

## **REGULAR MEETING**

### **DELAWARE COUNTY BOARD OF SUPERVISORS**

**APRIL 13, 2022**

The regular meeting of the Delaware County Board of Supervisors was held Wednesday, April 13, 2022 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 Tina B. Molé presiding.

The Clerk called the roll and all Supervisors were present except Mr. Davis.

Mr. Marshfield offered the invocation.

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

The minutes of the previous meeting were accepted as presented.

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

Chairman Molé granted privilege of the floor to Supervisor Eisel.

Mr. Eisel stated that none of the leadership in the County has been informed about the New York Climate Leadership and Community Protection Act (CLCPA). Only the Governor and the Climate Action Council (CAC) voted on its passage. He feels this is a power energy grab with more government control over all of us and very bad for inhabitants of rural Delaware County. He believes the state is trying to move away from fossil fuel too fast and renewable energy is not able to pick up the slack.

He introduced Delaware County Electric Cooperative (DCEC) Board President Edward Rusty Pick to explain long-term impacts to rural Delaware County on this proposal and what the future will look like for residents in the County.

Mr. Pick addressed the Board as a concerned citizen and in no capacity as a representative of DCEC stating the views, opinions, and information he shares are his alone.

Mr. Pick said the CLCPA has already been passed in draft form and he discussed the following points in the act:

- moratoriums on new gas infrastructure – immediately
- NO new natural gas service to existing buildings – immediately
- prohibit natural gas, propane, and oil equipment in new homes by 2024
- prohibit traditional heating systems in existing homes by 2030
- ban use of natural gas appliances (dryers/stoves/etc.) in homes by 2030
- NO GASOLINE VEHICLES sold in New York by 2035

Mr. Pick stated demand on the DCEC system has grown substantially in the past ten years. With COVID-19, the load has grown approximately 25%. When they go over peak, they must buy power off the grid at auction price. This increase in the cost of electricity will be common if the proposal passes. They do not have the electric generation needed to support what the government wants to achieve with the CLCPA. To update one transformer would cost between \$500,000 and \$1,000,000, and most substations have two or four transformers. All transformers they are currently purchasing have a lead time between 40 weeks to 1 year. To use infrastructure funding, they must buy American. We don't make them here. All the hardware comes from China and includes tariffs.

In reference to electric vehicles (EV), he stated it takes 18 hours to charge on a slow charge. He noted 26% of homes in our County do not have adequate wiring. They have 100 amp service or less in their homes. The wire going from their house to the transformer is undersized and must be changed to accommodate bigger service at projected costs of \$10,000 to \$20,000 to rewire most homes. He also stated that the transmission lines are not sufficient to support this growth.

He discussed solar power and that people are often misled about the benefits because it is not legitimate generation which can be turned on any time during the day. He noted since the Indian Point Energy Center was shut down, we are all now paying a fee in our electric bill for that shutdown and we are paying millions of dollars a year to keep that plant closed. He noted that currently, fuel oil costs more than gasoline.

Mr. Eisel shared he recently saw a news report that it was cheaper to buy gasoline than it was to charge an electric car.

In answer to Mr. Eisel, Mr. Pick said that a typical household with two EVs will need to have 400 amp service. Also, it is very difficult to set a time when it is convenient for members or customers to charge EVs.

Mr. Taggart said the electric cost for their dairy farm and homes has increased from 5 cents per kilowatt to 9 cents per kilowatt in the last six months.

Mr. Pick stated the Governor is downplaying the impact on our communities. In addition, the state is taking control of placing larger solar projects and towns will not be able to be a part of that decision or how solar projects will be assessed for their tax base.

In reply to Mrs. Scott, Mr. Pick said sooner or later, farmers will need to have tractors that are electric. He said schools will be mandated to go to 100% electric busses.

Mrs. Scott shared that they installed a solar hot water heater on their barn that does not work. The hottest the water ever got was 80 degrees. It was a tremendous amount of money and it has never worked.

Mr. Pick questioned what will be left for the younger generation here in Delaware County. He shared that Delaware County has been good to him but he can see that it will not be

easy to live here with the high cost of living.

The Supervisors thanked Mr. Pick for his presentation.

Mr. Eisel introduced Attorney Kevin Young who is an environmental attorney and attorney for the Town of Harpersfield.

Mr. Young referenced his White Paper that was distributed to the Supervisors stating it explains everything you need to know, and the resolution that will be introduced later in the meeting is kind of an executive summary.

He explained that in 2019 the legislature passed the Climate Act. The act mandates that by 2050, every person's carbon footprint would have to be reduced to 3 tons per year. Think of that as your use of fossil fuels. That is not a goal. That is the law. The law was written so that any aggrieved party can sue in Supreme Court to compel compliance. The legislation mandates that by 2040, the entire grid has to be zero emission. You cannot use any fossil fuel such as coal, natural gas, fuel oil, etc. All energy has to be renewable or nuclear. There will be no new hydropower and biomass is not considered renewable so we are really limited to solar and wind.

He stated the current top sources of carbon emissions where approximately 30% comes from transportation and about 32% comes from heating buildings. In order to reduce both what we drive and what we heat our homes with, those have to be converted to electricity. There is no choice. The way the law is written, these things have to happen. A council was formed to come up with a plan to make that happen. The council has issued its plan, which is about 400 pages, on December 31, 2021. The plan is supposed to be final on December 31, 2022. In 2023, DEC will begin to adopt regulations and the legislature will begin to pass legislation to implement the plan. Right now, the plan is in the comment period which ends in June.

Mr. Young explained that the New York Independent System Operator (NYISO) completed a study to see whether the 2040 mandate is possible and found that 30,000 MW hours was necessary—something that could be turned on for instant power and be readily available. He specified that 35,000 MW of onshore wind capacity requires 3,000,000 acres.

Section 7 of the Climate Act indicates that when any state agency is making a decision, they have to determine if that decision is inconsistent with the 2050 mandate. If it is, they have to then determine whether it is necessary. If it is not necessary, they have to deny it. If it is necessary, then they have to give offsets. He noted the legislation was adopted before the cost was determined or how it would be funded. The plan is to resolve issues during implementation.

Attorney Young stated that we need to speak up because this is just not feasible. It's not feasible that we can heat our houses in this rural area with electricity. It is not feasible that we can meet our travel needs with electric cars. What we are urging here is not that they do not try, what we are urging here is that they don't mandate. The comments were prepared in consultation with Director of Planning Shelly Johnson-Bennett in hopes the Board will adopt them.

Mr. Young discussed various news articles relating to surging utility bills, climate change, crypto mining, fossil fuel phase out challenges, minimum heat rules, and the closure of the Indian Point Energy Center. He noted Indian Point generated 16.7 TW hours of electricity in 2019. That was 25% of New York City's electricity. In 2007, DEC made the decision to close Indian Point based on the aquatic impact of withdrawing water out of the Hudson River. The last operating unit closed in 2021. All of that electricity is now being generated by natural gas in the City. In downstate New York, 90 to 95% of electricity comes from fossil fuel. In the upstate area, 90% of the electricity is zero emission. To replace the electricity from Indian Point, the state has proposed two transmission lines—one will take electricity from hydro Quebec to New York City. The second will start in Delhi, go through Delaware County, Sullivan County and cross the Hudson. These two projects will cost \$24 billion and will be charged to all ratepayers not just those in New York City.

Mr. Eisel shared information regarding public hearing opportunities for anyone interested in making comments. He referred to a draft letter that was distributed to all the Supervisors, which can be used as a template for written comments. We need to have a voice, and this is a way to let them know we are not happy with what is proposed.

Mr. Marshfield noted that like everything else in the state, the larger communities will prevail. What's important to address climate change is not our 46,000 people, but the 19 million people in New York City. Of the numerous mandates, he believes what will affect Delaware County more than anything, is the push to grow forests for carbon neutrality. These forests will not be grown in the City. Strategic land use planning will be essential to balance natural carbon sequestration. This will affect agricultural activities, new renewable development, and smart urban planning. He believes that since the initiation of our MOA, that may be the objective—to put our land less into agriculture and more in forests.

A new law going into effect in October aims to reduce greenhouse emissions. Written into this law is a plan to reduce wood consumption by 40% by 2030. He understands the Climate Act Council does not want to place bans on wood stoves, pellet stoves, and fireplaces. That is one reason we need to adopt this resolution—to let them know we are opposed to any new legislation or codes. If they want to push more efficient wood burning, so be it, but offer incentives as we have had in the past and let us be able to heat our homes with wood if we wish to. Voluntary participation will actively reduce greenhouse emissions, but let it be voluntary—not pushing more mandatory laws on us. He noted the 2022 NYS budget does not include a provision to update building energy codes which govern new buildings and modifications to existing buildings.

He noted he drives a hybrid car and tries to do his part, but he volunteered to do that. It wasn't pushed on him. They put solar panels on the Hamden town hall. They were not pushed into that. The town has a zero light bill for nine months out the year. He believes there should be incentives to reduce emissions—but let us be the ones to select that.

Mr. Young added the City of Albany was selling carbon credits for the Alcove Reservoir to keep the 5,600 surrounding acres forested forever. The Albany Water Board has received close to \$1 million from corporations to make the pledge to be carbon neutral by keeping the woods around the reservoir intact.

Mr. Carbone noted that whatever land is being managed now, soon it may not be. Because if we are concerned about carbon sequestration, then just let the timber grow. On a smaller scale, hunting clubs are developing carbon plans and they will be paid to not do anything with the land.

Mr. Taggart expressed there is more wooded area in the Franklin than there was 100 years ago. He stated you cannot stop development, but you will need to control it noting with the number of regulations, Delaware County could become a ghost community.

Mrs. Scott stated the forested land for carbon sequestering and the land for windmills and solar are in direct competition. They cannot co-exist on the same footprint.

Mr. Taggart said he believes without state and federal grants, green infrastructure is not viable.

In answer to Mrs. Scott, Mr. Pick said the state is working very hard to be in control of green energy projects that will contribute power to the grid.

Mr. Eisel urged Supervisors to submit comments to the governor, senators, and assembly members in Albany.

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

### **RESOLUTION NO. 69**

#### **TITLE: RESOLUTION IN OPPOSITION TO THE CLIMATE ACTION COUNCIL'S DRAFT SCOPING PLAN**

**WHEREAS**, in 2019, New York State adopted the Climate Leadership and Community Protection Act ("Climate Act"), which set some of the nation's most aggressive targets for reducing greenhouse gas emissions and accelerating renewable energy generation; and

**WHEREAS**, the Climate Act called for the creation of a Climate Action Council that is charged with developing a Scoping Plan of recommendations to meet these targets; and

**WHEREAS**, as the Council developed its draft Scoping Plan, it consulted with several Advisory Panels that held sector-specific discussions and provided recommendations for their subject areas; and

**WHEREAS**, the Land Use and Local Government Advisory Group, which advised on two key sections of the report that will directly impact counties and municipalities and require their partnership, did not include any members who currently work in local government; and

**WHEREAS**, county and municipal leaders are best positioned to understand local needs and anticipate how meeting the Climate Act's goals could disproportionately impact their communities and economies; and

**WHEREAS**, the recommendations included in the draft Scoping Plan released in December 2021 do not adequately balance the goal to accelerate renewable energy production with the need for food production; and

**WHEREAS**, the draft Scoping Plan's recommendations to prohibit new gas service to existing buildings and certain gas/oil equipment in new construction beginning in 2024 will be costly to residents and businesses and could leave New Yorkers in the cold during harsh winters.

**NOW, THEREFORE, BE IT RESOLVED** that Delaware County expresses frustration with the lack of local government representation on the Climate Action Council and its Advisory Panels and the lack of local input in the development of the draft Scoping Plan; and

**BE IT FURTHER RESOLVED** counties and other local governments should be engaged as active participants in the review and implementation of the Scoping Plan and provided with technical planning and zoning assistance in all areas where they are relied upon to implement the recommendations of the Scoping Plan; and

**BE IT FURTHER RESOLVED** the State's timetable for meeting its renewable energy production goals and transitioning away from natural gas is too aggressive and should be extended; and

**BE IT FURTHER RESOLVED** the State should level the playing field to incentivize landowners to protect productive farmland, which naturally captures carbon dioxide and should be conserved wherever possible; and

**BE IT FURTHER RESOLVED** that Delaware County shall forward copies of this resolution to Governor Kathy Hochul, the New York State Legislature, the Commissioner of the Department of Environmental Conservation, the President/CEO of the NYS Energy Research and Development Authority, the Commissioner of Agriculture and Markets, and all others deemed necessary and proper.

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

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

**RESOLUTION NO. 70**

**TITLE: 2022 BUDGET AMENDMENT  
ACCEPTANCE OF GRANT FUNDING  
SYSTEM OF CARE  
WORKFORCE GRANT  
MEDICATION ASSISTED TREATMENT (MAT)  
DEPARTMENT OF MENTAL HEALTH**

**WHEREAS**, the Delaware County Mental Health Department applied for grants from NYS Office of Mental Health and NYS Office of Addiction Services and Supports (OASAS); and

**WHEREAS**, the following grants have been awarded:

NYS OMH System of Care – \$25,000.00  
NYS OMH Workforce Grant – \$36,000.00  
NYS OASAS Medication Assisted Treatment – \$41,250.00; and

**WHEREAS**, System of Care – provides comprehensive community mental health services to support children, youth, young adults and their families.  
Workforce Grant – provides career development and training to social worker staff.  
MAT Medication – support the provision of substance use disorder services to incarcerated individuals by providing funding to offset MAT medication costs incurred by the Delaware County Jail, as well as provide peer supports through Alcohol/Drug Abuse Council of Delaware County.

**NOW, THEREFORE, BE IT RESOLVED** that the 2022 Budget be amended as follows:

**INCREASE REVENUES:**

10-14310-44449001	Fed MH Grant (System of Care)	\$25,000.00
10-14310-44449001	Fed MH Grant (Workforce Grant)	\$36,000.00
10-14317-43349300	State Aid Alcohol Clinic (MAT)	\$21,250.00
10-14319-43349850	State Alcohol Info & Referral (MAT)	\$20,000.00

**INCREASE APPROPRIATIONS:**

10-14310-54195119	Consultant – (System of Care)	\$18,000.00
10-14310-54615045	Training – Workforce Grant	\$36,000.00
10-14310-51000000	Personal Services – (System of Care)	\$6,500.00
10-14310-58300000	Social Security Emplr Contrib – (System of Care)	\$400.00
10-14310-58900000	Medicare Emplr Contrib – (System of Care)	\$100.00
10-14317-54455020	Medications – (MAT)	\$21,250.00
10-14319-54458050	Alcohol Info & Referral – (MAT)	\$20,000.00

The resolution was seconded by Mr. Marshfield and adopted by the following vote:  
Ayes 4424, Noes 0, Absent 375 (Davis).

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

**RESOLUTION NO. 71**

**TITLE: 2022 BUDGET AMENDMENT  
ACCEPTANCE OF COVID-19 CONSOLIDATED APPROPRIATIONS ACT  
HDC5 FUNDING  
OFFICE FOR THE AGING**

**WHEREAS**, the Office for the Aging has been granted \$27,727.00 from New York State to provide home delivered meals to elderly residents of Delaware County throughout the COVID-19 pandemic; and

**WHEREAS**, the Delaware County Office for the Aging congregate dining centers were closed effective immediately following Delaware County’s State of Emergency declaration on March 14, 2020; and

**WHEREAS**, there are older residents in Delaware County who continue to be unable to leave their homes to go to restaurants to order meals for dining in or taking out, or are unable to cook a well-balanced meal for themselves on a daily basis; and

**WHEREAS**, this funding will be used to improve the nutritional intake of these individuals by providing a hot, nutritionally-balanced daily meal throughout the COVID-19 pandemic.

**THEREFORE, BE IT RESOLVED** that the 2022 Budget be amended as follows:

**INCREASE REVENUE:**

10-16772-44477200/6772075/977	Federal Programs for Aging	\$27,727.00
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**INCREASE APPROPRIATION:**

10-16772-54327300/6772075/977	Grant Home Delivered Meals	\$27,727.00
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The resolution was seconded by Mr. Marshfield and adopted by the following vote: Ayes 4424, Noes 0, Absent 375 (Davis).

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

**RESOLUTION NO. 72**

**TITLE: OCCUPANCY TAX DISBURSEMENT APPROVAL  
DEPARTMENT OF ECONOMIC DEVELOPMENT**

**WHEREAS**, Delaware County established a Hotel Occupancy Tax for the purpose of promoting the tourism industry in Delaware County; and



**WHEREAS**, the Law stipulates that revenues derived from the occupancy tax are to be allocated for the promotion and development of the tourism industry in Delaware County; and

**WHEREAS**, pursuant to the Law, Delaware County established and empowered the Tourism Advisory Board to solicit, review and recommend proposals for the use of the funds raised from the occupancy tax for the promotion and development of the tourism industry in Delaware County; and

**WHEREAS**, the Tourism Advisory Board reviewed the proposals submitted under the tourism promotion and development grant program, and has recommended 45 proposals totaling \$154,793 for approval by the Delaware County Board of Supervisors.

**NOW, THEREFORE, BE IT RESOLVED** that the Delaware County Board of Supervisors approves the recommendations of the Tourism Advisory Board regarding projects to be funded through occupancy tax revenues in 2022.

The resolution was seconded by Mr. Merrill.

Mr. Valente noted that unlike last year, this year there was more participation from people seeking grants. That was nice to see and they had some tough choices to make. There are some nice programs funded here.

The resolution was adopted by the following vote: Ayes 4424, Noes 0, Absent 375 (Davis).

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

**RESOLUTION NO. 73**

**TITLE: 2022 BUDGET AMENDMENT  
TRANSFER OF FUNDS  
DEPARTMENT OF ECONOMIC DEVELOPMENT**

**WHEREAS**, the revenues received under the Hotel Occupancy Tax during 2021 were set aside and placed into the Restricted Fund Balance (Hotel Occupancy Tax) for the purpose of the promotion and development of the tourism industry in Delaware County; and

**WHEREAS**, as of 12/31/2021 the Restricted Fund Balance (Hotel Occupancy Tax) had a fund balance of \$506,092.61; and

**WHEREAS**, by Resolution No. 72 of 2022 the Board of Supervisors approved the list of tourism promotion and development grant projects to be funded through Hotel Occupancy Tax revenues and the funding of the approved contracts requires such revenues to be transferred from the restricted fund balance.

**NOW, THEREFORE, BE IT RESOLVED** that the 2022 Budget be amended as follows:

**INCREASE REVENUE:**

10-00000-34899000	Restricted Fund Balance – Hotel Occupancy Tax	\$154,793.00
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**INCREASE APPROPRIATION:**

10-16410-54614000	Tourism Development – Promotion	\$154,793.00
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The resolution was seconded by Mr. Merrill.

Mr. Valente said there are additional 2021 funds to disburse and this is a very good start.

The resolution was adopted by the following vote: Ayes 4424, Noes 0, Absent 375 (Davis).

Mr. Ellis introduced Local Law Intro. No. 14 of 2022 entitled *Salary Increase Personnel Officer*. The local law was seconded by Mr. Merrill.

**LOCAL LAW INTRO. NO. 14 OF 2022**

**TITLE: SALARY INCREASE PERSONNEL OFFICER**

**WHEREAS**, Personnel Officer Linda Pinner submitted her retirement letter in August 2021 and the County has been unable to recruit a qualified candidate; and

**WHEREAS**, the Board has offered an increase in salary to Ms. Pinner until a replacement has been hired and trained.

**THEREFORE, BE IT RESOLVED:**

Section 1. The salary of Linda Pinner, Personnel Officer shall be Ninety-three thousand thirty-nine dollars [\$93,039] per annum effective January 1, 2022.

Section 2. This Local Law shall be subject to permissive referendum according to the provisions of Section 24 of the Municipal Home Rule Law.

Section 3. This Law shall take effect forty-five (45) days after it shall be adopted.

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

**RESOLUTION NO. 74**

**TITLE: PUBLIC HEARING  
LOCAL LAW INTRO. NO. 14 OF 2022**

**WHEREAS**, Local Law Intro. No. 14 has been introduced to increase the 2022 salary of Linda Pinner, Personnel Officer.

**NOW, THEREFORE, BE IT RESOLVED** that a public hearing be held on Local Law Intro. No. 14 on April 27, 2022 at 1:00 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. Merrill and unanimously adopted.

Chairman Molé noted that the public hearing will be held at the next Board meeting on April 27, 2022 at 1:00 p.m.

Mr. Vernold moved to table Resolution No. 75 entitled *Delaware County EMS Ambulance Service*. The motion was seconded by Mr. Wilson and carried by the following vote: Ayes 3144, Noes 1280 (Gladstone, Molé, Merrill, Axtell, Marshfield, Eisel, Haynes, Hinkley) Absent 375 (Davis).

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

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

#### **RESOLUTION NO. 76**

##### **TITLE: RESOLUTION TO SUBMIT COMMENTS ON NEW YORK STATE CLIMATE COUNCIL'S DRAFT SCOPING PLAN FOR NEW YORK'S CLIMATE LEADERSHIP AND COMMUNITY PROTECTION ACT (THE "CLIMATE ACT")**

**WHEREAS**, in 2019, New York State Legislature enacted New York's Climate Leadership and Community Protection Act (the "Climate Act") that requires the total carbon emissions from New York State population be no more than 60% and 15%, respectively, of the 1990 carbon emissions (the average New Yorker's annual carbon footprint is reduced from 22.7 tons/year to 13.6 by 2030 ("2030 Mandate") and 3.0 tons per year by 2050 ("2050 Mandate").

**WHEREAS**, in the 2030 and 2050 Mandates, the Legislature created an energy rationing system that puts all New Yorkers (and their communities) in competition for the affordable energy needed for a sustainable community and/or "healthful environment" (the state cap is 61.47 million metric tons of carbon dioxide equivalent).

**WHEREAS**, in order to enforce the rationing system, the Climate Act Section 7 requires all state agencies to evaluate whether each and every decision (in particular infrastructure decisions) will be inconsistent with the 2030 and/or 2050 carbon footprint mandates and, if inconsistent (or will interfere with the attainment of the mandates), determine whether it is necessary and, if so, require alternatives or greenhouse gas mitigation measures. If not necessary, deny/terminate.

**WHEREAS**, the Climate Act Section 12 provides each aggrieved person standing to commence an Article 78 proceeding in the NYS Supreme Court to enforce compliance with the Climate Act including compliance with the mandates and Section 7.

**WHEREAS**, the Climate Act has granted to each and every state agency veto power over any and all projects requiring a state agency approval or decision and has granted the wealthy aggrieved person (who may be in competition for those carbon emissions) a tool to kill and/or delay a competitive and/or disliked project including even the renewal of an existing permit.

**WHEREAS**, the rationing of carbon emissions will exacerbate the upstate/downstate divide; the urban versus rural divide; the wealthy versus the working-class divide; the divide between municipal officials struggling to provide critical services and the environmental organizations. New York State Department of Environmental Conservation (“DEC”) has recently used Section 7 authority to deny the repowering of two natural gas power plants in Orange County. DEC is under pressure to deny a permit renewal to a crypto currency facility because some feel the fossil fuel energy should not be rationed to that product. DEC is holding up numerous Title V air permits due to its inability to make a consistency determination under Section 7.

**WHEREAS**, in order to achieve the 2050 Mandate, the Climate Act mandates by 2040 that all the electricity generated by fossil fuels and the anticipated demand growth will have to be provided/replaced by wind (onshore and offshore), solar, hydro from Canada and other renewable sources (“2040 Mandates”). Due to lobbying efforts, biomass is no longer considered a renewable energy source in New York.

**WHEREAS**, the New York Independent System Operator (“NYISO”) – which manages New York’s energy grid – divides the state into two distinct areas – Upstate Energy (Zones A-E) and Downstate Energy (Zones F-K). The Upstate Energy zones currently use about 1/3 of the total electricity generated each year. According to NYISO 2021 Report of 2020 usage, the upstate sources of electricity are 90% zero carbon emission.

**WHEREAS**, with respect to the Downstate Energy zones, which represent two-thirds of the state electricity consumed, the story is quite different. According to NYISO 2020 Power Trend Report of 2019 usage and NYISO 2021 Power Trend Report of 2020 usage, the downstate sources of electricity were 69% fossil fuel in 2019 and 77% fossil fuel in 2020 (and are projected to be well over 90% fossil fuel in 2022).

**WHEREAS**, the NYISO 2020 Climate Change Impact and Resiliency Study, which analyzed the Climate Acts 2040 zero emission electricity target determined that the 2040 Zero-emission Grid Mandate is not feasible and would result in an unreliable (and thus unsafe) electric grid. In other words, the 2040 Mandate and 2050 Mandate are fantasies.

**WHEREAS**, in 2019, the GHG emission sources in New York State breakdown as follows:

Transportation (mostly travel over land)	28%
Buildings (mostly heating buildings)	32%
Electricity	13%
Industry	9%
Agricultural and Forestry (mostly livestock)	6%
Waste (mostly methane from landfills)	12%

**WHEREAS**, the Climate Act delegates to an appointed council of 22 individuals’ responsibility to develop a draft plan by December 31, 2021 to reduce the average New Yorker’s carbon footprint to near zero. The Draft Scoping Plan was issued in December, 2021 and this resolution and its attachments constitute the initial comments of the Delaware County Board of Supervisors.

**WHEREAS**, the Draft Scoping Plan mandates over a hundred (if not several hundred) different measures affecting all aspects of our daily lives and community activities. The following four prohibitions are responsible for the majority of the reductions:

1. Elimination of the use of fossil fuels for land travel
2. Elimination of the use of fossil fuels for all aspects of residential living including heating, cooking, outdoor equipment, hot water, and clothes dryer
3. Conversion of the electric grid to all renewable and zero emission sources
4. Transformation of the solid waste management system

**WHEREAS**, the prohibition on the use of gas, propane or home heating oil in our daily activities is schedule to occur over the next 13 years (in 2024 for new homes; starting in 2030 for existing homes).

**WHEREAS**, the prohibition of the use of fossil fuels for land travel is more gradual and includes the following measures:

1. Provide direct rebates on zero emission vehicles supported by new fees on **purchase of fossil fuel vehicles.**
2. Adopt mechanisms to discourage vehicle use and generate funds for public projects, including congestion pricing, variable cost parking, **increased registration fees on carbon intensive vehicles, adoption of a per mile vehicle user fee system**, and increase municipal use of special assessment districts to fund public transportation investments.
3. Adopt California’s Advanced Clean Car 2 Regulations, expected to require one hundred percent light-duty zero emission vehicle sales by 2035;
4. Adopt California Advanced Clean Truck Regulations requiring increase percentage of zero emissions Micro Hybrid Drives through 2035; and

**WHEREAS**, in 2018, DEC issued an order to close Indian Point Nuclear Power Plant due to the aquatic impacts from the withdraw of non-contact cooling water from the Hudson River. In April, 2020, Indian Point was required to shut down Unit 2, and in April, 2021, Indian Point was required to shut down Unit 3. In 2019, when Indian Point was in full operation, it provided 25% of the downstate annual electric load (**16.7 million** megawatt-hours of zero-emission power).

**WHEREAS**, in an April 29 press statement marking the closure of Indian Point, NYSERDA CEO **Doreen Harris** implied that the zero-emission electricity lost from Indian Point would be addressed stating that “New York State’s electric grid is undergoing a transformative evolution in pursuit of the nation-leading goals of the Climate Leadership and Community Protection Act” including “developing a tremendous renewable energy project pipeline.” As a follow up to that press statement, in November 2021, NYSERDA submitted a petition to the PSC seeking approval and ratepayer funded subsidies for two massive transmission projects to bring non-fossil fuel electricity to NYC. The Petition states that “[t]he selected projects are expected to deliver **18** million megawatt-hours of renewable energy per year to Zone J (i.e., New York City), more than a third of New York City’s annual electric consumption, from a diverse generation portfolio including onshore wind, solar and hydroelectric power from Upstate New York and Québec. Total investment into both projects is expected to amount to **nearly \$24 billion.**” Under NYSERDA’s Petition, ratepayers throughout New York State (both upstate and downstate) are being required to fund two transmission projects.

**WHEREAS**, the DCBS support the Climate Council objective of promoting the transition to electric heating from fossil fuel heating. The DCBS do not support (and vigorously object) to the mandate approach selected by the Climate Council to require all homes to install electric heating regardless of cost and feasibility. In lieu of a mandate, we suggest and encourage that the Climate Council develop a plan to make electric heat pumps the preferred and affordable technology when the homeowners need to replace their existing heating system. The correct approach is for the Climate Council to take an enabling approach – create the reality where the typical homeowner would select an electric heat pump system over fossil fuel system to heat their home. In Delaware County the average low temperature during December, January, February, and March are 16°F, 9°F, 11°F, and 18°F, respectively—which is at or below the temperature that electric heat pumps provide reliable and efficient heat.

**WHEREAS**, the DCBS do not support the mandate approach selected by the Climate Council to require all outdoor equipment to be all electric. Homeowners and users should have the choice whether to use gas fueled equipment and/or electric equipment – each has their own benefits and costs. Homeowners in New York State should have the same rights as homeowners in other states. Gas is mobile and is readily available; it allows a landscaper to move from site to site without stopping to recharge the battery; it allows the work to be performed where it is needed and in different weather. There is a role for both gas and electric power equipment and the decision should be left to the individual that is using the equipment – not to an elected official’s political objective.

**WHEREAS**, the DCBS do not support the mandate approach selected by the Climate Council to force the consumer to purchase an electric car. The Climate Council should focus on developing a plan/program that makes electric vehicles the preferred choice because they become

affordable, available, and feasible. In Delaware County a car or truck is a necessity – not a luxury. As a necessity, it must be affordable, available, and feasible to the vehicle owner. Affordability will depend, in part, on whether electricity remains affordable. Availability and feasibility will depend on the whether the necessary infrastructure is available and affordable to meet the needs of the vehicle owner. In our cold climate, parents need to know that they will get to their destination, that the car will work in the cold, that there is enough charge to get back home; and that the car can meet the family hauling needs. There needs to be enough electricity in the local grid to handle the additional load; the charging station must be accessible, convenient, and not be inordinately time consuming.

**WHEREAS**, the DCBS do not support imposition of a carbon tax, a mileage surcharge, increased registration fee for gasoline powered cars, or any additional tax on gas, propane, natural gas or home heating oil or a tax on solid waste. A carbon tax on the building heating sector and the transportation sector would simply make natural gas, gasoline, fuel oil and propane more expensive and thus make a vital necessity less affordable (transportation and heating) to residents. While the wealthy can afford an all-electric car and home, and second home and third home, the working class (the median family income in Delaware County is \$49,544) will more likely rely on fossil fuel to heat their home or fuel their car. Delaware County residents are more likely to have to travel day-to-day long distances and heat a home in a cold climate. The utility bills and gas bills are already too high and not sustainable on the median family income. As the use of fossil fuels decreases, the cost of maintaining the fossil fuel infrastructure will be spread over a smaller base increasing the costs to the remaining users.

**WHEREAS**, the DCBS finds that in adopting the Climate Act with its 2030, 2040 and 2050 Mandates, the Legislature made a grave mistake – the Legislature prioritized their goal of being recognized as a world leader in fighting Climate Change over the energy security of the state’s residents. Under the recently adopted Green Constitutional Amendment, every New Yorker has a constitutional right to “healthful environment”. Available and affordable energy is a critical component (comparable to air, water and food) to a healthful environment. Energy security is a constitutionally protected right. In the Climate Act, the Legislature effectively ordered the cessation of the use of fossil fuels; required all the state agency officials to enforce it the mandate in each and every decision; and empowered every aggrieved well-heeled donor/person the right to go to court to enforce it. The Climate Act mandates are the law and are enforceable in court regardless of whether the alternative energy sources are affordable, achievable, and available. The Climate Council selected its wish list of lofty directives without determining the cost and funding for those directives. DCBS agrees that reducing the use of fossil fuels for building heating, electric generation and land travel will reduce CO2 emissions and is admirable goal. The Legislature can support that goal by enabling the availability, affordability, and the feasibility of the alternative energy sources so that the public/consumer selects those technologies over fossil fuel powered technology. The Legislature and the Climate Council should focus on enabling carbon reductions; not ordering those reductions against the will and at the expense of its citizens’ constitutional rights to choose the technology that protects their families.

**NOW, THEREFORE, BE IT RESOLVED** the Delaware County Board of Supervisors petitions DEC, DOH and DEP for the following relief:

1. DCBS adopts this resolution and the attached white paper as its initial comments and directs the County Planning to submit these documents as comments on the Draft Scoping Plan.
2. DCBS requests that County Planning, County DPW, and County Emergency Services review the draft scoping plan and provides comments as they deem appropriate.

The resolution was seconded by Mr. Marshfield.

Attorney Kevin Young explained that the scoping plan is in draft form and the state is soliciting comments through June 10. This resolution states the County is adopting the attached White Paper as its comments. As Mr. Marshfield commented earlier, the council is urged to do the best they can because we think it is a good idea and we are willing to cooperate, but don't force this on us.

The resolution was unanimously adopted.

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

#### **RESOLUTION NO. 77**

#### **TITLE: RESOLUTION AUTHORIZING SERVICE OF NOTICE OF VIOLATION TO THE EXECUTIVE COMMITTEE OF THE WATERSHED PROTECTION PARTNERSHIP COUNCIL PURSUANT TO PARAGRAPH 177 OF THE MOA**

**WHEREAS**, on January 21, 1997, many of the Parties, among other entities, entered into the Watershed Memorandum of Agreement (“Watershed MOA” or “MOA”), which established a partnership in which the parties agreed “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” (“MOA Objectives”); and

**WHEREAS**, pursuant the MOA, the Parties agreed to implement certain watershed protection and partnership programs, subject to the terms of the water supply permit issued by the New York State Department of Environmental Conservation (“NYSDEC”) on January 21, 1997 (“1997 Water Supply Permit”). The MOA specifically provides that:

#### **Paragraph 124 - Septic Rehabilitation and Replacement Program**

(h) The City agrees to accept for disposal at its wastewater treatment plants in the WOH Watershed at no charge and at a time and at such intervals acceptable to NYCDEP septic waste generated from the Septic System Rehabilitations and Replacements Program subject to the following terms and conditions: (i) The wastewater treatment plant has adequate capacity to handle such waste; (ii) The wastewater treatment plant is permitted to accept such waste; (iii) The design of the wastewater treatment plant allows for the practical acceptance of septic waste by



truck; and (iv) The acceptance of waste will not cause or contribute to an upset of the treatment processes or violation of the plant's SPDES permit

**WHEREAS**, following extensive negotiations resulting from litigation commenced by the Coalition of Watershed Towns (CWT) which resulted in extensive negotiations, the Parties and/or their representatives, among other entities, reached agreement on the successor to the 1997 Water Supply Permit (the “2010 Water Supply Permit”) by which West of Hudson Stakeholders, including Delaware County, agreed not to oppose the 2010 Water Supply Permit; and

**WHEREAS**, pursuant to Paragraph 25(b) of the 2010 Water Supply Permit, the New York City Department of Environmental Protection (“DEP”) has an obligation to continue funding for numerous watershed programs, including the MOA Septic Program, the Small Business Septic Program (now the Expanded Septic Program), and the Septic Maintenance Program (the “West of Hudson Septic Programs”); and

**WHEREAS**, from 2013 through 2018, a series of supplemental agreements were executed by the City and West of Hudson Stakeholders, including Delaware County, to focus existing watershed protection programs on issues relating to severe flooding (the “2013 Supplemental LAP Agreements”), and an agreement to modify and enhance to the West of Hudson Septic Programs and the and other issues including, but not limited to, proposed modifications to the City’s “Watershed Rules and Regulations (*Rules and Regulations for the Protection from Contamination, Degradation, and Pollution of the New York City Water Supply and Its Sources*, Rules of the City of New York, Title 15, Chapter 18)(the “Third Supplemental Side Agreement”); and

**WHEREAS**, under the 2016 Supplemental Side Agreement, the DEP agreed to accept septage at the five (5) wastewater treatment plants (“WWTPs”) that DEP operates in the West of Hudson Watershed (Grahmsville [Sullivan County]<sup>1</sup>, Grand George and Margaretville [Delaware County], Pine Hill [Ulster County], and Tannersville [Greene County]), of up to 71,000 gallons per week with daily allocations per WWTP set forth in a letter dated September 22, 2016, from David S. Warne, Assistant Commissioner, DEP Bureau of Water Supply, to Alan Rosa, Executive Director, Catskill Watershed Corporation (CWC), which was attached to the 2016 Supplemental Side Agreement as Exhibit D. The DEP’s commitment to accept septage at its WWTPs under the Third Supplemental Side Agreement is not limited to septage generated by the West of Hudson Septic Programs; and

**WHEREAS**, by its terms, the Third Supplemental Side Agreement provides that it is enforceable pursuant to Paragraphs 177 and 180 through 183 of the MOA; and

**WHEREAS**, the commitments made in the Third Supplemental Side Agreement are incorporated in the 2017 FAD which provides at Section 9 that DEP must “maintain the level of staffing, funding, expertise necessary to support all elements of the *New York City Department of Environmental Protection Long-Term Watershed Protection Plan*”; and

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<sup>1</sup> It was noted at the time that Grahmsville WWTP was not currently accepting septage but would be available for this purpose at a future date.

**WHEREAS**, since 1997, the City’s long-term watershed protection plans, and partnership programs have been extremely successful. Throughout the watershed, approximately 26,000 to 30,000 septic systems under regulation by DEP; and

**WHEREAS**, these septic systems are being pumped more frequently and in higher volumes. Existing failing or likely to fail septic systems require pump outs when they are repaired or replaced. Properly functioning septic systems require routine maintenance pump outs, recommended to occur every three (3) to five (5) years. Existing systems requiring pump outs include residential properties, commercial properties, hold and haul systems, septic maintenance districts, and community septic systems. The increase in frequency is due in part to increase in occupancy rates, heightened awareness and education programs, and some as part of four (4) newly established new septic maintenance districts; and

**WHEREAS**, over the past 20 years, an infrastructure of small septic haulers has developed (5 to 9) to meet the need. Those haulers are regulated by and have permits from the New York State Department of Environmental Conservation (“DEC”) under 6 NYCRR Part 364 which identifies residential sewage as the source and DEP’s plants as the disposal facilities. CWC’s septic maintenance program splits the cost between the homeowner and CWC with a typical billing rate in the low \$300s; and

**WHEREAS**, the DEP was accepting septage at its WWTPs pursuant to the MOA and Third Supplemental Side Agreement up and until February 7, 2022 when it unilaterally and without notice decided to reduce of the annual amount of watershed generated septage accepted by roughly 1 Million (1,000,000,000) gallons from what was previously accepted (on average approximately 44,000 gallons per week reduction); and

**WHEREAS**, the decision was communicated in a memo from John Vickers, Director of DEP Source Water Operations, to Jason Merwin, Executive Director of the Catskill Watershed Corporation, which stated as the justification: “staffing reductions, changes in facility operations and solids waste removal constraints, we can no longer accept that much septage. The division is establishing a reduction to a total of 26,000 gallons of septage per week at the four facilities. . . . This would result in an upper limit of 7,500 gallons per week at Margaretville WRRF, Tannersville WRRF and Grand Gorge WRRF, and an upper limit of 3,500 gallons per week at the Pine Hill WRRF.” The letter notes recent staffing reductions, hiring freezes and retirements, resulting in a 40% reduction of staff within the DEP’s Water Resource Recovery Division, aged equipment used in the treatment of septage, and Mayoral directives to end landfill carting and reduce greenhouse gas emissions (GHG) as its justification; and

**WHEREAS**, the DEP’s unilateral decision to reduce the amount of septage it will accept at its WWTPs, from the previously agreed upon 71,000 gallons per week to 26,000 gallons per week (a 63% reduction), will have immediate and detrimental impacts on water quality within the Watershed as well as watershed residents and businesses, and CWC. This includes watershed property owners who will be left unable to pump-out their septic systems (both newer and grandfathered systems), towns maintaining MOA wastewater projects, CWC reimbursed maintenance pump-outs, and pump-outs required as part of construction for both replacement septic systems and community wastewater projects; and

**WHEREAS**, if DEP WWTP's are not available, the haulers (from Hunter, Ashland, Margaretville, Shandaken, etc) utilize the Albany County WWTP in Menands (located outside the City of Albany). The haulers maintain their cost is approximately \$200/hour (truck, gas, driver, maintenance, tolls, tipping fee). As a result, the cost of each round trip to and from Albany is currently between \$800 to \$1000. That cost is almost triple the CWC reimbursement rate and beyond what most Delaware County residents can afford. As a result, either the haulers will close and/or limit their services to the few customers that can afford \$800 to \$1,000. Residents that cannot afford the \$800 to \$1,000 cost will be forced to forego regular maintenance which will increase the likelihood of septic system failures throughout our communities; and

**WHEREAS**, West of Hudson Stakeholders, including Delaware County, have worked in partnership with the City for the past 25 years to ensure and promote voluntary and proactive maintenance of onsite septic systems and the results speak for themselves. Delaware County residents, businesses, and municipalities have come to rely on the DEP accepting septage based on the commitments made in the MOA and Third Supplemental Agreement and past practice. The City's short sighted and environmentally harmful decision to turn away watershed septage will do lasting damage to what we have all accomplished over the past two and a half decades and, therefore, cannot stand.

**NOW, THEREFORE, BE IT RESOLVED** the Delaware County Board of Supervisors resolves as follows:

1. DCBS finds the City's unilateral decision to reduce the amount of septage that it will accept at its WWTPs from the previously agreed upon 71,000 gallons per week to 26,000 gallons per week violates the MOA and Third Supplemental Side Agreement and constitutes a material breach of both agreements.
2. DCBS authorizes its legal counsel to notify the Executive Committee of the Watershed Protection and Partnership Council of the City's breach pursuant to Paragraph 177 of the MOA.
3. DCBS under hereby authorizes its legal counsel to petition the City to increase the current level of septage received at its WWTPs to historical amounts, approximately 44,000 gallons per week, pending resolution of this matter and the adoption of a long-term plan for the disposal of septage.

The resolution was seconded by Mr. Vernold.

Delaware County Watershed Affairs Coordinator Nicholas Carbone explained that Attorney Kevin Young drafted this resolution. Through agreements with the MOA and the 2010 Water Supply Permit, the City of New York is obligated to accept 71,000 gallons per week of septage from participants in their program within the West of the Hudson watershed. Septic haulers have been collecting and transporting this septage and then delivering to five different sites within the West of the Hudson watershed. Six thousand people have participated in the program through having their septic system replaced and another 26,000 people who potentially

would be using this service for maintenance and pump outs. This septage has to go somewhere and for the past 15 years, it has been going to those sites. Now, out of nowhere really, a determination has been made by the Department of Environmental Protection (DEP) to no longer accept that much septage. This has a huge impact on the septic haulers with a cost of \$800 to \$1,000 per load to truck the septage. The resolution requests that we would like the volume put back to at least the historical average over the 20-year time period which was 44,000 gallons per week.

He noted a meeting is scheduled on April 22, 2022, at the Catskill Watershed Corporation (CWC), where haulers will attend to discuss these issues and bring this to the attention of the Executive Committee of the CWC.

Attorney Young said he believes this decision was made by people that the County does not deal with. He said that is the reality of going forward in this. As years go on, people who make the decisions will be less tied to our community. He expressed the real solution is for us to plan to take some of these materials. Larger towns may take septage and could get a tipping fee. One of the solutions is for us to voluntarily become self sufficient so we don't have to depend on the City. Perhaps we could get funding to put in the infrastructure needed to address this issue.

In response to Mr. Gladstone, Mr. Young stated we would have to work with regulators as this is very different from normal wastewater. At this point, they are waiting for the City to respond.

Ms. Molé stated that next Friday's meeting will be a good opportunity.

Mr. Merrill expressed the City is defeating their own major program as the Septic System Rehabilitation and Replacement Program is the largest program in the watershed.

Mr. Marshfield said that approximately 15 years ago, DeLancey got funding from New York City to maintain their septic maintenance district in perpetuity. The septic hauler they had used in the past is no longer pumping. Now, they are looking for another hauler. This year, 15 systems are scheduled to be pumped and they need to search for a place to take the septage. The fund to maintain the system no longer generates interest; the town has to spend the principal so now there are higher expenses to maintain the septic maintenance district.

In reply to Mr. Cetta, Mr. Young stated there is a signed agreement from 2018 that indicates 71,000 gallons per week. This resolution authorizes him as Delaware County Attorney for watershed issues to send a letter saying they are in violation.

In reply to Mr. Eisel, Commissioner of Public Works Sue McIntyre stated they are permit restricted and septage that is handled through the pump out program has to go to a wastewater treatment plant before it can be taken there.

The resolution was unanimously adopted.

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

**RESOLUTION NO. 78**

**TITLE: PAYMENT OF AUDIT**

**WHEREAS**, bills and claims submitted and duly audited by the Clerk of the Board’s office in the amount of \$3,139,412.03 are hereby presented to the Board of Supervisors for approval of payment;

**NOW, THEREFORE, BE IT RESOLVED** that the County Treasurer be directed to pay said expenditures as listed below:

General Fund	\$2,136,129.16
OET	\$24,712.35
Public Safety Comm System	\$5,175.00
Insurance Risk	\$0.00
CAP 97 Main	\$2,967.66
CAP MH	\$627.92
CAP DSS	\$0.00
Highway Audits, as Follows:	
Weights & Measures	\$0.00
Solid Waste/Landfill	\$99,853.55
Road	\$212,780.93
Machinery	\$171,483.10
Capital Solid Waste	\$2,054.00
Capital Road & Bridge	\$24,179.34
CAP DPW Complex	\$459,449.02

The resolution was seconded by Mr. Taggart and adopted by the following vote:  
Ayes 4424, Noes 0, Absent 375 (Davis).

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

**RESOLUTION NO. 79**

**TITLE: EXECUTIVE SESSION**

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

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

The meeting reconvened in regular session with all Supervisors present except Mr. Davis.

Upon a motion, the meeting was adjourned at 2:40 p.m.