

## REGULAR MEETING

### DELAWARE COUNTY BOARD OF SUPERVISORS

NOVEMBER 25, 2008

The regular meeting of the Delaware County Board of Supervisors was held Tuesday, November 25, 2008 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. Valente and Mr. Rowe.

Mr. Marshfield offered the invocation.

Mr. Utter 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 introduced Independent Oil & Gas Association of New York Executive Director Brad Gill. Mr. Gill introduced attorney and geologist Michael Joy and Lenape Resources Inc. representative John Holko. A powerpoint presentation entitled: *Homegrown Energy Natural Gas Exploration - New York's Energy Opportunity* and a brochure was given explaining the facts about natural gas exploration of the Marcellus Shale to each Supervisor.

Independent Oil & Gas Association of New York (IOGANY) is a trade association, founded in 1980 and is comprised of members from numerous states throughout the country. The Association interacts with local, state and federal agencies and representatives regarding regulations and issues affecting the oil and natural gas industry in New York State. Mr. Gill encouraged anyone wanting to know more about IOGANY to visit their website at <http://www.iogany.org>.

Drilling for natural gas is not new to New York. In 1821, the first gas well was dug in Fredonia, New York. To date, more than 75,000 oil and natural gas wells have been drilled in New York with 14,000 of these still active with an excellent track record on environmental compliance and safety standards. The industry began in Chautauqua County where there are over 5,000 wells drilled. It was noted that virtually everyone of these wells were drilled through the Marcellus Shale and have been hydrofracked.

Mr. Joy discussed oil and gas leasing and advised that there is no such thing as a standard

lease. Leases are completely negotiable between the company and the landowner. There are standard leasing terms, but everything in a lease is negotiable. It is imperative that the landowner and the company understand what the lease provides for. IOGANY has found that a common complaint from landowners concerns financial compensation and as an Association they are trying to address these issues.

Marcellus Shale is about 54,000 square miles and spans though New York(southern tier area), Ohio, Pennsylvania and West Virginia. It is the assumption that it will be productive in New York State in the south central south eastern portion of the state.

Mr. Holko explained horizontal drilling and the hydraulic fracturing process. Horizontal drilling uses a thick steel pipe which is placed in the hole and sealed with cement on the outside between the steel and the rock. As the fresh water zones are protected, drilling continues to the deeper gas zones. Additional strings of steel pipe are run inside the first and cement is used between the pipe and rock to provide a seal for additional strings of steel casing. The hydraulic fracturing process is a technique used to allow natural gas to move more freely from the rock pores where it is trapped to a producing well. The process was developed in the late 1940's and has been continuously improved upon since that time. The fracturing fluids consist primarily of water and sand and are injected into the well under high pressure. Water and sand typically make up 99.5 percent of the liquid phase of fracturing fluids, the other 5 percent contains additives that are commonly used in households. All water usage is governed by the New York State Department of Environmental Conservation (NYSDEC) in conjunction with the appropriate river basin.

New York State has done a very good job of regulating this industry. There are many local benefits to the communities, among them, producers pay ad-valorem taxes on production from wells, which will benefit the local community, indigenous production can also be a benefit to local energy users providing access to energy suppliers nearer the market. Mineral interest owners will receive royalties generated by production from the wells. Even if wells are drilled on tax exempt property the well is still taxed. It was pointed out that the industry is still evolving and counties will not see a great deal of drilling immediately because of the unavailability of people and of equipment. There are only about 1,250 rigs in the entire country capable of drilling one of these wells.

Mr. Holko stated that IOGANY desires to work with communities to address any issues that concern their residents. One unfounded concern is that environmental protection and economic benefit cannot co-exist. The truth is they can. The industry has an excellent safety and environmental track record in New York State. If the industry has failed in any way in New York State it has been public education. When you hear of incidents in the industry, they are typically in Colorado, New Mexico or elsewhere. The type of drilling and the regulatory agencies are so different that it is not a fair comparison. The oil and gas industry may be one of the few positive economic stimulus we see in the coming year. The Supervisors were encouraged to contact counties that are currently drilling.

In answer to Mr. DuMond, and Mr. Axtell, Mr. Holko advised that the website is updated and fine tuned as questions from the public are addressed.

In response to Chairman Eisel, Mr. Holko stated that in New York State, none of the chemicals contained in the fracturing fluid are toxic. The additives that are used are FR-121, Flomax 70, EC6116A and Scalehib 100. He noted that there is often confusion about the fracturing fluids because people compare the contents of the fracturing fluid to other parts of the country where benzene or toluene may be used. From an industry standpoint, chemicals of this type have not been used for a long time.

Mr. Holko explained in answer to Mr. DuMond, that about 50 percent of the fracturing fluid will remain in the ground. It was noted that there is no harm in this fluid staying in the ground as it is thousands of feet below any fresh water zones. Water hauling and disposal is regulated by the New York State Division of Solid & Hazardous Materials. Underground disposal of fluid is governed by a program within the Environmental Protection Agency and the NYSDEC. These governing agencies are continually reviewing and update the Generic Environmental Impact Statement (GEIS) which guides the industry operation. The NYSDEC also requires and reviews all oil and gas drilling permits as well as onsite inspections for regulatory compliance.

Mr. Utter commented that he read in the December issue of *Field and Stream* magazine an article entitled *New Direction*. The article noted that directional drilling is a big step towards assessing energy without endangering wildlife and habitat. Directional drilling allows companies to access nearly a square mile of energy reserve for a single larger well bed leaving more land untouched. The article also addresses performance bonds posted by the company that is drilling to cover a partial cost of the clean up if the company should fold. These bonds are so cheap that the damages of drilling exceed the value of the performance bond.

Mr. Holko stated that New York State has very high performance standards and regulations. Historically, the oil and gas industry works cooperatively with the local towns. If it becomes apparent that the performance bond is not high enough to cover damages related to the drilling the town stops the process until an agreement is reached.

In reply to Mr. Donnelly, Mr. Holko noted that bringing water to the drilling site is an expense that the industry is looking to minimize pointing out there is a company in West Virginia that is in the process of supplying on site water recycling systems.

Mr. Axtell asked what happens to the water used in the fracturing process that is brought back out of the well and recycled. Mr. Holko explained that treatment facilities require a sample that is treated to meet specific guidelines. The delivery will only be accepted if the sample can effectively be processed.

Mr. Bracci referenced literature stating that the Governor of New York declared a

moratorium on further development in New York State. Mr. Joy stated that in the spring of 2008 the Governor revised Article 23 of the NYSDEC law to add statewide spacing provisions for horizontal shale drilling. During that process, the discussion of using more than 89,000 gallons of water for fracturing per well was addressed. The Governor instructed the NYSDEC to update the GEIS and not permit frack lines above 89,000 gallons until the GEIS updating process is complete.

Mr. Holko stated in response to Mr. Bracci that there is a lot of misinformation coming from different areas under completely different circumstances. The noise is very temporary, once the well is in production it is essentially quiet. While the drilling is taking place the drilling location easily found, go back to that area when the drilling is done and it will look as it did before drilling began.

Mrs. Capouya commented that many people are concerned about the future problems caused by the fracturing process. She questioned if there is any funding set aside to deal with these issues if they should occur.

Mr. Holko explained that New York State has a fund within the NYSDEC which is funded by a portion of the permits, fines and penalties. Years ago a lot of the money ended up in the general fund. This fund was established to address future issues if they should occur.

Mr. Holko stated in response to Mrs. Capouya, that the casing is below hydrostatic, therefore, unless it is pushed up it will not surface. From the industries perspective there is no concern that the materials used in the fracturing process would create a health issue to future residents. The hydro fracturing techniques have been used for decades without problems. The only place the fracturing fluid could go is into the bore holes through the perforations as it should. This is a very safe process.

In answer to Mr. Meredith, Mr. Holko said that water wells are not currently drilled on site. It is cheaper to haul water from different areas.

Mr. DuMond asked if in the worse case scenario of contamination does the company provide funding for the municipality to help the county and local health officials offset the cost of investigating and addressing these issues. Mr. Holko replied that essentially the money comes from the resources generated by the well.

In response to Mr. Triolo, Mr. Holko explained that there are additives added to the cement contingent upon whether the type of pipe is shallow or goes deep. This is all monitored very carefully and NYSDEC comes out to inspect the process.

Chairman Eisel asked if there has ever been an instance where the process created contamination of an aquifer. Mr. Holko explained the only water contamination that he was familiar with had been done during the initial drilling phase when trying to drill a hole through

the water. The way he understood it, air was blown into the well to get the first string of pipe in. The operator kept pumping air into the well which was not coming back up the outside. The air was going out to the aquifer and ended up coming up in area wells creating turbidity. The operator provided water to the affected users and the situation cleared itself in a few days after the well was cemented. Mr. Joy advised that there are requirements to have materials on site to kill a well in the event there are problems.

In answer to Mrs. Capouya, Mr. Holko explained that injection wells require annual mechanical integrity tests. In many cases regulations will not allow operators to inject in the primary string. There is a steel casing with the cement behind it, then there is a secondary tubular string inside it which creates a positive pressure between the inside and outside string that is continuously monitored. If that pressure changes, the well shuts down.

Mr. Joy said in answer to Mr. Hynes, that there is a special permitting process and environmental review when drilling in an aquifer.

In reply to Mr. Marshfield, Mr. Holko said that it can be economically feasible for natural gas wells to be drilled for community use rather than pumped into a pipeline. There are schools in western New York that are already using their own wells to supply their natural gas.

Mr. Holko answered in response to Mr. Axtell that a relationship with the operator is important and wise. In this way, the municipality is actively involved with the process and can have what he termed as an “active bonding process.” For example, it may be more feasible for the operator to replace the road rather than repair it. In the end, the municipality hopefully has something of value.

Mr. Bracci referenced an article discussing sustaining casing pressure noting that the article mentions a shelf life on wells. Mr. Holko said that without being aware of what the writer is discussing he could not comment on the article.

Mr. Homovich stated that he appreciated IOGANY coming to the meeting to address the concerns people have. He said we are polluting the water supply with salt every day and any house that drills a well into the aquifer is creating a potential for pollution. The oil and gas industry has a multitude of benefits. He understands there are issues but, the industry has the attitude that they are willing to work through those issues. This seems like a win-win for everyone. As a county we are always looking for economic development.

In answer to Mr. Homovich, Mr. Holko felt educating the public about the oil and gas industry was essential to the understanding of the substantial economic impact this resource could have locally and throughout the country. Natural gas is one of the most efficient energy sources.

Mr. Joy noted in response to Mrs. Capouya, that the NYSDEC has identified

approximately 43 specific chemical compounds. The blending of the formula is priority information, but the chemical compounds are public information.

Mr. Holko said in response to Mrs. Capouya that there are stringent guidelines and regulations. Although the industry may be exempt in certain circumstances from the Clean Water Act, those exemptions are picked up under other regulatory agencies.

Mr. Holko stated in answer to Mr. Marshfield, that he believes the issue is not about withholding the chemical compounds, but with identifying the recipe of the materials that are being used.

In reply to Mrs. Capouya, Mr. Holko said that the same regulatory requirements must be completed despite the NYSDEC staffing level. Without the NYSDEC's approvals the industry operations cannot move forward. If the NYSDEC is unable to perform the required oversight due to staffing levels, the industry would slow down.

Chairman Eisel thanked the presenters for a very informative presentation on a topic that is obviously very controversial.

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

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

**RESOLUTION NO. 219**

**TITLE: 2008 BUDGET AMENDMENT  
CLERK OF THE BOARD**

**WHEREAS**, additional funding is needed in the Other Government Support to pay for costs incurred by the towns

**THEREFORE BE IT RESOLVED**, that the following 2008 budget amendment be authorized:

**INCREASE REVENUE:**

10-11989-42238900	Misc Revenue Otr Gov	\$95,000.00
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**INCREASE APPROPRIATION:**

10-11989-54493000	Otr Gen Support Twns	\$95,000.00
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The resolution was seconded by Mr. Triolo and adopted by the following vote: Ayes 4184, Noes 0, Absent 622 (Valente, Rowe).

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

**RESOLUTION NO. 220**

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

**LETTING OF NOVEMBER 13, 2008**

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. SW5-08    Temperature Monitoring Systems to :  
                                 Douglas C. Davis, LLC  
                                 PO Box 6263  
                                 Cape Elizabeth, ME 04107

Bid Price: \$15,427.00

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. Haynes.

Mr. Utter explained that this purchase is for a retrofit to the temperature gathering equipment in the maturation building at the Solid Waste Management Facility. Temperature and moisture are critical to the production of compost. This new design allows for quicker and more accurate temperature gathering.

The resolution was adopted by the following vote: Ayes 4184, Noes 0, Absent 622 (Valente, Rowe).

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

**RESOLUTION NO. 221**

**TITLE: APPORTIONMENT OF MORTGAGE TAX**

**WHEREAS**, §261 of the Tax Law makes it mandatory to apportion the mortgage tax semi-annually and a report has been received from the recording officer and the County Treasurer

for the period ending September 30, 2008;

**NOW, THEREFORE, BE IT RESOLVED** that the County Treasurer be directed to pay to the several towns and villages of Delaware County the amounts stated below; the same having been apportioned according to the aforementioned §261.

**BE IT FURTHER RESOLVED** that the foregoing statement shall be to the County Treasurer a sufficient warrant for the payment of said monies.

Town	Amount Allocated to Tax District	Amount Apportioned to Town	Amount Apportioned to Village
Andes	\$17,846.82	\$17,846.82	
Bovina	\$9,816.00	\$9,816.00	
Colchester	\$16,076.15	\$16,076.15	
Davenport	\$26,827.51	\$26,827.51	
Delhi	\$38,927.72	\$30,242.22	\$8,685.50
Deposit	\$9,893.09	\$9,128.72	\$764.37
Franklin	\$16,230.62	\$15,372.34	\$858.28
Hamden	\$27,085.78	\$27,085.78	
Hancock	\$30,683.27	\$27,142.90	\$3,540.37
Harpersfield	\$8,515.83	\$7,290.61	\$1,225.22
Kortright	\$22,517.11	\$22,517.11	
Masonville	\$8,693.18	\$8,693.18	
Meredith	\$14,509.71	\$14,509.71	
Middletown	\$55,756.98	\$46,740.56	FL \$2,131.32 MV \$6,885.10
Roxbury	\$32,539.72	\$32,539.72	
Sidney	\$31,679.11	\$9,411.40	\$22,267.71
Stamford	\$28,169.63	\$13,633.99	ST \$4,877.62 HO \$9,658.02
Tompkins	\$9,199.35	\$9,199.35	
Walton	\$45,363.99	\$31,920.95	\$13,443.04

Town	Amount Allocated to Tax District	Amount Apportioned to Town	Amount Apportioned to Village
Totals ...	\$450,331.57	\$375,995.02	\$74,336.55

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

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

**RESOLUTION NO. 222**

**TITLE: DIRECT TOWN TAX**

**BE IT RESOLVED** that pursuant to §233a of the County Law, the nineteen towns of the County be and hereby are charged \$159,633.90 for the assessment rolls, field books, tax bills, etc.; and

**BE IT FURTHER RESOLVED** that the Clerk of the Board of Supervisors be authorized and directed to apportion said sum against the taxable property of the nineteen towns of the County of Delaware and that said sum be incorporated into the County Treasurer's Preliminary Report of charges and credits to the said towns in accordance with the apportionment.

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

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

**RESOLUTION NO. 223**

**TITLE: LEVY OF TOWN ACCOUNTS**

**WHEREAS**, there has been presented to the Board of Supervisors the County Treasurer's 2008 Preliminary Report with the following amounts to be charged to the several towns:

<u>TOWNS</u>	<u>CHARGES</u>	<u>CREDIT</u>
Andes	\$8,452.36	
Bovina	\$4,273.97	
Colchester	\$7,934.85	
Davenport	\$6,579.99	

Delhi	\$9,984.39	
Deposit	\$4,443.77	
Franklin		\$7,610.72
Hamden	\$3,366.91	
Hancock	\$15,793.54	
Harpersfield	\$6,446.58	
Kortright		\$1,240.15
Masonville	\$5,654.28	
Meredith	\$4,471.56	
Middletown	\$12,413.48	
Roxbury	\$12,081.73	
Sidney	\$11,517.24	
Stamford	\$8,599.32	
Tompkins	\$7,035.76	
Walton	\$5,303.84	

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

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

**RESOLUTION NO. 224**

**TITLE: APPORTIONMENT OF COUNTY SELF INSURANCE BUDGET**

**RESOLVED** that the budget for the County Self Insurance Fund for Workers' Compensation and Volunteer Firemen's Benefits in the total amount of \$1,600,000, as set forth below be accepted as part of the records of this Board.

<u>Participant</u>	<u>Full Value Assessment</u>	<u>Apportioned Amount to Raise</u>
County of Delaware	5,658,250,809	\$743,540.42
<u>Towns</u>		
Andes	476,490,345	\$62,614.73

Bovina	133,396,329	\$17,529.37
Colchester	676,987,022	\$88,961.63
Davenport	213,661,806	\$28,076.91
Delhi	327,430,456	\$43,027.04
Deposit	241,587,394	\$31,746.56
Franklin	217,216,242	\$28,543.99
Hamden	159,952,082	\$21,019.01
Hancock	384,932,556	\$50,583.28
Harpersfield	154,085,444	\$20,248.09
Kortright	158,179,348	\$20,786.06
Masonville	103,991,872	\$13,665.38
Meredith	153,865,133	\$20,219.14
Middletown	752,904,097	\$98,937.75
Roxbury	476,394,826	\$62,602.17
Sidney	275,151,754	\$36,157.19
Stamford	177,169,098	\$23,281.47
Tompkins	195,240,279	\$25,656.17
Walton	379,614,726	\$49,884.48

Villages

Delhi	101,028,851	\$13,276.02
Deposit	32,335,028	\$4,249.09
Franklin	20,775,578	\$2,730.07
Hancock	72,174,683	\$9,484.34
Stamford (Harpersfield)	34,430,796	\$4,524.49
Stamford (Stamford)	30,193,927	\$3,967.73
Fleischmanns	43,493,291	\$5,715.37
Sidney	160,782,965	\$21,128.20

Hobart	59,785,989	\$7,856.37
Walton	141,264,256	\$18,563.28
<u>Fire Districts</u>		
Stamford, Jefferson	25,660,367	\$3,371.98
Stamford, Gilboa	45,049,550	\$5,919.88
Arena, Hardenburgh	16,713,064	\$2,196.23
Midd.-Hard., Hardenburgh	46,861,910	\$6,158.04
Deposit	28,750,674	\$3,778.07
TOTAL		\$1,600,000.00

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

Mr. Maddalone called up Local Law Intro No. 17. The Local Law was seconded by Mr. Donnelly.

#### **LOCAL LAW INTRO NO. 17**

#### **TITLE: LOCAL LAW PROVIDING THE COUNTY OF DELAWARE LEGAL AUTHORITY TO LEASE COUNTY-OWNED PROPERTY TO CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS TO PLACE COMMUNICATIONS EQUIPMENT, UTILITIES AND RELATED APPURTENANCES ON OR AROUND COUNTY-OWNED PROPERTY**

Be it enacted by the Board of Supervisors of the County of Delaware as follows:

Section 1. Statutory Authority. This Local Law is enacted pursuant to the Municipal Home Rule Law (Chapter 36-a of the Consolidated Laws of the State of New York) by the Board of Supervisors of the County of Delaware.

Section 2. Legislative Purpose and Intent: It is the intent of this Local Law to authorize and empower the Board of Supervisors to lease certain portions of the real property owned by the County of Delaware and located at 1 Courthouse Square, Delhi, Delaware County, State of New York, for telecommunications purposes and consistent with a Master Management Agreement between the County of Delaware and JNS Enterprises, Inc. The specific areas proposed for leasing are not required for County purposes and are hereby deemed to involve the use of non-salable surplus property. The Board of Supervisors hereby finds and declares that the purposes of this Local Law are consistent with the best interests of the health, safety, and general welfare of the citizens of the County of Delaware, in that enactment of this Local Law will:

a. Maximize the economic use of non-salable surplus property of the County of Delaware;

b. Facilitate the economic provisions of this public utility service to the surrounding area, for emergency and non-emergency use by the general public; and

c. Ensure the over all conservation of the aesthetic resources of the County of Delaware by encouraging, to the extent possible, the use of municipal property for telecommunications purposes.

Section 3. Permissive Referendum. This Local Law shall be subject to permissive referendum according to the provisions of Section 24 of the Municipal Home Rule Law.

Section 4. Authorization to Lease: The Board of Supervisors is hereby authorized and empowered to lease (acting with and through its agent for this purpose, JNS Enterprises, Inc.) Certain portions of that certain real property owned by the County of Delaware and located at 1 Courthouse Square, Delhi, Delaware County, State of New York (the "Premises") to Cellco Partnership d/b/a Verizon Wireless for telecommunications purposes. The specific areas leased shall only be those which, in the judgement of the Board of Supervisors, and upon recommendation from the Chairman of the Board of Supervisors, are not required for the purposes of the County of Delaware, and shall include, without limitation, the following; a portion of space approximately 450 square feet in the basement floor of the Premises, along with space on a proposed communications tower to be located at the Premises for location, installation and operation of equipment, utilities and related appurtenances; together with a right-of-way to each area for operation and maintenance purposes; together with an easement for the installation of power, telephone and related appurtenances (the "Telecommunications Facility"). The lease shall also be subject to the following additional terms, conditions and restrictions:

- A. Term and Renewal. The terms of the lease shall be for a reasonable time, as determined by the Board of Supervisors, but in no case to exceed forty-nine (49) years.
- B. Restriction(s) on Use. Maintenance, operation and use of the Telecommunications Facility shall not interfere with the maintenance, operation and use of the remaining portions of the premises by the County of Delaware. The lessee shall be responsible for complying with any and all written rules, regulations and/or directives of the County of Delaware which are reasonably necessary to ensure the adequate and proper operation, maintenance and use of Cellco Partnership d/b/a Verizon Wireless' Telecommunications Facility.
- C. Approval by Board of Supervisors. A majority of the members of the Board of Supervisors shall be required in connection with any lease authorization and/or modification hereunder.

- D. Technical Approval. The location and layout of the Telecommunications Facility shall be approved in writing by the Chairman of the Board of Supervisors or his designee. No approval from the Town of Delhi zoning authorities shall be required.
- E. Administration of Lease. Unless provided for otherwise herein, administration of the lease authorized herein shall be the responsibility of the Chairman of the Board of Supervisors or his or her designee (including JNS Enterprise, Inc. ), in accordance with provisions of applicable law.
- F. Additional Terms and Provisions. The lease authorized hereunder shall contain such other terms and provisions as are reasonably necessary to accomplish the transaction in question, and shall be reviewed and approved in writing by the Board of Supervisors of the County of Delaware.

Section 5. Other Laws Superseded: This Local Law supersedes and replaces Article 5, sections 215(4) and 215(6) of the County Law, and an other rule, regulation or law inconsistent with this Local Law.

Section 6. Partial Invalidity. If any section, paragraph, subdivision or provision of this Local Law shall be found by a court of competent jurisdiction to be invalid, such invalidity shall apply only to the section, paragraph, subdivision or provision adjudged invalid, and the remainder of the law shall remain valid and effective.

Section 7. Effective Date. This Local Law shall take effect upon filing in the office of the New York State Secretary of State in accordance with section 27 fo the Municipal Home Rule Law.

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

**RESOLUTION NO. 225**

**TITLE: PUBLIC HEARING ON LOCAL LAW NO. 17 OF 2008**

**WHEREAS**, Local Law Intro. No. 17 has been introduced for a local law providing the County of Delaware legal authority to lease county-owned property to Cellco Partnership D/B/A Verizon Wireless to place communications equipment, utilities and related appurtenances on or around County-owned property.

**NOW, THEREFORE BE IT RESOLVED**, that a public hearing be held on Local Law Intro No. 17 on the 10<sup>th</sup> day of December, 2008 at 12:45 p.m. in the Supervisors' Room of the Senator Charles D. Cook County Office Building, 111 Main Street, Delhi, New York.

The resolution was seconded by Mr. Triolo and Mr. Utter.

Addressing County Attorney Richard Spinney, Mr. Marshfield commented that the local law did not consider the possibility of reserving space on the tower if the County deems it appropriate.

In answer to Mr. Marshfield, Mr. Spinney stated that the local law relates only to the tower located by the old jail and he did not believe that the county used that tower any longer.

In response to Chairman Eisel, Director of Emergency Services Richard Bell stated a new tower will be constructed. Verizon Wireless will be hanging a transmitter which will increase the service primary in the Village of Delhi area. He noted that he is always supportive of language allowing for a reserve a position on towers for use by emergency services but, felt he could not make a determination if that language would be appropriate in this local law.

Mr. Spinney explained that the purpose of the local law is to get around a provision in the county law that says the county cannot lease something for more than five years. If reserving space for the county on the tower is considered important it should be considered.

Mrs. Schafer advised that the County Attorney and Verizon indicated that a local law has to be done anytime Verizon goes on any of our towers.

Mr. Spinney explained that a generic local law would not work with the State Environmental Quality Review Act as a determination of environmental impacts must be made each time a tower is constructed.

Mr. Bell noted that in this case, this specific tower will receive minimum usage as there is the east hill tower that sits less than three quarters of a mile behind it.

Mr. Marshfield suggested that the County proceed carefully and consider language allowing for reserved space on the towers.

Mr. Maddalone commented that he felt the County could make arrangements with the people putting in the tower that the County had rights to use the tower.

Mrs. Capouya pointed out that if this a JNS tower the Town of Meredith had specific language for reserving space put right in the contract.

The resolution was unanimously adopted.

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

## **RESOLUTION NO. 226**

**TITLE: OPPOSITION TO THE NEW YORK CITY DEPARTMENT OF ENVIRONMENTAL PROTECTION'S DRAFT AMENDMENTS TO THE WATERSHED RULES AND REGULATIONS WATERSHED AFFAIRS**

**WHEREAS**, the New York City Department of Environmental Protection (NYCDEP) has released proposed amendments to the New York City Watershed Rules and Regulations (WR&R); and

**WHEREAS**, the NYCDEP has announced its intention to commence the public comment process; and

**WHEREAS**, the Delaware County Board of Supervisors believes that the proposed amendments will increase costs to the local residents of the watershed without any additional funding to address those cost increases; and

**WHEREAS**, the NYCDEP has not demonstrated a technical justification of the proposed changes and has not issued or released information on the cost to comply with these amendments; and

**WHEREAS**, the NYCDEP has not identified the water quality benefits that would result from such proposed amendments; and

**WHEREAS**, New York City is attempting to shift the cost of avoiding filtration of its water supply to some of the poorest communities within New York State.

**NOW, THEREFORE BE IT RESOLVED**, that the Delaware County Board of Supervisors respectfully submits its formal objection to the adoption of the proposed amendments to the WR&R as currently proposed since the NYCDEP has neither demonstrated a need for these proposed changes nor identified the water quality benefits that would result from such proposed amendments or made arrangement for funding the incremental costs arising therefrom,

**BE IT FURTHER RESOLVED**, that this resolution be sent to Roger Sokol of the New York State Department of Health and Melissa Siegel of the NYCDEP.

The resolution was seconded by Mr. Meredith.

Commissioner of Watershed Affairs Dean Frazier said that the proposed amendments to the Watershed Rules and Regulations have been underway for about three years. There are concerns related to the expansion of waste water treatment plants, sewer extensions, individual septic systems and stormwater systems.

Among the various concerns is that communities cannot afford to fix all the inflow and infiltration problems which could easily involve millions of dollars for local communities and expansion could become costly.

The NYCDEP is currently undergoing their City review process. Comments are due in December. Coalition of Watershed Towns Attorney Kevin Young will write the comments for submittal in the City review process. It is expected that the NYCDEP would like to have these regulations in place as soon in 2009 as possible.

On another matter, Commissioner Frazier thanked everyone for participating in the recent meetings on the Economic Impact Analysis. The community meetings went well with an average of 78 people per meeting. There is a tremendous amount of information to assimilate and data to revisit and modify. We are looking at a random community survey in order to get a unbiased handle on community sentiment giving the report even more standing.

In answer to Chairman Eisel, Commissioner Frazier said that this resolution is in support of the Coalition of Watershed Towns.

Commissioner Frazier said in response to Mr. Marshfield, that this county is not currently in a phosphorous restricted basin. He said he would like to see the City adopt a process whereby if a watershed plan was in place and if the phosphorous levels was to go back up the NYCDEP would work with the community rather than determine the area a phosphorous restricted basin.

The resolution was unanimously adopted.

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

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

**RESOLUTION NO. 227**

**TITLE: 2008 BUDGET AMENDMENT  
TRANSFER OF FUNDS  
WEIGHTS AND MEASURES**

**WHEREAS**, additional funding is needed to repair the truck used by Weights and Measurers

**THEREFORE, BE IT RESOLVED** that the following transfer be authorized:

**FROM:**

10-11990-54900000	Contingency	\$800.00
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**TO:**  
10-16610-54595320                      Sealer Weights & Measures - Supplies                      \$800.00

The resolution was seconded by Mrs. Capouya and adopted by the following vote: Ayes 4184, Noes 0, Absent 622 (Valente, Rowe).

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

**RESOLUTION NO. 228**

**TITLE: 2008 BUDGET AMENDMENT  
TRANSFER OF FUNDS  
SAFETY INSPECTION**

**WHEREAS**, additional funding is needed to pay for overtime costs incurred as a result of the flood buyout program

**THEREFORE, BE IT RESOLVED** that the following transfer be authorized:

**FROM:**  
10-11990-54900000                      Contingency                      \$12,400.00

**TO:**  
10-1362051000000                      Safety Inspection - Personal Services                      \$12,400.00

The resolution was seconded by Mr. Utter and adopted by the following vote: Ayes 4184, Noes 0, Absent 622 (Valente, Rowe).

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

**RESOLUTION NO. 229**

**TITLE: 2008 BUDGET AMENDMENT  
TRANSFER OF FUNDS  
PUBLIC HEALTH NURSING SERVICE**

**WHEREAS**, the Immunization Program has been reorganized with changes in staffing patterns; and

**WHEREAS**, there are insufficient funds in the 2008 personal services for the Immunization Program;

**THEREFORE BE IT RESOLVED**, that the following transfers be made:



In Mr. Marshfield's opinion, the budget does not need to fund over fifty vacancies at a cost of \$1.2 million, plus a half a million or more for fringe benefits. For every \$300,000 shaved from department totals it equals about one percent less for our taxpayers to pay. In addition, fuel costs have dropped, therefore it is reasonable to anticipate that a 30 percent increase over last year could be adjusted to save \$350,000 while allowing still a \$450,000 increase over 2008 in County fuel costs.

He felt that increasing the IDA funding by 38 percent if managed properly could be a wise move. He did not feel reducing the Coalition of Watershed Towns funding was a wise move and felt it should be increased back to \$25,000. Property taxes are out of control and he could not justify increasing them, pointing out that this state is taxed 79 percent above the national average. This coupled with the New York City Land Acquisition program is making this county unaffordable for our residents and those that may desire to live in this county.

He noted that many of these issues were addressed or will be addressed by Budget Oversight. He thanked the Budget Oversight Committee for their work and the 3.4 percent is palatable, but feels it is too high for the times we are in.

Chairman Eisel thanked the Budget Oversight Committee for their work on the budget. These are tough and uncertain times and although no one wants to see increases, essential services must be provided. A 3.4 percent increase, while not the best, is very palatable.

Mr. Bracci said he very proud of this group of legislatures and thanked those that worked on the 2009 budget. In his opinion, an increase of 3.4 percent is outstanding. He suggested for future thought, the possibility of the County seeking input on mandates from other counties and forming a coalition to say "no" to future mandates.

The resolution was adopted by the following vote: Ayes 4184, Noes 0, Absent 622 (Valente, Rowe).

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

**RESOLUTION NO. 231**

**TITLE: APPROPRIATION RESOLUTION**

**WHEREAS**, this Board by Resolution No. 230, dated November 25, 2008 adopted a budget for the fiscal year 2009;

**RESOLVED** that the several amounts specified in the column, "Adopted" be and hereby are appropriated for the objects and purposes specified, effective January 1, 2009.

The resolution was seconded by Mrs. Capouya and adopted by the following vote: Ayes

4184, Noes 0, Absent 622 (Valente, Rowe).

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

**RESOLUTION NO. 232**

**TITLE: PAYMENT OF AUDIT**

**WHEREAS**, bills and claims submitted and duly audited by the Clerk of the Board’s office in the amount of \$1,048,169.73 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	\$607,297.62
OET	\$14,654.26
Highway Audits, as Follows:	
Road	\$26,774.42
Machinery	\$144,673.78
Capital Road & Bridge	\$78,686.17
Capital Solid Waste	\$63,369.15
Solid Waste/Landfill	\$112,714.33

The resolution was seconded by Mr. Marshfield and adopted by the following vote: Ayes 4184, Noes 0, Absent 622 (Valente, Rowe).

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

**RESOLUTION NO. 233**

**TITLE: EXECUTIVE SESSION**

**BE IT RESOLVED** that the Delaware County Board of Supervisors convene in executive session to discuss matters of negotiations.

The resolution was seconded by Mrs. Capouya and adopted by the following vote: Ayes 4184, Noes 0, Absent 622 (Valente, Rowe).

The meeting reconvened in regular session with all Supervisors present except Mr. Valente and Mr. Rowe.

Upon a motion, the meeting was adjourned at 3:45 p.m.