

**Office of the Comptroller  
Dutchess County**

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**James L. Coughlan**  
Comptroller

**Peter J. Stalteri**  
Deputy Comptroller

**Special Report to the Legislature**  
**Net Service Fee Repayment by**  
**Dutchess County Water & Wastewater Authority**

## **Comptroller's Summary**

It is imperative that Departments, Contract Agencies, and Public Benefit Corporations recognize that subsidies, advances and service fees are all financed by taxpayers' money. Further, the Administration should not imply, directly or indirectly, that taxpayers' money is "free money" that need not be repaid to the County.

The Legislature needs to hold recipients of taxpayers' money responsible for the use and repayment of funds. Further, the Legislature should request that County contracts more explicitly detail funding clauses. Ambiguity does not benefit the County and emboldens recipients to allow repayment to lapse or discontinue.

The position of the WWA in Attachment V enumerating, "The County acknowledges that there is no representation of the likelihood of the County Advance being repaid by the Authority," is unsupported and contradicts the Service Agreement between the County and the WWA. The Legislature should request County Attorney review for correction back to the original intent, which requires payback.

The Legislature needs to meet with the WWA to establish a repayment plan and schedule to ensure **\$1,156,145.46** of County funds are recouped in the fastest possible method.

### ***Background & Organization***

The Dutchess County Water & Wastewater Authority is a public benefit corporation established in 1991 under Section 1123 of the New York Local Water and Sewer Act to assist the County and its municipalities in managing water supplies and wastewater disposal.

The Water & Wastewater Authority is a distinct entity which is included in Dutchess County's financial statements as a component unit. The Water & Wastewater Authority is governed by a Board of Directors which includes appointments from the Dutchess County Legislature and the Dutchess County Executive.

Currently, the Water & Wastewater Authority owns and operates nine water and three sewage systems and operates the 13 mile Central Dutchess Water Transmission Line (CDWTL). The Water & Wastewater Authority provides water from the Hyde Park Regional Water System to the Hyde Park Service area (Zones A & B); the Staatsburg service area (Zone C); Zone D service area; Birch Hill; Dalton Farms; Rokeby; Schreiber; Shore Haven and Valley Dale. The sewer systems consist of: Chelsea Cove; Valley Dale and Dalton Farms.

Additional information is available at the website -  
[www.co.dutchess.ny.us/CountyGov/Departments/WaterandWaste/WRIndex.htm](http://www.co.dutchess.ny.us/CountyGov/Departments/WaterandWaste/WRIndex.htm)

## ***Special Report Scope, Objective and Methodology***

County appropriations, Net Service Fee payments and audited financial statements from 2007 - 2009 were reviewed. Documentation reviewed included:

- ❖ Financial reports
- ❖ Net Service Fee, Benefit Assessment
- ❖ Claims including invoices and contracts

In addition to the review of the fiscal records, the objective was to determine if there are any funds due to Dutchess County.

## ***Summary of Findings***

### **Net Service Fees for Assessment Zones A & B (Hyde Park)**

- As of December 2010, the Water & Wastewater Authority owes the County **\$1,156,145.46** for the Net Service Fee.
- The Water & Wastewater Authority does not have a specific timeframe or plan for the Net Service Fee to be repaid to the County.
- The Water & Wastewater Authority's "Benefit Assessment Methodology" does not provide for the recovery of the Net Service Fee paid by the County for Zones A & B.

### **Observations**

- In March 1998, a service agreement between the Dutchess County Water & Wastewater Authority and the County was entered into; it was amended February 1, 2009. The following is an excerpt from the Fiscal Impact Statement of Resolution #96/1998 "...The County's obligation in this instance is met by the collection of water rates on behalf of the County by the Water & Wastewater Authority sufficient to meet all the operation and maintenance costs of providing said water service, and by benefit assessments to be levied by the County on all properties...." See Attachment I for the entire Resolution and Fiscal Impact Statement. For interest, portions of the Amended Service Agreement as of February 1, 2009, are in Attachment IA.
- From 1999 through 2007 the County paid the Water & Wastewater Authority a total of \$1,267,445.42 in Net Service Fees. The Water & Wastewater Authority did not request payment for the Net Service Fee in 2008 and 2009. The Water & Wastewater Authority repaid the County \$59,400 in 2008 and \$13,100 in 2009. At the end of 2009, the Water & Wastewater Authority had a balance of \$1,194,945.42 in Net Service Fees paid to them by the County. See worksheet prepared by the Water & Wastewater Authority (Attachment II) listing County payments of Net Service Fee.

- Dutchess County has supported water rates for residents in the Water & Wastewater Authority's Zones A & B with taxes from residents outside Zones A & B. The adopted budgets from 1999 -2005 show that the Net Service Fee was paid from the appropriation line 4584 "Service Fees" for Department 8791 WWA, and per LOGOS, the Net Service Fees in 2006 and 2007 were paid from appropriation line 4621 "Service Fees" for Department 8790 WWA.
- Annually, in November, the Water & Wastewater Authority via a memorandum provides to the Legislature a final estimate of the following years "Debt Service Expenditures and Revenue Needs and the Final Assessment Rolls." Attachment III is a summary of the memorandums for Zones A & B from 2005 to 2011. Per these memos, there was no plan of repayment to the County for 2010; however, a repayment of \$37,350 was estimated for 2011. Ultimately, a repayment of \$38,799.96 was received on December 22, 2010. This payment reduces the Authority's balance of Net Service Fee paid by the County to \$1,156,145.46.
- The following is an excerpt from the September 2010 Board Minutes of the Water & Wastewater Authority on 2011 Tentative Benefit Assessment Levy "... There is no specific time frame for the money to be paid back and it is not specifically stated that this will be re-paid in full because it is more of a formula." See Attachment IV, page 3 of board minutes.
- Additionally an email dated October 15, 2010 from the Water & Wastewater Authority's Executive Director enumerates:
  - "The County acknowledges that there is no representation of the likelihood of the County Advance being repaid by the Authority." See Attachment V, page 2 of email.
    - No evidence has been provided proving this is the County's position.
    - The only reference to "no representation concerning the likelihood of such repayment" is in Section 5.2(e) of the Service Agreement and it only applied unilaterally to the position taken by the WWA. The reason the Authority was unwilling to declare its ability to repay the Net Service Fee is most likely due to the uncertainty of its financial position in years to follow. According to the WWA's most recent audited financial statement, this is no longer a going concern.
  - "The Service Agreement establishes that the Authority will repay the County Advance through "Additional Monies." See Attachment V, page 2 of email.

Attachment IA – Amended Service Agreement Article 5, Section 5.2(e) page 44 of the Amended Service Agreement lists detail.

RESOLUTION NO. 96 1998

RE: AUTHORIZING A SERVICE AGREEMENT WITH THE  
DUTCHESS COUNTY WATER AND WASTEWATER AUTHORITY

Legislator RUGE, BENDER, REILLY, and SHEEDY offers the  
following and moves its adoption:

WHEREAS, the New York State Legislature, by Chapter 592 of the Laws of 1991 (§1142, Public Authorities Law), as part of the creation of the Dutchess County Water & Wastewater Authority (WWA), established the Dutchess County Water District (District), covering all of the area within the boundaries of Dutchess County, and

WHEREAS, WWA has entered into a contract (the transfer agreement) for the acquisition of the water assets of Hyde Park Fire and Water District (HPF&W) Water System, subject to this Legislature's participation in WWA projects pursuant to §1124 of the Public Authorities Law, and

WHEREAS, WWA operates the Staatsburg Water System (Staatsburg) on behalf of the County and proposes to acquire title to said system from Dutchess County, and

WHEREAS, HPF&W and Staatsburg serve approximately 1,450 customer connections, residential, commercial and industrial within their respective service areas, and

WHEREAS, this Legislature has before it Notices of Projects filed by WWA, pursuant to §1124 of the Public Authorities Law, which said Notices cover both HPF&W acquisition and Staatsburg and the improvements planned therefor, and

WHEREAS, WWA proposes a service agreement, a copy of which is attached hereto, that among other things replaces the existing Staatsburg agreement and covers the HPF&W service area, whereby the District will purchase water from WWA and sell it to Staatsburg and HPF&W customers, and

WHEREAS, in addition, said agreement provides that WWA will provide potable water to Staatsburg and to the area formerly served by HPF&W and will generally administer the operations, including maintenance, meter readings, billing, bookkeeping and related matters, and

WHEREAS, in addition, by the terms of said agreement, Dutchess County will levy benefit assessments in the Zones of Assessment created by it for that purpose to provide for debt service for the bonds issued by WWA for the cost of acquisition of HPF&W system and the costs for the Staatsburg system and the improvements in connection therewith subject to the terms and conditions of the transfer agreement and the service agreement which set limits on the amount of benefit assessments on residential property in Zone A, and

WHEREAS, this Legislature, by separate resolution, has determined that this action will not have a significant adverse effect on the environment, now, therefore, be it

RESOLVED, that the service agreement between the Dutchess County Water and Wastewater Authority and the County of Dutchess is hereby approved and the County Executive is authorized to execute said agreement on behalf of the County in substantially the form attached hereto, and be it further

RESOLVED, that this Legislature hereby acknowledges receipt of the Notices of Project filed with it by the Dutchess County Water and Wastewater Authority in connection with the acquisition of the Hyde Park Fire & Water District water system, the acquisition from the County of the title to the Staatsburg water system and the connection of the Staatsburg water system to the Hyde Park system by the construction of an 11,000 foot water transmission main, all pursuant to §1124 of the Public Authorities Law, and this Legislature hereby expresses its affirmative support and approves said projects.

CA-53-98  
IGM:ld  
2/17/98

Fiscal Impact: See attached statement

APPROVED

*William R. Steinhaus*  
WILLIAM R. STEINHAUS  
COUNTY EXECUTIVE

Date 3/16, 1998

STATE OF NEW YORK  
COUNTY OF DUTCHESS

ss:

This is to certify that I, the undersigned Clerk of the Legislature of the County of Dutchess have compared the foregoing resolution with the original resolution now on file in the office of said clerk, and which was adopted by said Legislature on the 9th day of March 19 98 and that the same is a true and correct transcript of said original resolution and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of said Legislature this 9th day of March 19 98

BR-3

*Patricia A. Steiner*  
CLERK OF THE LEGISLATURE

ATTACHMENT A

FISCAL IMPACT STATEMENT  
SERVICE AGREEMENT FOR THE  
COUNTY WATER DISTRICT ZONES OF ASSESSMENT  
ZONES "A", "B", AND "C"

The execution of a Service Agreement between Dutchess County and the Dutchess County Water and Wastewater Authority whereby the Dutchess County Water District will purchase water from the Water and Wastewater Authority and sell it to the water system customers in Zones of Assessment "A" and "B" (the current Hyde Park Fire and Water District service area) and "C" (the expanded Staatsburg water service area) will have no fiscal impact on the County for the following reasons.

Under the Service Agreement the County agrees to purchase water for properties within the Zones of Assessment identified above. Pursuant to the terms of the Service Agreement, the County's obligation in this instance is met by the collection of water rates on behalf of the County by the Water and Wastewater Authority sufficient to meet all the operation and maintenance costs of providing said water service, and by benefit assessments to be levied by the County on all properties within the Zones of Assessment to provide for debt service on the bonds issued by the Authority for the acquisition costs for the Hyde Park Fire and Water District water system and the Staatsburg water system and the costs of capital improvements thereto. Any unpaid water rates would be relieved by the County on the customers' real property tax bills (the same practice that is now used by town water districts).

ATTACHMENT IA

98-0910-6/29-PL-A10

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SERVICE AGREEMENT

Dated as of June 1, 1998

Amended and Tenth Restatement As of February 1, 2009

between

COUNTY OF DUTCHESS, NEW YORK,  
for and on behalf of the Dutchess County Water District

and

DUTCHESS COUNTY WATER AND WASTEWATER AUTHORITY

Integrated Water Supply, Purification and Distribution System  
Dutchess County, New York

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redemption premiums for, if any, the 1998 Series A Bonds, the 1998 Series B Bonds, such portion of the 1999 EFC Refunding Bonds the proceeds of which were expended to refund Bonds issued to provide facilities benefiting the properties in the Zone A Zone of Assessment and the Zone B Zone of Assessment, the 2000 Bonds, the 2002 EFC Refunding Bonds and any Additional Indebtedness issued to pay Other Litigation Expenses, if any, becoming due during any calendar year, including coverage requirements required under the Bond Resolution, if any, through the annual levy of benefit assessments to be levied upon real property only in the Zone A Zone of Assessment and in the Zone B Zone of Assessment.

(d) The County hereby further covenants and agrees that during the Service Agreement Term the annual levy of benefit assessments to be levied on a "Residential Benefit Assessment Unit" in the Zone A Zone of Assessment to pay all or any portion of the Service Fee due under this Service Agreement to pay the amount of principal of, interest on and redemption premium for, if any, the 1998 Series A Bonds becoming due during any calendar year, including coverage requirements required under the Bond Resolution, if any, will not exceed the annual levy of benefit assessments to be levied for such purpose on a "Residential Benefit Assessment Unit" in the Zone B Zone of Assessment. For purposes of this Section, a "Residential Benefit Assessment Unit" shall mean the minimum parcel of land, without excess developable land, zoned, under zoning in effect on November 20, 1997, for single family residential use, either developed or undeveloped by the construction of a single family home, upon which a single family home has been constructed or can be, as a matter of right, constructed, shall constitute one (1) "Residential Benefit Assessment Unit".

5.2c  
(e) The County hereby further covenants and agrees that during the Service Agreement Term the annual levy of benefit assessments to be levied on a Residential Benefit

Assessment Unit in the Zone A Zone of Assessment to be raised to pay all or any portion of the Service Fee due under this Service Agreement for principal of, interest on and redemption premium for, if any, the 1998 Series A Bonds becoming due during any calendar year, including coverage requirements required under the Bond Resolution, if any, will not, except as hereinafter in this paragraph provided, exceed two hundred eighteen dollars (\$218) (the "Base Assessment"). It is acknowledged and agreed hereunder that limiting the levy of benefit assessments on a Residential Benefit Assessment Unit in the Zone A Zone of Assessment to be raised to pay the component of the Service Fee due under this Service Agreement for principal of, interest on and redemption premium, if any, on the 1998 Series A Bonds becoming due during certain calendar years to the Base Assessment may, and probably will, result in the aggregate levy of benefit assessments to be raised by the County to pay such component of the Service Fee due in certain calendar years being less than that necessary to pay such component of the Service Fee due in certain calendar years, it being an acknowledged intent and goal of the County in entering into this Service Agreement to levy benefit assessments on undeveloped and commercial properties in the Zone A Zone of Assessment and in the Zone B Zone of Assessment in an amount significantly less than that currently being levied by the Hyde Park Fire and Water District to permit properties taken by the County through foreclosure as a result of the failure of the then property owner to pay assessments or taxes, including Hyde Park Fire and Water District assessments or taxes levied for water purposes, to be sold and to permit and foster development of undeveloped and commercial properties in the Zone A Zone of Assessment and in the Zone B Zone of Assessment, and that, as a result thereof, the County will be required to pay general fund or other moneys (but not including benefit assessments or taxes paid by the County on County-owned property) for such component of the Service Fee during certain

calendar years, such payment being hereinafter referred to as a "County Advance" and being authorized by Section 1225(1) of the Public Authorities Law. The County hereby covenants and agrees that after all aggregate County Advances have been repaid to the County solely through "Additional Moneys", no representation concerning the likelihood of such repayment being herein made by the Authority, one-half of "Additional Moneys" thereafter received by the County during the Service Agreement Term shall be applied by the County to reduce the Base Assessment in the Zone A Zone of Assessment in such year or years and in such manner as the County shall determine reasonable and appropriate and the remaining one-half of "Additional Moneys" thereafter received by the County during the Service Agreement Term shall be applied to reduce benefit assessments on all real property, developed and undeveloped, residential and commercial, in the Zone A Zone of Assessment and in the Zone B Zone of Assessment in such year or years and in such manner as the County shall determine reasonable and appropriate. For purposes of this Section, "Additional Moneys" shall mean (i) net increases in water benefit assessment revenues paid to the County, being increases in assessment revenues realized (a) as a result of the conversion of real property from a residential to a commercial use in the Zone A Zone of Assessment less any decrease in assessment revenues realized as a result of the conversion of real property from a commercial use to a residential use in the Zone A Zone of Assessment, and (b) as a result of the development of vacant real property in the Zone B Zone of Assessment, each as may occur after the Closing Date, (ii) State or federal moneys, or any other sources of loans or grants, whether in the form of a refund, grant, allowance or subsidy, causing a reduction in the Authority's true interest cost on the remaining principal balance on or of the 1998 Series A Bonds and thereby reducing the amounts to be payable by the County therefor pursuant to Section 5.2(a)(i) hereof, and (iii) moneys paid to the County by the Authority as an

unexpended fire hydrant repair, maintenance and replacement fee pursuant to Section 3.1(g) of the Transfer Agreement. The Authority hereby covenants and agrees that during the Service Agreement Term it will pay all such unexpended fire hydrant repair, maintenance and replacement fees to the County to repay a portion of County advances as required by such Section 3.1(g) of the Transfer Agreement.

(f) The County hereby further covenants and agrees during the Service Agreement Term to raise moneys through the levy of benefit assessments to pay all or any portion of the Service Fees due under this Service Agreement to pay the amount of principal of, interest on and redemption premium for, if any, the 1998 Series C Bonds and any Additional Indebtedness issued from time to time to pay Litigation Expenses becoming due during any calendar year, including coverage requirements required under the Bond Resolution, if any, and any Litigation Expenses to be paid or paid by the Authority as Hyde Park Water System Operating Expenses through the annual levy of benefit assessments to be levied upon real property only in the Zone A Zone of Assessment. For purposes of said levy for Litigation Expenses, the definition of Residential Benefit Assessment Unit provided in Section 5.2(d) hereof shall apply.

(g) The County hereby further covenants and agrees during the Service Agreement Term to raise moneys through the levy of benefit assessments to pay all or any portion of the Service Fees due under this Service Agreement to pay the amount of principal of, interest on and redemption premium for, if any, the 1998 Series Staatsburg Bonds and such portion of the 1999 EFC Refunding Bonds the proceeds of which were expended to provide facilities benefiting the properties in the Zone C Zone of Assessment becoming due during any calendar year, including coverage requirements required under the Bond Resolution, if any, through the annual levy of benefit assessments to be levied upon real property only in the Zone C Zone of Assessment.

ATTACHMENT II

| YEAR | Cumulative Balance | NCSF         | NOTES   | LEVY           | BUE     |
|------|--------------------|--------------|---|----------------|---------|
| 2009 | \$1,194,945.42     | -\$13,100.00 | No debt service reduction per Service Agreement. BUE value decreased by 4.2%. Policy decision was made to maintain assessment rates at 2006 levels, generating sufficient revenues to make a repayment to the County of \$13,100.   | \$1,153,254.78 | 4486.75 |
| 2008 | \$1,208,045.42     | -\$59,400.00 | No debt service reduction per Service Agreement. BUE value increased by 19.73%. Standard methodology would have decreased NCS by 19.73% to \$86.60. Policy decision was made to instead freeze assessment rates at 2006 levels, generating sufficient revenues to make a repayment to the County of \$59,400. | \$1,158,333.82 | 4684.15 |
| 2007 | \$1,267,445.42     | \$107,990.21 | No debt service reduction per Service Agreement. BUE value decreased. Original budget of \$108,645.63 was reduced during final debt service/Service Fee reconciliation  | 1,159,377.53   | 3855.15 |
| 2006 | \$1,159,455.21     | \$108,739.77 | No debt service reduction per Service Agreement. BUE value increased by 0.1976%, therefor NCSF decreased by 0.1976%   | \$1,148,022.00 | 3965.98 |
| 2005 | \$1,050,715.44     | 107,032.79   | No debt service reduction per Service Agreement. BUE value decreased. Original budget of \$108,955.03 was reduced during final debt service/Service Fee reconciliation.   | \$1,154,362.48 | 3958.16 |
| 2004 | \$943,682.65       | 104,533.12   | No debt service reduction per Service Agreement. BUE value increased by 1.004%, therefor NCSF was decreased by 1.004% to \$108,955.03. Final amount determined during final debt service/Service Fee reconciliation   | \$1,154,740.79 | 4006.26 |
| 2003 | \$839,149.53       | 106,881.06   |   |                |         |
| 2002 | \$732,268.47       | 125,182.05   |   |                |         |
| 2001 | \$607,086.42       | 160,721.07   |   |                |         |
| 2000 | \$446,365.35       | 159,365.35   |   |                |         |
| 1999 | \$287,000.00       | \$287,000.00 |   |                |         |

Detail Not Available

Notes:  
 NCSF = Net County Service Fee  
 BUE = Benefit Unit Equivalent - represents the total "value" of all benefit units within the Zones of Assessment

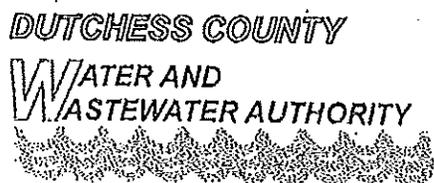
WVA Benefit Assessment

ATTACHMENT III

| EXPENSES                                | 2011                | 2010                | 2009                | 2008                | 2007                | 2006                  | 2005                |
|---|---------------------|---------------------|---------------------|---------------------|---------------------|-----------------------|---------------------|
| Principal & Interest                    | 1,397,752.64        | 1452746.73          | 1,141,385.29        | 1,147,423.47        | 1,149,100.81        | \$1,146,925.31        | 1,152,134.59        |
| Repayment of County Service Fee         | 37,650.00           |                     | 13,100.00           | 59,400.00           |                     |                       |                     |
| 2007 Omitted Assessment                 |                     |                     |                     | 233,151.00          |                     |                       |                     |
| Trustee Fees                            | 8,313.00            | 9228.35             | 7,400.00            | 7,400.00            | 7,400.00            | 7,400.00              | 9,400.00            |
| Administrative Exp                      | 40,012.21           | 34296.79            | 35,552.75           | 34,593.60           | 33,959.98           | 24,779.94             | 23,915.64           |
| Total - Debt Service and Other Expenses | <u>1,483,727.85</u> | <u>1,496,271.87</u> | <u>1,197,438.04</u> | <u>1,481,968.07</u> | <u>1,190,460.79</u> | <u>\$1,179,105.25</u> | <u>1,185,450.23</u> |

PAYMENTS

|  |                     |                     |                     |                     |                     |                       |                       |
|--|---------------------|---------------------|---------------------|---------------------|---------------------|-----------------------|-----------------------|
| Benefit Assessments                                      | 1,438,044.89        | 1454088.62          | 1,166,354.79        | 1,217,733.82        | 1,050,431.07        | 1,038,998.19          | 1,045,096.25          |
| 2007 Omitted Assessment Levy                             |                     |                     |                     | 233,151.00          |                     |                       |                       |
| District Tenants   |                     |                     |                     |                     | 300.84              | 284.04                | 315.7                 |
| Debt Service Reserve Fund                                |                     |                     |                     |                     |                     |                       |                       |
| Capital contributions from Zone D and L starting in 2010 | 45,682.96           | 42183.25            | 31,083.25           | 31,083.25           | 31,083.25           | 31,083.25             | 31,083.25             |
| County Net Service Fee                                   |                     |                     |                     |                     | 108,645.63          | 108,739.77            | 108,955.03            |
| Total Payments   | <u>1,483,727.85</u> | <u>1,496,271.87</u> | <u>1,197,438.04</u> | <u>1,481,968.07</u> | <u>1,190,460.79</u> | <u>\$1,179,105.25</u> | <u>\$1,185,450.23</u> |



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**DUTCHESS COUNTY WATER AND WASTEWATER AUTHORITY  
UNAPPROVED - MINUTES OF SEPTEMBER 15, 2010**

Chairman Tom LeGrand called the meeting to order at 3:36 p.m. in the first floor conference room, 27 High Street, Poughkeepsie.

Authority Board Members

Thomas LeGrand  
Chairperson

Daniel J. McCabe  
Vice-Chairperson

Vincent DiMaso  
Treasurer

Rudy Vavra

Authority Officer

Samuel Bartholomew  
Secretary

Ex officio Members

Ed Hoxsle, District Manager  
Soil and Water Conservation District

Commissioner  
D. C. Dept. of Planning & Development

Staff

Bridget Barclay  
Executive Director

Mary C. Morris  
Deputy Director

Board Members Present

Tom LeGrand

Dan McCabe

Vince DiMaso

Rudy Vavra

Pat Dealy

Staff Present

Bridget Barclay

Mary Morris

Jackie Burger

Peter Fadden

Doug Odell

Others Present

Peter Dowley – Staatsburg Watchdog Committee

Dan Kuffner – Legislative Liaison

Peter Marlow – Dutchess County Department of Health

Meeting Open

Tom LeGrand opened the meeting at 3:36 p.m.

Approval of Board Meeting Minutes

Tom requested a motion to approve the minutes of the August 18, 2010 board meeting. The motion was made by Dan McCabe; seconded by Pat; voted on and passed with Vince and Rudy abstaining as they were not present at the August meeting. (Res. 2010.09.A/01)

Tom explained that because Dan McCabe and Pat had not been present at the August meeting, the resolution to approve the July minutes had been tabled. He then asked for a motion to approve the July minutes. The motion was made by Vince; seconded by Rudy; voted on and passed unanimously with Dan McCabe and Pat abstaining. (Res. 2010.09.B/02)

Chairman's Report

Tom said he met with Staff on several different issues this month including potential funding for the Red Hook Central Sewer Project. He had no significant updates to report. Tom then advised Peter Dowley that he had been in contact with County Attorney James Fedorchak in reference to

the reimbursement due to the Staatsburg Water System and believed the issue has been resolved.

#### Operations Report

Tom asked if there were any questions on the Operations report included in the package. There were no questions and the report was accepted as submitted. Rudy noted Tom's comments in the August minutes regarding the growing problem of pharmaceuticals in groundwater. He then asked if pharmaceuticals had been found in the groundwater in Red Hook or Rhinebeck. Tom said no, but he felt it was important to note as this has become a problem on a national level and he had recently read several articles on the topic in various publications that he receives.

#### Finance Report – Approval of Warrant

Tom asked if there were any questions on the warrant included in the package. There were no questions. Dan McCabe made a motion to accept the warrant as presented. The motion was seconded by Rudy; voted on and passed unanimously. (Res.2010.09.C/03)

Mary advised the Board that in 2009 the Authority entered into a contract with Milliman Consulting Services which is the actuarial firm that produced the report for the Authority's post-employment benefits which are included as a part of our financial statement. Dutchess County also contracted with them, and because our benefits mimic the County's, they were able to provide that service to the Authority at a significantly reduced cost. Mary continued by saying they will be providing the same service for the Authority again this year at no increase in cost to us.

#### 2011 Tentative Benefit Assessment Levy

Bridget explained the tentative assessment levy consists of both the budget of expenses and revenues levied by the County on our behalf for debt service on our various systems, and Roll/listing of properties and proposed assessment against those properties. Bridget added that today is the deadline for submittal to the County. The County will then set a date for a grievance hearing by their Benefit Assessment Review Board which is a subcommittee of the Legislature. Based on any grievances submitted and determinations on those grievances by the Benefit Assessment Review Board, it comes back to us, we make the modifications and submit the final assessment roll by December 1<sup>st</sup>, which is then adopted by the County as part of the final budget.

Bridget continued by saying the summary comparison included in the package reflects the expenses we are asking the County to levy, the number of benefit units over which those assessments are spread, and what that translates into in terms of rate per property. Any significant changes from 2010 to 2011 have been highlighted. Pat asked about the repayment of the County service fee. Bridget said the Authority first acquired the Hyde Park Fire and Water System primarily because there were very expensive assessments levied by the district on vacant properties. A number of those properties were turned over to the County because the owners were either unwilling or unable to pay the assessments.

At the time of the purchase of the system our plan was to reduce the assessment on the vacant properties and at the same time not significantly impact the existing residential and commercial properties. We were able to do that by shifting the manner in which the debt was assessed across the properties, by reducing the debt through a refinancing, and by the County's agreeing to provide a subsidy in the initial years. There was a "Net County Service Fee" payment from the County to the Authority to help cover part of the debt service for the first several years of our ownership of the district. Due to growth in the district and more assessable value along with having done other refinancings, we have reached the point where we are no longer bringing over money from the County and have started to pay it back.

Bridget said we refinanced bonds in 2010 that were issued by the Environmental Facilities Corporation (EFC) in 1999, which resulted in a significant decrease in the debt service owed by the properties in Zones of Assessment A and B. That \$37,650 essentially represents the savings from the refinancing and would now be used to repay the Net County Service Fee. All of the requirements, both to the County to provide the service and for the Authority to ultimately repay it, are included in the Service Agreement between the County and the Authority. There is no specific time frame for the money to be paid back and it is not specifically stated that this will be re-paid in full because it is more of a formula. Pat asked the amount of the balance due. Bridget said approximately \$1.1 million.

Bridget said in the past, the Board had been provided with a tracking of the amount that had come over from the County each year in the early years, and the amount that had been paid back. She said she would provide Pat with a copy so he could see how this had evolved over time. Bridget then noted a correction on the summary under Zone of Assessment H (Dalton Farms) Cost per Typical SFR (single family residence). The amount shown is \$24.930 and the correct amount is \$249.30. Tom asked if there were any questions on the summary. There were no questions.

Dan McCabe made a motion to authorize the Executive Director to submit to the Clerk of the Legislature the Estimate of Debt Service Expenditures and Revenue Needs, and the Tentative Assessment Rolls for all Zones of Assessments and Part-County Sewer Districts. The motion was seconded by Vince; voted on and passed unanimously. (Res.2010.09.D/04)

#### Authority Salary Policy

Bridget said that over time the Board had provided policy direction and guidelines to follow in setting salaries for Authority employees. The main salary structure the Authority uses has essentially been in place since 2003 and parallels the County's salary structure. There was a change in 2008/2009 when the Executive Director, Deputy Director, and Director of Operations titles were established as Management positions. That was a lengthy process with the Commissioner of Planning at the time, Roger Akeley, who was also Ex-Officio member of the Authority Board and our primary liaison with the County.

The Authority Salary Policy was included in the board package and details in writing the policy directives and practices that we have been following based on prior direction from the Board. Tom asked the board members if they would like more time to review the Salary Policy before voting on the resolution. They said they would. The resolution was tabled until the October meeting. Tom asked that any questions or comments the Board might have on this be forwarded to Bridget prior to the next meeting date.

Dan asked how a member of the public would be able to access the Authority by-laws or Policies and if they could, are they linked together? Discussion followed on policy and by-law locations and the possibility of having them cataloged. Bridget said this would be looked into and brought back before the Board at the October meeting.

#### Community Project Updates – Route 9G Connection

Bridget said a Route 9G Connection status update was included in the package. She said that due to flushing, disinfection, and State Health Department approval, residents would most likely not be connected until after January 1, 2011. Construction would be completed prior to that date. Bridget said we have not yet seen the contractor's plan for the flushing and disinfection. Tom asked if our approval was needed on that. Bridget said yes. Tom asked how long it might take to get the Health Department approval. Peter Fadden said normally about four weeks.

#### Red Hook Sewer Project

Bridget said we are in the process of attempting to reconstruct a financing package to obtain funding for the Red Hook Sewer Project. We are trying to do this at the typical cost per property we had previously advertised locally and that was the basis on which we had begun the district creation process. Previously, the USDA had given preliminary determinations for stimulus funding to certain projects, based on eligibility, and we had been advised that the Red Hook Sewer Project was eligible to receive \$3.4 million of those funds. It was later determined that preliminary determinations had been made in excess of the actual amount of funding that was available. Subsequently, the USDA sent letters to 120 communities in New York State alone, advising that the funds were no longer available. This included the Red Hook Sewer Project.

Tom said this was a definite set back in the project and we would have to obtain the same amount of funding, if not more, in order for this project to move forward. Bridget said when the project stalled we had to re-work and update the project cost estimate because the original estimate was done in 2008-2009 assuming construction to begin in 2010. At this time, the Village and Town representatives are actively lobbying for additional funding.

#### Staatsburg (Zone C) 1907 and 1930 Water Main Replacement

Bridget said she had follow-up information on previous discussion regarding the Staatsburg Water Main replacement. No action was required by the Board at this time. The cost to replace pipe over 70 and 100 years old was simply not affordable. She said we applied to the EFC Revolving Loan Program and, according to their criteria projects, are ranked by priority. When they ranked this project, the score was extremely low; she

believed about 10 points; and they were only funding projects with scores of 160 points and above.

Bridget added that the only way to proceed on this project would be through the ability of State and Federal representatives to obtain funding outside of the EFC loan program. She said we would like to start an education process with elected officials so that if a funding opportunity were to become available, they would already be fully aware that Staatsburg's need for assistance is significant and asked for the Board's concurrence to begin that education process. Tom agreed that it was necessary.

Public Comment

Tom asked if there was any public comment. Peter Dowley thanked Tom for his assistance in obtaining the Staatsburg reimbursement from the County. There were no further comments.

Confirm Next Meeting Date :

Tom confirmed the next board meeting date of October 20, 2010 and the annual budget workshop date of Wednesday, November 3, 2010.

Adjournment

At 4:10 p.m., Tom requested a motion to adjourn. The motion was made by Vince; seconded by Rudy; voted on and passed unanimously. (Res. 2010.09.F/05)

Respectfully submitted,



Jackie Burger  
Senior Typist

Resolutions

|                   |  |
|-------------------|--|
| Res. 2010.09.A/01 | Motion to approve minutes from the August 18, 2010 board meeting |
| Res. 2010.09.B/02 | Motion to approve minutes from the July 21, 2010 board meeting   |
| Res. 2010.09.C/03 | Motion to approve the warrant                                    |
| Res. 2010.09.D/04 | Motion to approve 2011 Tentative Benefit Assessment Levy         |
| Res. 2010.09.E    | Motion to approve Authority Salary Policy **Tabled**             |
| Res. 2010.09.F/05 | Motion to adjourn  |

ATTACHMENT V

TO: James Coughlan, County Comptroller  
FROM: Bridget Barclay, Executive Director  
DATE: October 15, 2010  
RE: County Water and Sewer Districts  
County – Authority Service Agreement  
County Advance (Net County Service Fee)

District Creation

The DCWWA was established as a public benefit corporation by Chapter 592 of the Laws of 1991 (S. 1123, Public Authorities Law.) A provision of this same law (S. 1142) established a County-wide Water District (to be governed by the provisions of article 5-A of County Law.) Article 5A of NYS County Law enables the County to establish water districts and sewer districts, and to establish separate “zones of assessment” within those districts.

To date, Dutchess County has established thirteen zones of assessment within the County Water District, and five Part-County Sewer Districts. In doing so, the County establishes an obligation to provide water or sewer service to properties within each district or zone of assessment. In accordance with State Law, each of these zones of assessment and districts has been established on the basis of a Map, Plan and Report, detailing properties to be served, infrastructure by which water or sewer service will be provided, total projected capital cost of any new construction or purchase of existing infrastructure, and projected total first year cost (Operations & Maintenance Charges plus Benefit Assessment) for a typical property within the district or zone. Creation of a zone of assessment or district is subject to a public hearing before the Legislature. The Legislature’s resolution to establish the zone or district is subject to a permissive referendum.

Service Agreement

The DCWWA and the County, as the governing body of the Water District, have entered into a Service Agreement, which has now been amended ten times (authorized by resolutions of the Legislature) in order to incorporate each new zone of assessment. Parallel Service Agreements have been executed by the DCWWA and the County for each of the part-county sewer districts.

The key provisions of these Service Agreements are as follows:

- The DCWWA agrees to provide service to properties within the County districts through water and sewer infrastructure that it owns and operates.
- The County agrees to “accept and pay for” water or sewer service provided to such properties, in the form of a Service Fee. The amount of the Service Fee is equal to the aggregate amount of all debt service expenses for all DCWWA bonds, the debt service on which the County has agreed, by resolution of the

Legislature, to include in the Service Fee. The Service Fee also includes the aggregate amount of Operating Expenses incurred by DCWWA water or sewer systems providing service to the districts, minus the amount collected by the DCWWA through water or sewer rates.

- The DCWWA agrees to establish water and sewer rates sufficient to cover system Operating Expenses.
- The County agrees to generate revenues sufficient to pay the Service Fee by levying benefit assessments against properties within the various sewer districts and water district zones of assessment.
- The County agrees to certain limitations on the benefit assessments to be levied on residential properties within Zone of Assessment A for debt service on the 1998 bonds, and acknowledges such limitations will result in the aggregate levy of assessments raised by the County to be less than the amount due to pay that component of the Service Fee.
- The County further acknowledges its intent in entering into the Service Agreement to levy benefit assessments in Zone A and Zone B in an amount significantly less than that had been levied by the Hyde Park Fire and Water District, to permit properties taken by the County through foreclosure, to be sold and to foster development of undeveloped and commercial properties in Zone A and Zone B, and that, as a result thereof, the County will be required to pay general fund or other moneys for such component of the Service Fee, such payment being referred to as a "County Advance."
- The County acknowledges that there is no representation of the likelihood of the County Advance being repaid by the Authority.
- The Service Agreement establishes that the Authority will repay the County Advance through "Additional Moneys." Additional Moneys is defined to mean:
  - Increased assessment revenues realized as a result of the conversion of real property from a residential to a commercial use in Zone A (less any decrease in assessment revenues realized as a result of the conversion of property from a commercial use to a residential use in Zone A.)
  - Increased assessment revenues realized as a result of the development of vacant property in the Zone of Assessment B.
  - State or federal moneys, whether in the form of a grant, allowance or subsidy, causing a reduction in the Authority's debt service costs for the 1998 bonds.
  - Moneys paid to the County by the Authority as an unexpended fire hydrant repair, maintenance and replacement fee pursuant to Section 3.1(g) of the Transfer Agreement.

- The County has no obligation to pay the Service Fee during a Service Failure, defined as the failure of the DCWWA to provide service to more than twenty-five percent of the persons within the district for a period of more than ninety consecutive days.
- Bonding for new infrastructure or improvement projects requires a resolution by the County Legislature to consent to the inclusion in the Service Fee of the debt service on the new bonds.

Water and sewer system user charges are established by the DCWWA Board of Directors. To date, the DCWWA has never closed out a budget year in a deficit situation in any water or sewer system. "Operation Expense" charges paid by the County to the DCWWA as part of the Service Fee have been comprised solely of the collection of unpaid charges (i.e., the re levy process.)

County Local Law No. 4 of 1999, amended in 2004, establishes the process by which the annual assessment levy is prepared. The law assigns to the DCWWA the responsibility to annually prepare and submit to the Legislature a tentative assessment roll for each district and zone of assessment; this includes a statement of total debt service expenses and revenues, the amount to be levied, a listing of all properties within the district or zone and the number of benefit units assigned to each property, the total number of benefit units in the district or zone, and the rate to be charged to each benefit unit in order to levy the proper amount. The DCWWA has the additional responsibility of providing technical assistance to the County's Board of Assessment Review during the grievance process, and of preparing the final assessment rolls once the grievance determinations have been made. For the services provided in accordance with the local law, the DCWWA charges an annual "Benefit Assessment Service Fee" (or Benefit Assessment Development Fee), which is included in the statement of expenses and revenues, and ultimately levied against the properties in the various zones and districts.

The statement of debt service expenses and revenues, and a summary of total benefit units and rate per benefit unit, for 2007, 2008 and 2009 are attached. Also find attached the County Tax Rate Sheets for 2007, 2008 and 2009, showing the assessment rate and total levy for each zone of assessment and part-county sewer district.

In accordance with the Service Agreement, the Net County Service Fee Payment (or County Advance) has consistently decreased since the initial year that assessments were levied in Zones A and B. The decreases have been a result of refinancings that reduced annual debt service expenses, expansion of the service area for the Hyde Park Water Treatment Plant, and growth within Zones A and B. Beginning in 2009 the DCWWA began to repay the County Advance. (See attached a detailed history of the Net County Service Fee.)

While the Service Agreement provides for the payment of an annual Service Fee by the County, the DCWWA has agreed to request the Service Fee payment from the County in installments, each timed to match the date upon which the DCWWA must make debt

service payments. Mary Morris has provided details for 2007, 2008 and 2009 demonstrating the final actual amount of debt service expenses, and actual Service Fee dollars paid by the County to the DCWWA.

#### DCWWA Financing of Capital Improvements

The DCWWA considers several factors in determining the best manner in which to fund capital expansions or improvements.

The costs to acquire and, if necessary, make improvements to, new water and sewer systems are financed by bonds issued by the DCWWA, as there is, at the time of acquisition, no system funds available to the DCWWA with which to fund such costs.

The costs to construct infrastructure to expand water or sewer service to a new area are financed by bonds issued by the DCWWA, as there are, at the time of the expansion, no funds generated by the properties to be benefited by the new construction.

In instances where capital improvements are made to existing DCWWA systems, the DCWWA considers several factors in determining to what extent the improvements will be funded with existing fund balance (generated by user charges) or by the issuance of bonds. Factors taken into consideration include the following:

- Because all properties within an established district or zone of assessment are benefited by capital infrastructure improvements, bonding is generally considered to be a more equitable manner of financing, as it spreads costs across all properties that benefit from the improvements, not just across the current system customers.
- Cost and useful life are evaluated to determine if work is considered to be a repair or an improvement, which extends the useful life of infrastructure for the purposes of depreciation.
- The available system fund balance is evaluated in relation to;
  - The system's annual O&M budget,
  - The system's recent equipment repair and maintenance history,
  - The payment rate of current customers
  - Other system improvements planned over the next five year

Based on the above, staff recommends a financing approach to the Board of Directors. Should the Board decide to issue bonds, a resolution of consent is presented to the County Legislature for its consideration.