

REGULAR MEETING

DELAWARE COUNTY BOARD OF SUPERVISORS

APRIL 28, 2010

The regular meeting of the Delaware County Board of Supervisors was held Wednesday, April 28, 2010 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. Donnelly, Mr. Marshfield and Mr. DuMond.

Mr. Bracci offered the invocation.

Mr. McCarthy 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 Commissioner of Social Services William Moon who presented Annemarie Nichols as Employee of the Month.

Mrs. Nichols began her employment with Social Services in 1998 as a temporary typist for the department's legal unit and shortly thereafter was transferred to a full-time typist position in the services division. In 2003 she was promoted to senior typist. In this position, she assists services caseworkers with foster care, preventive and protection cases.

Commissioner Moon stated that Mrs. Nichols holds a degree in secretarial studies and maintains a professional, calm and steady approach to all of her tasks. One of her most valuable roles and one in which she excels is that of telephone manager. She has the ability to engage clients calling with distressing matters into conversation and with a professional manner assists them appropriately.

Mrs. Nichols goes out of her way to make a difference to the public, clients and colleagues. Commissioner Moon stated that there are more than sixty employees in the services division and everyone of them signed a petition to have Mrs. Nichols recognized. That is a testament to the type of person Mrs. Nichols is.

Commissioner Moon presented Mrs. Nichols with a \$100.00 savings bond. Chairman Eisel presented her with the Certificate of Employee of the Month and thanked her for her dedicated service.

Mrs. Nichols stated that she has always worked with people she enjoys and it is nice to know they feel the same way about her. She thanked everyone for the recognition and stated that this is a bit of "icing on the cake."

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

RESOLUTION NO. 78

TITLE: PROCLAMATION OF MAY AS MENTAL HEALTH MONTH

WHEREAS, healthy individuals and healthy communities are essential elements of any strong and vibrant society; and

WHEREAS, mental health disorders and mental health problems affect people of all ages, backgrounds and at all stages of life; and

WHEREAS, mental health problems are real and common, but it is important to remember that recovery is possible and with treatment, individuals with mental health problems can lead full and productive lives; and

WHEREAS, Delaware County has made a commitment to community-based systems of mental health care in which all residents can receive comprehensive, cost-effective and high quality mental health services; and

WHEREAS, the Delaware County Community Services Board observes Mental Health Month each year in May to raise awareness of mental health, mental illnesses, and the stigma that exists pertaining to persons with emotional disabilities;

NOW, THEREFORE, BE IT RESOLVED that the Delaware County Board of Supervisors proclaims May 2010 as MENTAL HEALTH MONTH in Delaware County, and urges residents of the County to become educated about the benefits and importance of good mental health care and to seek services for emotional problems early from mental health professionals.

The resolution was seconded by Mrs. Capouya and unanimously adopted.

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

RESOLUTION NO. 79

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

LETTING OF APRIL 23, 2010

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 award, pending approval from NYSDOT, to the lowest bidder meeting specifications as follows:

PROPOSAL NO. 27-10, Replacement of Bridge 7-2, Bin 3359430,
Cat Hollow Road (CR 7) over Spring Brook, Town of Colchester,

County of Delaware to:

Bette & Cring, LLC
22 Century Hill Drive
Latham, NY 12110

Bid Price: \$1,837,984.00

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. Rowe.

Mr. Utter stated that there will be no state funding. The project is 80 percent federally funded and 20 percent local share.

Chairman Eisel commented that the project received very good bidding.

The resolution was adopted by the following vote: Ayes 4401, Noes 0, Absent 405 (Donnelly, Marshfield, DuMond).

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

RESOLUTION NO. 80

**TITLE: AUTHORIZATION TO GRANT AN EASEMENT
OVER COUNTY PROPERTY TOWN OF COLCHESTER
DEPARTMENT OF PUBLIC WORKS**

WHEREAS, County Bridge #26-1, BIN 335195, County Route 26 over Telford Hollow Brook in the Town of Colchester is in need of replacement to ensure safe and adequate use for the public and emergency services; and

WHEREAS, Resolution No. 314 of 2004 authorized the Department of Public Works to enter into an agreement with the NYSDOT for federal funding for the replacement of the bridge; and

WHEREAS, the Department of Public Works has followed the federal and state procedures for the development of the project plans which will replace the structure and make minor improvements to the approach roadway; and

WHEREAS, Resolution No. 63 of 2010 authorized the acquisition of right of way, and

WHEREAS, one of the landowners wishes to have a legal easement across county acquired property to access a Town Road;

NOW, THEREFORE, BE IT RESOLVED, that the Chairman of the Board is authorized to grant a right of way across county acquired property to provide access from tax map parcel number 339-1-20.51 to Town of Colchester's Gregory Hollow Road.

BE IT FURTHER RESOLVED, that the easement will require the user to provide all maintenance required for their access subject to DPW approval.

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

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

RESOLUTION NO. 81

**TITLE: PUBLIC HEARING ON EIGHT-YEAR REVIEW OF
AGRICULTURAL DISTRICT NO. 12**

WHEREAS, the Delaware County Agricultural and Farmland Protection Board and the Delaware County Planning Board have presented recommendations for the modification of Agricultural Districts 12 located in the Towns of Deposit, Colchester, Masonville, Sidney, Tompkins & Walton during the scheduled 8-year review period;

NOW, THEREFORE, BE IT RESOLVED that a public hearing be held by the Delaware County Board of Supervisors on the proposed modifications to Agricultural Districts 12 on Wednesday May 12, 2010 at 5:15 PM in the Board of Supervisors' Room of the County Office Building at which time all interested parties will be given an opportunity to be heard.

The resolution was seconded by Mr. Hynes.

Chairman Eisel noted that the public hearing will be held on Wednesday, May 12th at 5:15 p.m. in the Board of Supervisors' Room prior to the Board meeting.

The resolution was unanimously adopted.

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

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

RESOLUTION NO. 82

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 March 31, 2010;

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	\$17,148.08	\$17,148.08	
Bovina	\$11,891.81	\$11,891.81	
Colchester	\$7,876.24	\$7,876.24	
Davenport	\$16,352.63	\$16,352.63	
Delhi	\$25,880.72	\$21,893.01	\$3,987.71
Deposit	\$4,795.95	\$4,488.29	\$307.66
Franklin	\$15,932.99	\$15,212.15	\$720.84
Hamden	\$11,748.54	\$11,748.54	
Hancock	\$24,621.30	\$22,327.04	\$2,294.26
Harpersfield	\$6,318.44	\$5,622.58	\$695.86
Kortright	\$9,778.41	\$9,778.41	
Masonville	\$4,881.96	\$4,881.96	
Meredith	\$6,658.02	\$6,658.02	
Middletown	\$31,421.04	\$27,612.55	FL \$895.64
			MV \$2,912.85
Roxbury	\$16,055.01	\$16,055.01	
Sidney	\$23,727.54	\$16,683.50	\$7,044.04
Stamford	\$11,998.12	\$9,056.97	ST \$1,063.16
			HO \$1,877.99
Tompkins	\$5,638.03	\$5,638.03	
Walton	\$20,238.39	\$16,472.26	\$3,766.13
Totals ...	\$272,963.22	\$247,397.08	\$25,566.14

The resolution was seconded by Mr. Triolo

Chairman Eisel commented that the amounts this year are not as good as the previous year.

The resolution was adopted by the following vote: Ayes 4401, Noes 0, Absent 405 (Donnelly, Marshfield, DuMond).

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

RESOLUTION NO. 83

TITLE: PAYMENT OF AUDIT

WHEREAS, bills and claims submitted and duly audited by the Clerk of the Board’s office in the amount of \$1,114,450.27 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	\$751,962.74
OET	\$73,206.69
Highway Audits, as Follows:	
Road	\$45,415.35
Machinery	\$82,616.52
Capital Road & Bridge	\$62,817.69
Capital Solid Waste	\$20,250.00
Solid Waste/Landfill	\$78,181.28

The resolution was seconded by Mr. Triolo and adopted by the following vote: Ayes 4401, Noes 0, Absent 405 (Donnelly, Marshfield, DuMond).

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

RESOLUTION NO. 84

TITLE: OPPOSITION TO THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION’S DECISION TO REQUIRE COMPLIANCE WITH MORE RESTRICTIVE PERMITTING AND COSTLY REGULATIONS FOR NATURAL GAS DRILLING IN UNFILTERED WATER SUPPLIES WATERSHED AFFAIRS

WHEREAS, on April 23, 2010, the DEC issued a statement that a determination had been made to require each application for a natural gas well permit within the New York City Watershed to require the preparation of a draft environmental impact statement and to conduct a burdensome environmental review process; and

WHEREAS, the intended effect of the determination was to effectively ban natural gas well permits within the New York City Watershed by making the permitting process so long, expensive and uncertain, that it was neither economical nor rationale for a person to submit an application; and

WHEREAS, DEC effectively acknowledged that it was seeking to ban natural gas mining within the New York City Watershed in a manner that would prevent the property owners that lost their mineral rights from receiving compensation; and

WHEREAS, NYC impounds, exports and sells the surface water that is collected from 502,000 acres within Delaware County (including 23 towns and villages); and

WHEREAS, in order to enhance the value of its water supply and to avoid the cost of installing treatment equipment required under State and federal law for all surface drinking water supplies, NYC sought to control all forms of human activity within these Delaware County communities by the adoption of potentially devastating land use regulations; and

WHEREAS, the State of New York (i.e., the Governor's Office and its Executive Departments: DEC, DOH and DOS) requested that NYC and the Delaware County communities (among others) enter into a long term partnership agreement under which NYC would adopt land use regulations negotiated and agreed to by the parties to the agreement in exchange for partnership programs to compensate the property owner and residents for the cost and lost opportunity arising from the regulatory restrictions; and

WHEREAS, in January, 1997, NYC, NYS, DEC, DOH, DOS and Delaware County, the Delaware County Towns and Villages and other stakeholders entered into the historic Memorandum of Agreement ("MOA") which formalized a partnership between the parties to work together in good faith to protect the quality of the water supply while maintaining and enhancing the economic sustainability of the local communities; and

WHEREAS, the MOA is and was the Constitution that created the framework for this living partnership in which all parties "agreed to act in good faith and to take all necessary and appropriate actions, in cooperation with one another, to effect the purposes of this Agreement" (i.e., to enter into a new era of partnership to cooperate in the development and implementation of a Watershed protection program that maintains and enhances the quality of the New York City drinking water supply system and the economic vitality and social character of the Watershed communities"); and

WHEREAS, substantially all of the 502,000 acres within Delaware County subject to the MOA contain significant natural gas reserves (i.e., for many properties the value of the natural gas reserves exceeds the market value of land absent the reserves); and

WHEREAS, NYS collects millions of dollars each year in royalties from the natural gas reserves under State owned land; and

WHEREAS, conspiring to identify and then implementing a regulatory approach to take the natural gas reserves from private and public land owners within Delaware County in order to enhance the value of NYC's drinking water resources while avoiding any form of compensation to the impacted property owners is not consistent with the Partnership created by and governed by the MOA and is not consistent with the commitment made by all Parties to the MOA to "act in good faith and to take all necessary and appropriate actions, in cooperation with one another," to implement water quality protection programs that "enhances the quality of the New York City drinking water supply system and the economic vitality and social character of the Watershed Communities"; and

WHEREAS, in their public statements prior to April 23, 2010, the DEC Commissioner and the DEC engineers and geologists have asserted that with proper safeguards natural gas wells did not pose a risk to NYC surface drinking water supply that is different, unique or greater than

any other surface drinking water supply; and

WHEREAS, in their public statements prior to April 23, 2010, the DEC Commissioner and the DEC engineers and geologist have asserted that natural gas wells (including horizontal drilling with hydraulic fracturing) can be installed and accessed in a manner that is not a significant threat to groundwater and surface water supplies; and

WHEREAS, the DEC's determination on April 23, 2010 was made in response to political pressure from New York City and private organizations rather than any rational basis; and

WHEREAS, Delaware County Board of Supervisors acknowledges that New York City and its eight million residents have a political influence greater than Delaware County and its forty-seven thousand residents; and

WHEREAS, Delaware County Board of Supervisors acknowledges that its full time residents have a median per capita and per household income that is far below the median NYS and NYC income levels; and

WHEREAS, Delaware County Board of Supervisors determined, at the urging of NYS, that it was in the best interest of their residents to participate in the MOA in order to obtain the protections of the MOA including the Parties' commitment to work together, in cooperation and in good faith to enhance the value of the NYC water supply while enhancing the economic vitality and social character of the communities.

NOW, THEREFORE BE IT RESOLVED, that the Delaware County Board of Supervisors requests that the Delaware County Department of Watershed Affairs, the Department of Planning, Department of Economic Development and the Department of Public Works to immediately conduct an evaluation to identify a plan of action which may include land acquisition negotiations to compel the State to comply with its obligations under the MOA to work together, in cooperation and in good faith on this issue and to make determinations regarding natural gas permitting consistent with good engineering judgment and equality under law.

BE IT FURTHER RESOLVED, that a copy of this resolution be sent to NYS Governor Patterson, Commissioner of the NYS Department of Health Richard F. Daines, M.D., Commissioner of the NYS Department of Environmental Conservation Peter Grannis, US Senators Charles Schumer and Kirsten Gillibrand, US Congressmen Murphy and Hinchey, NYS Senator John Bonacic, NYS Assemblymen Clifford Crouch and Peter Lopez and USEPA Region 2 Administrator Judith Enck, NYC Mayor Bloomberg, Executive Director of the Watershed Protection and Partnership Council William Harding, the Coalition of Watershed Towns and Counties, and the NYS Association of Counties.

The resolution was seconded by Mr. Axtell.

Chairman Eisel stated on April 23rd the DEC issued a statement that a determination had been made to require each application for a natural gas well permit within the New York City Watershed to require a draft environmental impact statement and a burdensome environmental review process. The not-prefiled resolution was drafted in response to the DEC's statement.

Mrs. Capouya opined that this resolution says exactly what is needed. The announcement by DEC was a disgrace, what is safe for the city should be safe for this area and vice-versa.

Mr. Bracci advised that he had a meeting with Delhi Village Officials and the Director of Economic Development Glenn Nealis concerning a proposed project that will be a significant industrial expansion. The discussion hinged around waste water and the artificial constraints on the sewer capacity. He noted that the project is time sensitive and if an agreement could not be reached quickly he feared the opportunity could be lost.

He remarked that the city appears to be reacting to pressure created by the environmental groups. It is time the Board begins to think outside of the box and consider alternative ways to respond to these issues.

Chairman Eisel suggested that Mr. Bracci contact the Coalition of Watershed Towns in an effort to gain some support for the proposed Town of Delhi's expansion project.

Mr. McCarthy noted that he owns 46 acres of land on the side of a mountain. The new FEMA floodplain maps have some of that land in the floodplain. He wondered if the changes to the flood maps may have anything to do with preventing gas drilling.

Chairman Eisel stated that the DEC did not ban drilling, but in a well crafted statement added additional regulations on the landowners within the watershed. County staff is in negotiations with the land acquisition program and will try to use what is happening here as leverage. He referenced a statement from a federal legislator questioning how drilling can be bad for some areas and not others. These are difficult economic times and natural gas drilling is an opportunity the towns would like to see happen because of the revenue it will bring in.

Mr. Utter remarked that the fourteenth WHEREAS paragraph sums up the whole reason behind DEC's announcement, political pressure from NYC and private organizations, rather than rational basis. This is the second hit to our residents in a short time. The county is still negotiating with the city on the pharmaceutical issue. He felt this was more evidence to support his opinion that New York City's ultimate goal is to depopulate the Catskills.

Mr. Dolph stated that the resolution sounds good and some people are listening but, it appears not much is getting done. It seems the only ones paying any attention to the terms of the MOA is us. The Board needs to find a stronger direction. It is not right or fair that residents in the watershed are prevented from the possibility of a better quality of life.

Mr. Valente remarked that he is looking forward to the young law students meeting scheduled for Friday, April 30th in the Board of Supervisor's room. He hopes they will bring in new energy and have more gumption when dealing with these issues. These negotiations amount to nothing more than an attempt to cover up what in his opinion is a highjacking of our community and economy. There is the pretense that we are being treated legitimately when we are not.

Mr. Bracci stated that the project in the Town of Delhi is a \$40 million expansion that is in jeopardy because of the city and their regulations. People need to understand that if we lose these opportunities they may never come back.

In answer to Mr. Dolph, Chairman Eisel stated that in the past we have dealt with the Coalition of Watershed Towns on these issues. This is difficult because it is not an outright ban but, the imposition of additional requirements. If a property owner in the watershed has mineral rights on their property they should be able to access those rights the same as anywhere else. He was not certain where to go from here with the matter except to say that the negotiations will continue.

Mr. Rowe commented that the DEC, the city and environmental groups must think that if the issues continue to come at us we will eventually get tired and go away. The announcement was not an outright ban, they just left the watershed out. He referenced a New York Times article pointing out that the DEC's plan is to make it virtually impossible for a natural gas company to seek to drill in the watershed because of the cost and the bureaucratic hurdles involved. DEC could have chosen to allow drilling in the watershed and let the opposition take legal action to have it taken out. It is not right that we are being told, once again, what to do with our land.

Mr. Hynes remarked that his concern rests with the state. It would seem that the watershed communities would get some support from the state but, instead they make the situation worse. In his opinion, it is the state that is killing us.

Chairman Eisel commented it is inconceivable to him that the state is in dire straits for additional revenue and would prevent half of the county from drilling.

Mr. Utter remarked it was the state that started all this with their decision in 1904 to allow the city into the Catskills.

Mr. Homovich noted the Town of Colchester is about 50 percent in the watershed and is seeking a definition from the state and DEP as to what they are going to consider the watershed. He referenced the Surface Water Treatment Act of 1989 noting that the residents in this area are not allowed to drink the water from the reservoir because it is considered non-potable but, the city is allowed to sell the water as is. There are two sets of standards, one for our residents and one for the powerful and rich. In his opinion, the Board will have to take a serious look at these issues and develop a plan that will ensure the survival of the residents of the county.

Commissioner of Watershed Affairs Dean Frazier stated that it is unclear where the city is beginning and ending in terms of what they are going to restrict. He advised that the Delaware River Basin Commission (DRBC) will be coming out with their own regulations with regard to lands located in the protection of special waters. He understood that the DRBC wanted to have more restrictive regulations relating to gas drilling than the state. The Departments of Watershed Affairs and Economic Development are reaching out to Sullivan County, New York and Wayne County, Pennsylvania in an attempt to come up with another view on natural gas drilling.

Mr. Homovich advised he sent an e-mail to the DEC Bureau of Oil & Gas Regulation asking for an explanation of the permitting process and how long it will take to acquire a permit.

Commissioner Frazier commented that the DRBC out of Pennsylvania is delayed about seven months in making determinations on applications. They do not have any rules or regulations and do not seem interested in coming up with any so the applicants are stranded.

The resolution was unanimously adopted.

Chairman Eisel appointed Wilbur Haynes and Fred Huneke to the Agricultural Farmland Protection Board.

Upon a motion, the meeting adjourned at 1:40 p.m.