

## REGULAR MEETING

### DELAWARE COUNTY BOARD OF SUPERVISORS MAY 23, 2012

The regular meeting of the Delaware County Board of Supervisors was held Wednesday, May 23, 2012 at 5:30 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. Layton and the Town of Colchester was not represented (former Supervisor Theodore Fonda resigned May 2, 2012).

Mr. Marshfield offered the invocation.

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

The minutes of the previous meeting were accepted as presented.

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

Chairman Eisel granted privilege of the floor to Mr. Triolo who introduced Commissioner of Watershed Affairs Dean Frazier to provide an update on several issues affecting the county.

Commissioner Frazier stated that an Environmental Impact Executive Summary of a recent study by SUNY Buffalo along with a copy of the *Watershed Update* has been placed on each Supervisor's desk. The study is an analysis of natural gas drilling permit violations in the State of Pennsylvania. The incidents were compared to the current New York State Department of Environmental Conservation (NYSDEC) Supplement Generic Environmental Impact Statement (SGEIS) to see if what is being proposed in the NYSDEC SGEIS would address or prevent the incidents if they occurred in New York State under the SGEIS. The full report is available on the Department of Watershed Affairs website [www.delcowatershed.com](http://www.delcowatershed.com). He recommended the Supervisors read the full Environmental Impact Report.

The Delaware River Basin Commission decree parties could not come to an agreement on a number of technical issues involved in the Flexible Flow Management Program (FFMP). The FFMP is used by New York City and the Delaware River Basin Commission to manage the flow of water for the Cannonsville, Pepacton and Neversink reservoirs. As a result, potential changes to the FFMP could be delayed up to one year. Under consideration was an increase from the current 10 percent voids to 15 percent voids and a later filling date of the reservoirs in the spring and an earlier draw down of the reservoirs in June resulting in a larger safety margin in the reservoirs under the FFMP.

In answer to Chairman Eisel, Commissioner Frazier noted that the concerns raised by decree parties did not involve voids.

Commissioner Frazier advised that the CORE group, consisting of Delaware County

Departments of Economic Development, Emergency Services, Planning, Public Works, Watershed Affairs, and the Delaware County Soil & Water Conservation District have been doing their best to direct available money from the state and federal governments to areas inside and outside of the watershed area. In response to Hurricane Irene and Tropical Storm Lee last August and September the CORE group put forth a flood mitigation position paper proposing that the money used by New York City for land acquisition would serve water quality much better if used for flood mitigation. After receiving the support of the Board of Supervisors the proposal was circulated to all watershed partners and received a positive response from all parties involved.

Flood mitigation is a long-term issue. An effective long-term flood mitigation program requires willing cooperation from all parties involved. The objective of the flood mitigation program is to get and keep people out of harms way, protecting communities and private and public property by voluntary programs that protect water quality. Decisions made through the flood mitigation program are to be community or individually based business decisions.

Negotiating an effective flood mitigation program involves the entire west of Hudson and requires that all parties present a unified front to achieve the following: (1) An expanded Stream Corridor Management Program (SCMP) for flood mitigation projects and the development of science based analyses to support community decisions regarding projects (2) A long-term Community Flood Mitigation Program and (3) Long-term Anchor Business Program to assist businesses in relocating. These objectives can be accomplished by capitalizing on existing funding arrangements, seeking all available funding for proposed projects, staff planning and implementation.

There are many questions without answers at this time, but the basic tenet is that communities remain whole as they pursue any of these voluntary programs. A great deal of work remains however, the CORE group is making good progress with the negotiating parties and the program components, structures and concepts appear to be generally acceptable.

Chairman Eisel stated that the Long-term Anchor Business Program to assist businesses in relocating within their communities out of the flood plains is an essential component of a long-term flood mitigation program as it will help maintain stability and growth in the communities.

In response to Ms. Miller, Commissioner Frazier stated that he did not feel a centralized or regional approach was in the best interest of the county. He felt that each of the counties with help from the City have invested a significant amount of money, time and effort to develop SCMP, build local capacity and expertise. These efforts have resulted in local adoption of flood mitigation measures while benefitting water quality. A centralized or regional approach may create a duplication of program efforts already in place and would require the development of another layer of unnecessary bureaucracy.

In conclusion, Commissioner Frazier thanked the Board for privilege of the floor and encouraged any Supervisors desiring to discuss any of these issues further to contact him.

For standing committee reports, Chairman of the All-Hazard Mitigation Steering Committee Bruce Dolph advised that Tetra Tech EM, Inc., the consultant retained by the county to develop the county's All-Hazard Mitigation Plan will be finishing the draft plan within the

coming week. It is anticipated that a draft will be available for public review by mid June. A link to an electronic copy will be posted on the county website and hard copies will be available at the Office of the Clerk of the Board and the County Planning Department. Towns and villages will be given access to a digital version and are encouraged to print their executive summary and municipality chapter for the public to review. Additional information will be forthcoming once the draft is officially released.

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

**RESOLUTION NO. 77**

**TITLE: INCREASE IN STENOGRAPHIC FEES  
DISTRICT ATTORNEY**

**WHEREAS**, Section 703-a of the County Law requires that the Board of Supervisors set the rate of compensation to be paid to stenographers employed by the District Attorney and the current rate per page of \$2.00 is inadequate to ensure availability of stenographers for Grand Jury and Justice Court work;

**NOW, THEREFORE, BE IT RESOLVED** that the current fee allowed for a copy of transcript of testimony be increased from \$2.00 per typed page to \$3.15 per typed page.

The resolution was seconded by Mr. Rowe.

Mr. Marshfield advised that he had heard the stenographic process was changing to a recorded system to help accommodate the shortage of stenographers. He later learned that because the recordings were so difficult to understand they were being sent out to stenographers to be transcribed.

The resolution was unanimously adopted.

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

**RESOLUTION NO. 78**

**TITLE: CASH RELOCATION AGREEMENT  
FOR POINT TO POINT FIXED SERVICE DELAWARE COUNTY NO. 973  
DEPARTMENT OF EMERGENCY SERVICES**

**WHEREAS**, Delaware County operates a fixed point-to-point microwave radio system on certain radio frequencies within the 2110 to 2155 MHz band that is utilized for Delaware County's communication needs; and

**WHEREAS**, the Federal Communications Commission ("FCC"), pursuant to ET Docket No. 00-258, reallocated and auctioned the 2110 to 2155 MHz frequencies, including those used by Delaware County for the Affected Paths, to commercial enterprises for use by emerging technologies known as Advanced Wireless Services ("AWS"); and

**WHEREAS**, T-Mobile has determined that the AWS system(s) may cause interference to Delaware County's Affected Paths and desires that Delaware County permanently vacate, in accordance with the FCC's stated priorities, its licenses to operate in the Affected Paths and relocate its operation onto other microwave frequencies available to Delaware County; and

**WHEREAS**, T-Mobile has agreed to pay Delaware County the sum of one hundred seventy five thousand dollars (\$175,000.00) for Delaware County to design and implement a replacement system and cease all operations on the Affected Paths and vacate licenses to operate on those Affected Paths; and

**WHEREAS**, T-Mobile shall pay Delaware County a total sum of \$175,000.00 within 45 days of completion of all Delaware County obligations for moving and ceasing operations on the microwave radio system.

**NOW, THEREFORE BE IT RESOLVED**, that Delaware County shall enter into agreement with T-Mobile and that Delaware County shall take reasonable actions to implement the New System, and cease operations of the former fixed point-to-point microwave radio system on or before November 15, 2012 (the "Current System Termination Date").

The resolution was seconded by Mr. Rowe.

In response to Mr. Marshfield, Director of Emergency Services Richard Bell explained that this is a link that Delaware County holds a primary license to. Pursuant to FCC regulations, emerging technologies that purchased the frequencies are required to negotiate a relocation of the primary licensee. T-Mobile has agreed to a relocation cost of \$175,000 for Delaware County to relocate.

The resolution was unanimously adopted.

Mr. Triolo offered the following resolution:

**RESOLUTION NO. 79**

**TITLE: 2012 DISASTER RELIEF OPPORTUNITY PROGRAM  
DEPARTMENT OF ECONOMIC DEVELOPMENT**

**WHEREAS**, the Economic Development Administration is accepting applications from eligible entities for 2012 Disaster Relief Opportunity Program funds available through the Economic Adjustment Assistance Program; and

**WHEREAS**, Delaware County recognizes the devastating impact and hardship being experienced by Amphenol Aerospace, the largest employer in Delaware County, resulting from the flooding events of 2011 and the need to provide assistance; and

**WHEREAS**, an application is being completed and submitted by the Delaware County Industrial Development Agency, a New York State public benefit corporation, for the purpose of developing a "shovel ready" industrial site in order to retain this company in the Village of Sidney and Delaware County, thereby retaining up to 1,200 jobs; and

**WHEREAS**, the Economic Development Administrations application process requires that the officials of the subdivision of the applicant acknowledge that the non-profit organization is acting in cooperation with officials of that political subdivision.

**NOW, THEREFORE, BE IT RESOLVED** that the Delaware County Board of Supervisors hereby offers its full support, endorsement and cooperation in this effort and agrees that this project is the primary economic development priority of the county.

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

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

**RESOLUTION NO. 80**

**TITLE: AUTHORIZING THE SUBMISSION OF AN APPLICATION TO THE  
NEW YORK STATE OFFICE OF COMMUNITY RENEWAL  
DEPARTMENT OF ECONOMIC DEVELOPMENT**

**WHEREAS**, the Office of Community Renewal is accepting applications from eligible communities for economic development funds available through the Community Development Block Grant Program; and

**WHEREAS**, Delaware County recognizes the devastating impact and hardship being experienced by a local manufacturing company resulting from the flooding events of 2011 and the need to provide grant assistance; and

**WHEREAS**, a portion of the manufacturing that currently takes place at 40-60 Delaware Avenue in the Village of Sidney will continue at this location following a partial relocation of this local manufacturing company; and

**WHEREAS**, these funds will be used to assist with flood mitigation efforts at 40-60 Delaware Avenue in the Village of Sidney; and

**WHEREAS**, Delaware County has scheduled public hearings to obtain citizen's views in order to develop a comprehensive application for the economic development funds; and

**WHEREAS**, the NYS Office of Community Renewal process requires that the governing body of the applicant authorize the submission of the application and related actions.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of the County of Delaware hereby authorizes and directs the Chairman of the Board of Supervisors and the Director of Economic Development to submit an application to the NYS Office of Community Renewal and to act in connection with the submission of the application, including the execution of all required certifications and forms and to provide such additional information as may be required.

The resolution was seconded by Mr. Bower:

Director of Economic Development Glenn Nealis explained that as part of New York State's incentive package to keep Amphenol in the Village of Sidney, Amphenol will be provided with \$1 million to be used for flood mitigation at their existing facility. The county will be applying for this assistance on behalf of Amphenol and will serve as a pass through for the funds reimbursing Amphenol for eligible flood mitigation expenditures.

The resolution was unanimously adopted.

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

### **RESOLUTION NO. 81**

#### **TITLE: STIPULATION TO INCLUDE TWO KEY PARCELS IN THE PROPOSED SOUTH KORTRIGHT COMMUNITY WASTEWATER DISTRICT ECONOMIC DEVELOPMENT/ WATERSHED AFFAIRS**

**WHEREAS**, the 1997 Watershed Memorandum of Agreement (MOA) specifically recognized that the goals of drinking water protection and economic vitality within Watershed communities are not inconsistent and it is the intention of the Parties 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**, Special Condition 2 of the renewed Water Supply Permit provides that the City's LAP, the City's Watershed Regulations, and the other programs and conditions contained in the Watershed MOA, when implemented in conjunction with one another, are intended to protect water quality while **allowing existing development to continue, and future growth to occur in a manner that is consistent with the existing community character** and planning goals of each of the Watershed communities; and

**WHEREAS**, the South Kortright Hamlet Designation Area includes two existing commercial properties 107.-1-13.11 and 108.-1-1.1 which are in active commercial use, but are currently excluded from the proposed South Kortright Community Wastewater District; and

**WHEREAS**, such excluded properties are of crucial economic development importance to the hamlet in regards to current and future commercial use; and

**WHEREAS**, access to public infrastructure is of the utmost importance in being able to successfully encourage community sustaining growth within community centers, as well as to balance the economic viability of our local communities with the water quality imperatives of the New York City Watershed; and

**WHEREAS**, the concentration of growth and development within community centers is a key component of Smart Growth principles as put forth by New York State; and

**WHEREAS**, within the New York City Watershed, this ideal is a necessity from the standpoint of economic feasibility as compliance with the watershed rules and regulation for small and medium size businesses, absent access to public infrastructure, can be cost prohibitive

thereby limiting business opportunities now and in the future; and

**WHEREAS**, the proposed delineation of the community wastewater district will severely constrict the sustainability and growth potential of the Hamlet of South Kortright and will directly and negatively impact the community's ability to retain and/or replace existing commercially oriented establishments that are located just outside the currently proposed boundary of the community wastewater district.

**NOW THEREFORE BE IT RESOLVED**, that the Delaware County Board of Supervisors hereby asserts to the New York City Department of Environmental Protection, the Catskill Watershed Corporation and our Federal and State Watershed partners, the necessity of incorporating such existing commercial properties into the proposed Hamlet of South Kortright Community Wastewater District; and

**BE IT FURTHER RESOLVED**, that this resolution be sent to U.S. Congressman Chris Gibson, NYS Senators James L. Seward, Tom Libous and John J. Bonacic, New York State Assemblymen Clifford Crouch and Peter Lopez, NYS DEC Commissioner Joe Martens, NYS DOH Commissioner Nirav R. Shah, NYC DEP Commissioner Carter Strickland, NYC DEP Deputy Commissioner Paul Rush, EPA Region 2 Director Judith A. Enck, Assistant Commissioner for Water Resources James E. Tierney, DEC NYC Watershed Coordinator Thomas Snow, Acting Chief NYC Watershed Section Pamela Young, Chairman Coalition of Watershed Towns Dennis Lucas, CWC Board of Directors, Executive Director of CWC Alan Rosa, Executive Director of the Watershed Protection and Partnership Council William Harding, the Stamford Town Council and the Village of Hobart Board of Trustees.

The resolution was seconded by Mr. Bower.

In response to Ms. Molé, Mr. Triolo stated that the Town of Stamford would welcome the county's support in trying to make this South Kortright Community Wastewater District project fit the infrastructure needs of the community.

He explained that the New York City Department of Environmental Protection did not approve the inclusion of two commercial properties, Phoenix House and the Plum Tree Event Center located in the Hamlet of South Kortright. In 1997, the New York State Environmental Facilities Corp. conducted a windshield survey of the community for the purpose of establishing current infrastructure needs. The City is relying on the results of that study to govern the scope of the wastewater district project and is unwilling to deviate from it. The town however, believes these properties fit the criteria and should be included in the proposed project.

The Town of Stamford is hoping to gain enough support at the beginning of the proposed project to include these commercial properties rather than adding them at a later date. The concern at hand is that adding these commercial properties at a later date may be cost prohibitive and there might not be enough support to make it happen at all as the expense to do so would be borne solely by the community and local taxpayers.

Mr. Triolo stated in reply to Chairman Eisel, that the Village of Hobart Waste Water Treatment plant would require an upgrade to handle the additional capacity that would be purchased by the new sewer district.

Mr. Nealis explained that he asked the Economic Development/Watershed Affairs Committee to support this resolution as he felt it is an important issue to bring forward. Excluding these two existing commercial properties access to public infrastructure creates a long term economic development issue that could potentially impact the community's ability to develop growth and sustainability.

Chairman Eisel stated that the matter has been discussed at the Catskill Watershed Committee meetings but has not garnered the support necessary to make an impact on the City to amend the proposed plan. He opined the concern might be that the Hobart facility would have to be upgraded at a considerable cost to the City and the City does not want to do that.

In answer to Mr. Marshfield, Mr. Triolo noted that the proposed project has the Town of Stamford owning and operating the pump station at the New York State Allen Residential Center. In addition it ensures the Village of Hobart Waste Water Treatment plant remains at the same amount of extra capacity as prior to the proposed project.

Mr. Marshfield commented that this is a positive request that he would like to see go forward. He believed there was interest in Delaware County but expressed concern that there may not be enough to make it happen.

The resolution was unanimously adopted.

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

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

**RESOLUTION NO. 82**

**TITLE: SALE OF TAX ACQUIRED PROPERTY**

**Resolved** that the following described parcels of tax acquired property be sold to the party indicated for the price herein stated and the County Treasurer is authorized to execute and deliver deed, therefor, and to cancel all Delaware County tax liens thereon.

ROX08TX.038

**ASSESSED TO:**

**DANIEL VANVALKENBURGH**

|                     |  |
|---------------------|--|
| TOWN OF:            | 124800:ROXBURY                                 |
| TAX MAP NO:         | 92.1-1-11                                      |
| SCHOOL DISTRICT:    | 124802:ROXBURY                                 |
| ACREAGE:            | 120.00'F x 120.00'D: 0.33A ACRES               |
| CONVEYED TO:        | KIM L JOHNSON<br>PO Box 117<br>GILBOA NY 12076 |
| CASH CONSIDERATION: | \$22,760.22                                    |
| TAX DEFICIT:        | \$17,708.37                                    |

The resolution was seconded by Ms. Molé and adopted by the following vote: Ayes 4466, Noes 0, Absent 333 (Town of Colchester, Layton).

Mr. Donnelly 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 \$916,521.42 were hereby presented to the Budget Oversight Committee for approval for payment on May 18, 2012 prior to presentation to the Board of Supervisors;

**THEREFORE**, the County Treasurer was directed to pay said expenditures as listed below and this Board now approves of said payment as follows:

|                             |              |
|-----------------------------|--------------|
| General Fund                | \$649,267.71 |
| Countryside                 | \$420.00     |
| OET                         | \$102,578.41 |
| Highway Audits, as Follows: |              |
| Weights & Measures          | \$353.16     |
| Road                        | \$18,840.15  |
| Machinery                   | \$79,008.21  |
| Capital Road & Bridge       | \$7,197.59   |
| Capital Solid Waste         | \$6,560.00   |
| Solid Waste/Landfill        | \$52,296.19  |

**WHEREAS**, bills and claims submitted and duly audited by the Clerk of the Board's office in the amount of \$1,168,472.69 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                | \$870,875.52 |
| OET                         | \$61,777.90  |
| Public Safety Comm System   | \$33,100.17  |
| Highway Audits, as Follows: |              |
| Weights and Measures        | \$89.37      |
| Road                        | \$40,905.34  |
| Machinery                   | \$72,757.56  |
| Capital Road & Bridge       | \$33,650.40  |
| Capital Solid Waste         | \$0.00       |
| Solid Waste/Landfill        | \$55,316.43  |

The resolution was seconded by Mr Marshfield and adopted by the following: Ayes 4466,

Noes 0, Absent 333 (Town of Colchester, Layton).

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

**RESOLUTION NO. 84**

**TITLE: EXECUTIVE SESSION**

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

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

The meeting reconvened in regular session with all Supervisors present except Mr. Layton and the Town of Colchester was not represented.

Upon a motion, the meeting adjourned at 6:33 p.m.