community agencies that can perform them and would not have the direct impact on the taxpayer.

In response to Mr. Marshfield, Commissioner Moon said that Mr. Briggs will control the contract the same way as before. The Commissioner of Social Services will be responsible for seeing that the services Mr. Briggs is purchasing from the not-for-profit are being fulfilled.

Mr. Marshfield commented that he ran into two ladies, one an elderly disabled lady and the other lady retired but physically capable. The retired woman told him this is the best county program and explained that she volunteers so many hours a month towards this other woman and receives a stipend for doing it. He realized that they were talking about the Legacy Program and remarked that it was working out just fine for both of them.

Mr. Briggs told of a recovering alcoholic caring 24-7 for her mother who had a stroke and her family bailed out on her. At the point the Legacy Volunteer came in the woman was ready to go back to her former life style or institutionalize her mother. He said the woman's relationship with the Legacy Volunteer was very therapeutic and made a real difference.

Mr. Thomas also addressed the need to be careful about the distinction between the Department of Social Services and Delaware Support and Services, Inc. He asked if any county

employees other than Mr. Briggs and Commissioner Moon would be involved with the program. Mr. Briggs answered that his Principal Account Clerk will continue to do what she has always done for the program but that time sheets and checks will be processed by the Legacy Contractor.

Mr. Hynes commented that he has never seen a program get beat up like this before, noting that the Office for the Aging had initially been given approval to run the program. The program was given to Catholic Charities because the county had put a curfew on travel and now the program will be administrated through DS&S.

The resolution was seconded by Mr. Maddalone and adopted by the following vote: Ayes 3850, Noes 0, Absent 956 (Rowe, Maddalone).

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

RESOLUTION NO. 141

**TITLE: APPROVAL OF EXTENSION TO DEFERRED
COMPENSATION PLAN
PERSONNEL DEPARTMENT**

WHEREAS, Resolution No. 328 of 1989 established a Deferred Compensation Plan for County employees pursuant to Section 457 of the Internal Revenue Code; and

WHEREAS, Resolution No. 335 of 2000 approved the continuance of Nationwide Retirement Solutions as the Plan Administrator, Financial Organization and Trustee for Delaware County's Deferred Compensation Plan for a period of five (5) years; and

WHEREAS, the authority for Nationwide Retirement Solutions to serve as Plan Administrator, Financial Organization and Trustee will expire December 31, 2005 unless such authority

is extended; and

WHEREAS, Part 9003.5 of the Rules and Regulations of the New York State Deferred Compensation Board allows for the extension of the agreement between Delaware County and Nationwide Retirement Solutions for a duration not to exceed two consecutive one-year periods; and

WHEREAS, Nationwide Retirement Solutions, formerly known as PEBSCO, has a fifteen (15) year history of providing good service to Delaware County in this capacity and the Deferred Compensation Committee and the Delaware County Personnel Officer recommends the extension of this agreement for a one (1) year period or through December 31, 2006.

THEREFORE, BE IT RESOLVED that the Board of Supervisors on behalf of the Committee authorizes

1. The extension of the agreement between Delaware County and Nationwide Retirement Solutions for a one (1) year period.
2. The Chairman of the Board to execute an extension agreement.
3. The Personnel Officer, under the direction of the Human Resource Committee, to continue to act as the County Administrator of the Plan and represent and act on behalf of the County to the extent permitted by the applicable law, rules and regulations including the execution of individual employee participation agreements.

The resolution was seconded by Mr. Rider and unanimously adopted.

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

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

RESOLUTION NO. 142

**TITLE: 2005 BUDGET MODIFICATION
FISCAL AFFAIRS AND INFORMATION TECHNOLOGY
DEPARTMENTS**

WHEREAS, the adopted budget for 2005 included appropriations for Maintenance Agreements for Software in the Information Technology (**11680**) budget; and

WHEREAS, it has been decided that all expenses connected with the new USL/PDS programs should be tracked by one department and it is suggested that Fiscal Affairs (**11327**) be that department.

NOW THEREFORE BE IT RESOLVED, that the following budget modification be made to the 2005 budget.

DECREASE APPROPRIATION

10-11680-54420200 Maintenance Agreements Software
\$36,500.00

INCREASE APPROPRIATION

10-11327-54420200 Maintenance Agreements Software
\$36,500.00

The resolution was seconded by Ms. Molé.

Mr. Donnelly stated this is a housekeeping change only.

The resolution was adopted by the following vote: Ayes 3850, Noes 0, Absent 956 (Rowe, Maddalone).

Mr. Donnelly offered the following resolution and moved

its adoption:

RESOLUTION NO. 143

**TITLE: 2005 BUDGET MODIFICATION
REAL PROPERTY TAX SERVICE**

WHEREAS, the need to update some of the equipment being utilized by Real Property Tax Service currently exists and can not wait until the next fiscal year; and

WHEREAS, the department revenues are exceeding our projections and the Finance Committee recommends the upgrade to the equipment and software at this time; and

WHEREAS, the original budget has an erroneous account number listed and will be changed with this resolution.

NOW THEREFORE BE IT RESOLVED, that the following budget modifications be made to the current budget:

DECREASE REVENUE:

10-11355-41265503 Minor Sales Tax Maps (\$5,000.00)

INCREASE REVENUE:

10-11355-42265503 Minor Sales Map \$8,300.00
NET \$3,300.00

INCREASE APPROPRIATIONS:

10-11355-52200000 Equipment \$3,015.00
10-11355-54580000 Software 285.00
TOTAL \$3,300.00

The resolution was seconded by Mr. Thomas and adopted by the following vote: Ayes 3850, Noes 0, Absent 956 (Rowe,

Maddalone).

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

RESOLUTION NO. 144

**TITLE: OPPOSITION TO COURT OF APPEALS
DECISION
ON NYC DEP POLICE**

WHEREAS, the New York State Appellate Court in all its wisdom has ruled against Delaware County in its own local affairs - giving special treatment by the courts to an outside police force namely the New York City DEP Police - jurisdiction over the residents of this County; and

WHEREAS, it is understood that there is no higher court to appeal their outrageous decision; and

WHEREAS, it is further understood that to be rid of DEP Police the New York State legislature would have to repeal their jurisdiction which is a very unlikely event because the City has a large vote on all matters and wants control; and

WHEREAS, local law enforcement agencies that already have jurisdiction in the county should be the only agencies permitted to issue traffic tickets.

THEREFORE, BE IT RESOLVED that the local justices are compelled to hear such traffic violation cases and be that as it may; and

BE IT FURTHER RESOLVED that residents of Delaware County will understand if such cases are upheld, reduced, dismissed or result in a verdict of not guilty; and

BE IT FURTHER RESOLVED that the word go forth that the citizens of Delaware County have never been and shall

never be subservient nor do we consider ourselves a colony of New York City

BE IT FURTHER RESOLVED, that copies of this resolution shall be forwarded immediately to Governor George Pataki, Mayor Michael Bloomberg, Senator John Bonacic, Senator Joseph Bruno, Assembly Speaker Sheldon Silver, Assemblyman Clifford Crouch, Assemblyman Daniel Hooker and DEP Commissioner Emily Lloyd.

The resolution was unanimously seconded.

Mr. Marshfield questioned if an appeal could be filed at the Supreme Court level. County Attorney Richard Spinney replied someone could apply to the Supreme Court but, he does not believe they would take the case as it involves solely an issue of State law and there are no federal issues involved.

Mr. Marshfield commented that he liked the resolution but felt that much more needed to be added to it. He stated he had written several comments that he would like included in the resolution.

In response Chairman Eisel stated that he saw no reason why there could not be future resolutions. Mr. Marshfield stated he believed his comments needed to be added to this resolution.

Mr. Bracci stated he completely concurs and thanked Chairman Eisel for bringing this resolution up. He wanted it noted that this is an issue between Delaware County and New York City not the DEP employees, adding that some of these employees are residents of our county and he would not want them to take offense.

Mr. Bachler stated that he will support this resolution but noted that people should not take this as carte blanche and feel they can somehow get away with something. He suggested that it would be appropriate for Sheriff Mills to sit down with the City and try to work out an agreement, adding we are all aware that

they are under staffed.

Mr. Thomas noted that people are still calling him to ask for an explanation from the District Attorney as to why he brought this action against the findings of our elected judge. He stated that Mr. Northrup has got to come before this Board or put out a press release stating why he brought the action. He further stated that people are saying he did a job for the New York City DEP, adding he didn't believe Mr. Northrup intended it that way. People he said, are asking how you have one Delaware County official going against another one, adding we have to stop this kind of in-house fighting. He further stated if our various departments cannot get along we are going to be screwed up forever.

In response, Chairman Eisel replied that Mr. Northrup told him he felt compelled to make the decision he did, adding if it were any other case like this he would have brought it to the appellate division, he did not want this one to appear political.

Mr. Meredith remarked that the original issue was based on the traffic ticket infraction, adding the end result is what we got.

Chairman Eisel said rather than beat up on the District Attorney maybe we should have him attend the next board meeting.

Mr. Utter stated that he agrees with the resolution wholeheartedly. He said he was told by an employee of DEP, not a DEP police, that there was a wholesale celebration in various offices of DEP on this finding. He said the morning of the finding he was on his way to Kingston and saw five DEP cars, four rolling and one taking pictures. The other day at the Hess station in Margaretville he said he noticed four DEP cars and a K-9 division, adding one of the officers were armed like he had never seen any of our Sheriff's Deputies or State Police.

He asked Delaware County Sheriff Mills if the DEP or State Police have to have his permission to operate in the county. Sheriff Mills replied at this time it appears they do not need his

permission however, the original law was based on receiving the permission of the Chief Law Enforcement Agent within the county they were operating in. Addressing Mr. Spinney he asked if a justice deliberately dismisses one of these traffic cases does it open them up to censure adding, that he has heard that justices in Ulster County that have dismissed tickets are now up for censure.

In response to Mr. Utter, Mr. Spinney stated there is a difference between dismissal and finding someone not guilty after a trial. Mr. Spinney explained that if a judge dismisses a ticket it is subject to an appeal and if a judge continues to dismiss tickets because he doesn't like DEP, he would be open to criticism.

Mr. Ryan added a judge can dismiss in the interest of justice and let that be appealed but if any judge goes around saying he doesn't like the cop that is why he is dismissing the tickets that would open him up to censure. He pointed out that as a former judge he reads the fifth paragraph of the resolution as he should dismiss all cases in Delaware County. In his opinion the statement is very blatant and should not be in the resolution.

Chairman Eisel commented in a way it is an act of civil disobedience, adding we have to do something and our justices ultimately will make that decision. He further stated that there is a lot going on that we do not know about and we have to respond in some way. He said he feels there is a hidden agenda, a mission he is not aware of and that he not liking it to much, adding he does not feel it something the rural residents of this county should be subjected to.

Mr. Ryan remarked that he agreed with the sentiment but felt that putting it on paper unfairly places the judges in an awkward position. He said he believes we can get the message to the judges in other ways.

Mr. Spinney commented that he did not feel the paragraph went as far as recommending the judge dismiss a traffic ticket issued by DEP, adding it is only saying that the people will understand if a judge dismissed a charge against someone who

received a ticket issued by DEP.

Mr. Ryan stated the resolution is giving people the evidence to say that we are influencing the judges, adding it is not necessary we can influence the judges in more positive ways. He further stated that the Board is sticking their necks out writing the resolution this way. If the judges start dismissing tickets because they feel the same way the Board does this resolution will be held out as they are taking instructions from the Board.

Chairman Eisel remarked that the statement did not compel the judges to take an action and in his opinion it should not be changed.

Mr. Thomas suggested eliminating the words “all of” and “completely”, adding not everybody would see this as wrong.

Mr. Donnelly noted it is very difficult to discuss DEP without emotions getting involved, adding DEP wants total control and that is what this is all about. He further stated if DEP really wanted to help law enforcement they could put money into our Sheriff’s Department so we could take care of own people. He suggested striking the fifth paragraph, adding that it is possible some lawyer could misconstrue it to say what they want it to say.

Mr. Bachler stated that he agreed with Mr. Donnelly, adding he would not vote for the resolution as written.

In reply to Mr. Bracci, Mr. Spinney stated that the Delaware County Sheriff would have no control over the State Police or the DEP.

In response to Mr. Meredith, Chairman Eisel stated there is no where else to go with this, other than the legislature repealing their vote which is highly unlikely. He noted that he did not feel negotiating with DEP would make any difference and stated he would not take part in any negotiations.

Ms. Freyer commented that she didn’t feel removing the fifth paragraph would take away from the tone of the resolution,

adding that the sixth paragraph is just as strong.

Mr. Donnelly made a motion to table the resolution until after break for further rewrite. The motion to table was seconded by Mr. Thomas.

Ms. Freyer said that she was told by a woman that the morning following the decision her son was stopped by a DEP police for not having his head lights on when he had his windshield wipers on, adding it was only after he told them that his mom worked for DEP that he was allowed to go.

In answer to Mr. Thomas, Chairman Eisel said that he will see if Mr. Northrup will attend the next meeting.

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

RESOLUTION NO. 145

TITLE: PAYMENT OF AUDIT

WHEREAS, bills and claims submitted and duly audited by the Clerk of the Board’s office in the amount of \$1,700,170.08 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	\$806,491.73
Countryside Care Center	\$71,595.51
Capital Projects	\$25,064.66
Highway Audits, as Follows:	
Road	\$131,005.12
Machinery	\$57,954.19
Capital Road & Bridge	\$154,379.84
Capital Solid Waste	\$394,958.53

Solid Waste/Landfill \$58,720.50

The resolution was seconded by Mr. Thomas and adopted by the following vote: Ayes 3850, Noes 0, Absent 956 (Rowe, Maddalone).

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

RESOLUTION NO. 146

**TITLE: 2005 BUDGET MODIFICATION
SOCIAL SERVICES**

WHEREAS, there exists a need to purchase some additional equipment for the department and the appropriation balance is less than needed.

BE IT RESOLVED, that the following budget modification be authorized:

INCREASE APPROPRIATION:

10-16010-52000000	Equipment	\$1,000.00
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DECREASE APPROPRIATION:

10-16010-54595320	Supplies Office	\$1,000.00
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The resolution was seconded by Mr. Hynes and adopted by the following vote: Ayes 3850, Noes 0, Absent 956 (Rowe, Maddalone).

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

Chairman Eisel re-called Resolution No. 144 entitled: Opposition to Court of Appeals Decision on NYC DEP Police, as

rewritten.

The resolution was unanimously seconded.

In response to Mr. Bracci, Mr. Spinney pointed out the function of the DEP police is to protect the reservoirs for New York City and they are entitled to ticket or arrest if they witness a violation. Mr. Bracci noted that the most recent situation did not take place in the watershed area, adding he felt we are limiting ourselves with this resolution.

Mr. Spinney pointed out under the Criminal Procedure Law DEP police are policemen therefore, if they see a crime they can make an arrest anywhere.

Mr. Ryan noted that the recent decision did not define a geographical area for the watershed, adding he agrees with Mr. Bracci. He suggested the resolution be more specific and limit the authority of the DEP police.

Chairman Eisel said that we should go with the resolution as it is and vote it up or down.

The resolution was unanimously adopted.

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

RESOLUTION NO. 147

TITLE: AUTHORIZING DELAWARE COUNTY TO ENTER INTO CONTRACT WITH ADVANTAGE ENERGY, INC. FOR ELECTRICITY

WHEREAS, the County of Tompkins along with other municipalities authorized the Municipal Electric and Gas Alliance (MEGA) to bid for electricity and gas on their behalf; and

WHEREAS, Advantage Energy, Inc. was the lowest responsible bidder; and

WHEREAS, MEGA has entered into a program agreement with Advantage Energy, Inc.; and

WHEREAS, Section 408-a of the County Law authorizes a County to include in any purchase contract awarded to the lowest responsible bidder authorization permitting any political subdivision in the State of New York to participate; and

WHEREAS, the County of Tompkins pursuant to Section 408-a authorized all other political subdivisions in the State of New York to participate in the contract.

NOW THEREFORE IT BE RESOLVED, that Delaware County hereby authorizes its contracting official to enter into a customer agreement with Advantage Energy, Inc., for electricity.

The resolution was seconded by Ms. Molé.

Mr. Marshfield noted that the town of Hamden is saving between 7 and 8 percent as a result of their selection. He said the only pain is that you receive two bills but added it is working out very well for Hamden.

The resolution was unanimously adopted.

Chairman Eisel made the following appointment to the Youth Board of Directors:

- Lieutenant Donald Cantwell, Delaware County Sheriff's Department

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

RESOLUTION NO. 148

TITLE: EXECUTIVE SESSION

BE IT RESOLVED, that the Delaware County Board of Supervisors convene in executive session to discuss matter relating

to litigation.

The resolution was seconded by Mr. Rider and adopted by the following vote: Ayes 3739, Noes 0, Absent1067 (Rowe, Maddalone, Shelton).

The meeting reconvened in regular session with all Supervisors present except Mr. Rowe, Mr. Maddalone and Mr. Shelton.

Upon a motion the meeting was adjourned at 4:10 P.M.