



DuPage Water Commission

600 E. Butterfield Road, Elmhurst, IL 60126-4642
(630) 834-0100 Fax: (630) 834-0120

NOTICE IS HEREBY GIVEN THAT THE RESCHEDULED JANUARY 2004 FINANCE COMMITTEE MEETING OF THE DU PAGE WATER COMMISSION WILL BE HELD AT 7:00 P.M. ON THURSDAY, JANUARY 8, 2004, AT ITS OFFICES LISTED BELOW. THE AGENDA FOR THE RESCHEDULED JANUARY 2004 REGULAR COMMITTEE MEETING IS AS FOLLOWS:

AGENDA
FINANCE COMMITTEE
THURSDAY, JANUARY 8, 2004
7:00 P.M.

600 EAST BUTTERFIELD ROAD
ELMHURST, IL 60126

COMMITTEE MEMBERS

A. Poole, Chair
E. Chaplin
J. Janicik
B. Krajewski

- I. Roll Call
- II. Approval of Minutes
 - A. Regular Committee Meeting of November 13, 2003
 - B. Committee Executive Session of November 13, 2003
- III. Treasurer's Report – December, 2003
- IV. Financial Statements – December, 2003
- V. Accounts Payable
- VI. Intergovernmental Agreement with Illinois Auditor General
- VII. Five Year Capital Improvement Plan
- VIII. Major Activities Time Table
- IX. Review of Policy and Procedure Issues Related to Federal Grants
- X. R-3-04: A Resolution Directing the Transfer of the Excess Debt Service Reserve Account Balance to the General Account of the Water Fund
- XI. Subsequent Customer Pricing Review
- XII. Financial Review

All visitors must present a valid drivers license or other government-issued photo identification, sign in at the reception area and wear a visitor badge while at the DuPage Pumping Station.

- A. Net Asset (Fund Balance) Analysis
- B. Investment Portfolio Review
- C. Audit Management Letter Implementation
- D. Self Insurance Study

Board\Agendas\FC 2004-01.doc

**MINUTES OF A MEETING OF THE
FINANCE COMMITTEE
OF THE DU PAGE WATER COMMISSION
HELD ON NOVEMBER 13, 2003**

The meeting was called to order at 6:08 p.m. at the offices of the DuPage Water Commission, 600 E. Butterfield Rd., Elmhurst, Illinois 60126. Committee members in attendance: A. Poole, Committee Chairman, E. Chaplin and J. Janicik. Also in attendance: L. Flood (Lombard), M. Bourke (Oakbrook Terrace), P. Modaff (Woodridge) and J. Moline (Winfield), K. Godden and R. Skiba.

MINUTES OF MEETING – OCTOBER 8, 2003

Motion by Commissioner Chaplin, seconded by Commissioner Janicik, to approve the minutes of the October 8, 2003 Finance Committee meeting. This motion carried unanimously.

TREASURER'S REPORT – OCTOBER, 2003

Commissioner Chaplin presented the October, 2003 Treasurer's Report for Committee review. After a brief discussion, there was a Committee consensus to recommend acceptance of the report by the full Commission at its meeting of November 13, 2003.

FINANCIAL STATEMENTS - OCTOBER, 2003

The Committee reviewed the October, 2003 financial statements. After a brief discussion, the Committee accepted the financial statements for October, 2003.

ACCOUNTS PAYABLE

The Committee reviewed the accounts payable in the amount of \$5,833,087.45. There were no revisions to the list. The Committee had no questions and will recommend approval of the accounts payable at the November 13, 2003 Commission meeting.

AUDIT MANAGEMENT LETTER - APRIL 30, 2003

McGladrey & Pullen made two recommendations based on their observations in performing the April 30, 2003 audit. One suggestion was that the Commission use a standard package from a software vendor rather than a spreadsheet database to maintain financial records. Their reason is that the database can be more easily manipulated than a commercial financial program. The auditors also recommended that the Commission have a more detailed record of fixed assets. Their concern is that if a pipeline, for example, is abandoned, the Commission would have difficulty in identifying the cost of such pipeline to recognize the loss on disposal and properly reduce Commission fixed assets.

After review and discussion, the Committee directed staff to explore implementing both of these recommendations. An estimate of staff time to reconstruct a more detailed record of infrastructure is also to be developed for the Committee.

CASH AND INVESTMENT REVIEW – AUGUST 31, 2003

The Committee reviewed the report from McGladrey & Pullen on the agreed upon procedures for reviewing the Commission's cash and investment transactions for the period of May 1 through August 31, 2003. The review covered 96% of the Commission's transfers during that period and 100% of the dollars invested during that period. The auditors noted that they could not give positive assurance that nothing occurred that would require adjustments to the Commission's books. However, there were no exceptions noted in the procedures that they followed.

Motion by Commissioner Janicik, seconded by Commissioner Chaplin, to accept the cash and investment review as presented. Motion carried unanimously.

AUDITOR GENERAL ENGAGEMENT LETTER

The Committee reviewed a letter from the Illinois Auditor General (IAG) for audits required under PA93-0226. The Committee asked staff to get more information about such audits. Action on the intergovernmental agreement proposed in the IAG's letter was deferred until the December Committee meeting.

PROPERTY INSURANCE RENEWALS

The Committee reviewed the broker's report on the Commission's November 1st property insurance renewals. (Liability insurance had already been replaced in July.) The Committee recognized that various circumstances did not allow for any option other than renewing with the current broker. Before the November 1, 2004 renewals of both liability and property insurance, the Committee wants to review the process of requesting proposals on insurance brokerage services.

APPOINTMENT OF EXECUTIVE SESSION RECORDING SECRETARY

Motion by Commissioner Janicik, seconded by Commissioner Chaplin, to Appoint Kim Godden executive session recording secretary. Motion carried unanimously.

EXECUTIVE SESSION

Commissioner Janicik moved to go into Executive Session to discuss matters related to personnel pursuant to 5 ILCS 120/2(c)(1) and (2). Seconded by Commissioner Chaplin and unanimously approved by a Roll Call Vote:

Ayes: E. Chaplin, J. Janicik and A. Poole.

Nays: None

The Committee went into Executive Session at 7:00 P.M.

Commissioner Janicik moved to come out of Executive Session at 7:12 P.M. Seconded by Commissioner Chaplin.

All voted aye. Motion carried.

ADJOURNMENT

With no further business to come before the Committee, the meeting was adjourned at 7:13 p.m.



DuPage Water Commission

MEMORANDUM

TO: Acting General Manager

FROM: Financial Administrator

DATE: January 2, 2004

SUBJECT: Finance Committee Agenda January 8, 2004 – Item Status

Due to the New Year's Day Holiday, there is only one workday available to accomplish the month end closing for December 31, 2003. As a result, the following Finance Committee agenda items will not be completed in time for the Friday January 2nd Board Package:

- III. Treasurer's Report – December, 2003;
- IV. Financial Statements – December, 2003
- V. Accounts Payable.

The material related to these three items is expected to be sent by e-mail and/or overnight messenger service on Tuesday, January 6th.

The status of Finance Committee agenda items for which no related material will be included in either the January 2nd or 6th Board packages is as follows:

- VI. Intergovernmental Agreement with Illinois Auditor General – Commission's in-house staff attorney is negotiating the terms of this intergovernmental agreement with counsel for the Illinois Auditor General;
- IX. Review of Policy and Procedure Issues Related to Federal Grants – staff recommends the Commission's Corporate Counsel research this;
- XII. Financial Review
 - A. Net Asset (Fund Balance) Analysis – Resolution R-27-03 adopted July 17, 2003 adjusted allocation of Commission Unrestricted Net Assets;
 - B. Investment Portfolio Review – Committee to review investment instruments and mix as well as the possibility of using an investment advisor;

- C. Audit Management Letter Implementation - staff to explore implementing both management letter recommendations and estimate staff time to reconstruct a more detailed record of infrastructure;
- D. Self-Insurance Study – project to start later in 2004, but prior to the start of the November 1, 2004 insurance policy renewal process.

cc: Finance Committee

Chairman and Commissioners

DuPage Water Commission
Draft Financial Activities Time Table

From November 1, 2003 through December 31, 2004

DRAFT

Start Date	Completion Date		Item
12/01/03	12/05/03	Staff	Analyze and Prepare Excess Reserve Balances Transfer to the General Account Resolution
	12/11/03	Commission	Consideration of Transfer of Certain Excess Reserve Balances to the General Account
11/01/03	12/31/03	Staff	Five-Year Capital Planning Document Preparation
11/01/03	12/31/03	Staff	Group Health Plan Procurement
12/08/03	12/31/03	Staff	Analyze Financial Reports and Draft Initial Appropriation Transfers Ordinance
	12/31/03	Commission	Group Health Plan Renewal
	01/08/04	Commission	Review/Modification/Approval of Five-Year Capital Planning Document Preparation
	01/08/04	Commission	Initial Consideration of Appropriation Transfers
11/01/03	01/31/04	Staff	Tentative Draft Budget Preparation
	02/12/04	Commission	Review/Modification/Approval of Tentative Draft Budget
	02/12/04	Commission	Consideration of General Obligation Bond Property Tax Abatement
02/13/04	03/01/04	Staff	Tentative Draft Budget & Five-Year Capital Plan Mailed to Customers
01/20/04	03/05/04	Staff	Auditor's Special Cash & Investment Review (09/01/03 - 12/31/03)
	03/11/04	Commission	Consideration of Auditor's Special Cash & Investment Review (09/01/03 - 12/31/03)
03/01/04	03/18/04	Staff	Deliver Notice of Public Hearing on Tentative FY 2004-05 Draft Budget

DRAFT

DuPage Water Commission
Draft Financial Activities Time Table

From November 1, 2003 through December 31, 2004

DRAFT

Start Date	Completion Date		Item
03/08/04	03/31/04	Staff	Analyze Financial Reports and Draft Final Appropriation Transfers Ordinance
04/01/04	04/02/04	Staff	Analyze and Prepare Excess Reserve Balances Transfer to the General Account Resolution
	04/08/04	Commission	Public Hearing & Final Action on FY 2004-05 Budget
	04/08/04	Commission	Consideration of Operations and Maintenance Water Rate
	04/08/04	Commission	Consideration of Revenue Bond Fixed Cost Annual Charges
	04/08/04	Commission	Policy Consideration of Fund Balances and Construction and Rate Stabilization Reserves
	04/08/04	Commission	Consideration of Final Appropriation Transfers for the Fiscal Year
	04/08/04	Commission	Consideration of Transfer of Certain Excess Reserve Balances to the General Account
	04/30/04	Commission	Deadline for Adoption of FY 2004-05 Budget
05/01/04	05/11/04	Staff	Post Newspaper Notice of Public Hearing on FY 2004-05 Appropriation Ordinance
	06/10/04	Commission	Consideration of Annual Appropriation Ordinance
04/26/04	07/31/04	Staff	Audit of FY 2003-04
	07/31/04	Commission	Deadline for Adoption of Annual Appropriation Ordinance
	08/12/04	Commission	Consideration of Draft of Audit of FY 2003-04
09/15/04	10/30/04	Staff	Auditor's Special Cash & Investment Review (05/01/04 - 08/31/04)

DRAFT

DuPage Water Commission
Draft Financial Activities Time Table

From November 1, 2003 through December 31, 2004

DRAFT

Start Date	Completion Date		Item
09/15/04	10/31/04	Staff	Liability & Property Insurance Procurement
	10/31/04	Commission	Consideration of Liability & Property Insurance Renewals
	11/11/04	Commission	Consideration of Auditor's Special Cash & Investment Review (05/01/04 - 08/31/04)
11/01/04	12/31/04	Staff	Five-Year Capital Planning Document Preparation
11/01/04	12/31/04	Staff	Group Health Plan Procurement
11/01/04	12/31/04	Staff	Budget Preparation Partial Completion
	12/31/04	Commission	Group Health Plan Renewal

DRAFT

Rick Skiba

From: Rick Skiba
Sent: Wednesday, December 31, 2003 10:41 AM
To: 'Vicki Hellenbrand'
Cc: Robert Martin
Subject: Finance Committee and Commission Meetings

Vicki,

Just a reminder. A Finance Committee meeting is scheduled for January 8, 2004 at 7:00 p.m. A Commission meeting will be held following the Committee meeting at 8:00 p.m. Both meetings will be held at the Commission's offices, 600 East Butterfield Road, Elmhurst.

The issue of subsequent customer pricing will be discussed. The Commission requests your attendance at these meetings to discuss your November 12, 2003 initial report..

Rick Skiba
Financial Administrator
DuPage Water Commission



November 12, 2003

Mr. James J. Holzwart, General Manager
DuPage Water Commission
600 E. Butterfield Road
Elmhurst, IL 60126-0120

Dear Mr. Holzwart:

This letter summarizes our preliminary findings related to our interpretations of Illinois Public Act 93-0226 (the Act). Please note that this letter does not represent our final findings on this matter. This letter was prepared in a short period of time in order to provide preliminary findings at the Commission's November 13, 2003 meeting and we have not reviewed two pieces of information that we believe are important to consider. One piece of information is the legislative record, which should provide some background on the intent of the Act. We also understand there is an engineering design concept that will provide additional details on the infrastructure and capacity issues. We understand Commission management is working on providing the two pieces of information to us.

As you will note after reading this letter, the Commission has several options when designing a fair and equitable buy-in fee which will still meet the general concepts outlined in the Act. We welcome the opportunity to attend the Commissions' next monthly meeting to discuss this letter and the available fair and equitable options the Commission may wish to consider.

The following is the portion of our engagement letter signed October 28, 2003 which discusses the scope of work both DuPage Water Commission (Commission) and Virchow, Krause & Company, LLP (VK) agreed upon.

Phase I Scope of Services

- We will review the complete Illinois Public Act 93-0226 as it relates to the DuPage Water Commission.
- We will analyze the sections that relate to rate equalization as described in section 70 ILCS 3720/0.02 for the purpose of interpreting its meaning.
- We will prepare a written deliverable which discusses our interpretation of this section, paying particular attention to the phrase "pro-rata portion of the original capital costs less any rebates".
 - The deliverable shall include our evaluation of the terms "pro-rata portion", "original capital costs" and "rebates" as used in the Act. The deliverable shall include the basis for our interpretation including but not limited to: definitions used in generally accepted accounting principles, definitions used in the enabling legislation for the creation of the DuPage Water Commission, industry practices and DuPage Water Commission historical uses for the terms.

Mr. James J. Holzwart, General Manager
DuPage Water Commission

November 12, 2003
Page 2 of 8

- Based on our analysis of the terms of the Act, the deliverable shall include a preliminary analysis of what this section of the Act means to the DuPage Water Commission. This shall include our interpretation of the parties this section applies to including addressing the issue of potential refunds.
- Based on our interpretation, we will provide the Commission with our recommendations of compliance with this section of the Act.

Virchow, Krause & Company, LLP

Virchow, Krause & Company, LLP is the thirteenth largest public accounting and consulting firm in the United States. We have long devoted a large part of our practice to serving the public sector. Our Public Sector practice group consists of over 100 individuals that focus 100% of our practice time to public sector clients. We also have a nationally known practice niche associated with consulting services for public utilities. Currently we serve over 250 public utilities throughout the nation. We have experience working with intergovernmental agreements, connection/impact fees, capital buy-in fees, rates, cost of service analysis and negotiations for public utilities.

Resources

To begin this project we immersed ourselves in as much history and data about the Commission as we could, while keeping in mind the importance of maintaining VK's independence. Therefore, while we did work to gain a clear understanding of the issues, we did not want our opinions to be overly influenced by management, the state legislators, or the Commissioners. That being said, it is important to note that our preliminary findings may have been altered if we had more information and background to deal with.

The following resources were used for the basis of our understanding:

- Illinois Public Act 93-0226
- Illinois Water Commission Act of 1985
- DuPage Water Commission audited financial statements (1994-1998, 2002, and 2003)
- Information from DuPage Water Commission website including history of the Commission, list of Board of Commission members, description of facilities, and the DuPage Water Commission 2001-2002 Annual Report
- DuPage Water Commission Water Purchase and Sales Contract – 1986
- Example of previous buy-in calculation (Oakbrook Terrace)
- Various articles and press releases related to the agreement reached between the County and the Commission

Philosophy

Based on the information gathered, and the research that we were able to perform in a relatively short amount of time, we have concluded that the main philosophy of the agreement between the county and the Commission can be summarized as follows:

- **Subsequent customers to the system should not be penalized for entering the water system by paying more than their fair share.**
- **Charter customers of the system should not be penalized by paying more than their fair share of the Commission costs as well.**

Mr. James J. Holzwart, General Manager
DuPage Water Commission

November 12, 2003
Page 3 of 8

In general, the assumption is that the subsequent customers should pay their pro-rata share of the capital costs of the system, but not pay differentials or other penalties. The charter customers should not be expected to fund the capital costs and other fixed costs of the capacity of the system that will be used by the subsequent customers. In addition, the Commission should recognize that section 12(a) of its original contract states that "no Subsequent Contract shall provide rates, charges or terms lower or more favorable to the Subsequent Customer than those provided in this contract".

Agreement on the general philosophy is critical in determining the ongoing fairness of any proposed solution. This general philosophy was used in our analysis and the development of our findings.

Literal Interpretation of the Act

Our interpretation was focused on the following excerpt from section 70 ILCS 3720/0.02 of Illinois Public Act:

"Subsequent entrants to a water supply contract shall pay their pro-rata portion of the original capital costs less any rebates and the actual costs of connection to the water Commission system."

The key section of this sentence is the "pro-rata portion of the original capital costs". A literal interpretation, without bias to DuPage Water Commission's situation follows:

Pro-rata portion – Pro-rata is defined by the **Merriam-Webster Dictionary** as follows:

Pro Rata – proportionately according to an exactly calculable factor (as share or liability)

Generally, in the accounting industry, pro-rata is used to allocate something (costs, revenues, ownership, etc) based on percentage share of one group to the sum of the group.

Original cost – Original cost is defined in writing several times as it relates to general accounting for public utilities. The following are some examples of this information.

United States of America Federal Energy Regulatory Commission, *Accounting and Reporting Requirements for Public Utilities and Licensees*, Effective Date: February 12, 1985, Part 101 – Uniform System of Accounts Prescribed for Public Utilities and Licensees Subject to the provisions of the Federal Power Act, Definitions.

Original Cost – As applied to electric plant, is the cost of such property to the person first devoting it to public service.

Person – is an individual, a corporation, a partnership, an association, a joint stock company, a business trust, or any organized group of persons, whether incorporated or not, or any receiver or trustee.

Cost – is the amount of money actually paid for property or services.

Book Cost – means the amount at which property is recorded in these accounts without deduction of related provisions for accrued depreciation, amortization, or for other purposes.

Mr. James J. Holzwart, General Manager
DuPage Water Commission

November 12, 2003
Page 4 of 8

Public Service Commission of Wisconsin, *Uniform System of Accounts for Municipally Owned Water Utilities*, Effective Date: January 1, 1960, Definitions.

Original Cost – as applied to utility plant, means the cost of such property to the person first devoting it to public service.

National Association of Regulatory Utility Commissioners, *1996 Uniform System of Accounts for Class A Water Utilities*, Approved: July 25, 1996, Definitions:

Original Cost – As applied to water plant, is the cost of such property to the person first devoting it to public service.

Person – is an individual, a corporation, a partnership, an association, a joint stock company, a business trust, or any organized group of persons, whether incorporated or not, or any receiver or trustee.

Cost – is the amount of money actually paid for property or services.

Book Cost – means the amount at which property is recorded in these accounts without deduction of related provisions for accrued depreciation, amortization, or for other purposes.

These definitions are consistent with the term as used for generally accepted accounting principals, utility ratemaking policies, Internal Revenue Service regulations and other sources.

Therefore, our literal reading of the “pro-rata portion of the original capital costs” using generally accepted accounting terminology is interpreted as follows:

- *Pro-rata*: The distribution of an expense, fund, or dividend proportionate with others who will share in the distribution.
- *Original Capital Costs*: As applied to utility plant, means the cost of such property to the person first devoting it to public service. The cost is the amount of money or other cash equivalents actually paid for property or services. This cost is not reduced by any depreciation, amortization, or other expense nor does it typically include the cost of ongoing (non-capitalizable) financing.

Rebates - Rebates is a term that is closely associated with the DuPage Water Commissions actual practices rather than a general term used in public practice. A literal reading of the Act suggests that all rebates the Commission has provided should be used to offset the original capital costs of the system.

Open Issues with Literal Reading

The Act is vague which leaves several open items.

- Pro-rata portion can be determined several different ways. Since the Act does not define, or make specific recommendations, the Commission needs to decide the way in which the pro-rata portion is determined. Past Commission practice appears to use the proportion of the volume of a subsequent member in comparison to the sum of the Charter members. Other options include using the subsequent members' volume compared to the total volume of all members (charter and previous subsequent members) or subsequent member volume compared to the capacity of the system they are buying into. The decision on the most appropriate method of determining pro-rata portion will depend on the philosophy related to the original costs included in the calculation and the philosophy of who owns the excess capacity in the system as discussed later.

Mr. James J. Holzwart, General Manager
DuPage Water Commission

November 12, 2003
Page 5 of 8

- Original capital costs are also not defined by the Act. Based on the literal reading above, the original cost should be the amount of cash paid for the plant without deductions for depreciation and not including interest costs after the plant was placed in service. Although the Commission could use the literal reading as a basis, the Act did not define what original capital costs should be included. Since the Commission has a unique set of capital costs (City of Chicago assets, local share assets), these capital costs need to be defined by the Commission. For example, should all original capital costs on the books of the Commission be included or should certain costs be excluded?
- Rebates are also not defined. The literal reading leads us to believe that all rebates should be deducted from the original capital costs. However, the Commission seems to have decisions to make about whether this is proper or not.
- Timing, type of payment, interest factors and other issues are not determined as well. Since the Act is silent on these matters, these are decisions the Commission must make.

Other Issues with Literal Reading

- The Commission has the added complication of the property taxes and sales taxes collected within the service area that may need to be addressed. We are aware of certain policies in place related to the use of the property taxes collected from 1985 to 1992. The Commission has collected sales taxes from 1987 to the present and the policy related to the use of these taxes has changed a few times throughout the years. Some may consider that the taxes which were used to finance the original capital costs should also be deducted from the original capital costs that the subsequent members buy into.
- The Act does not address how the financing (interest costs) of the original capital costs be recovered. If the Commission agrees that the charter customers should not be expected to fund the capital cost and other fixed costs of the capacity of the system that will be used by the subsequent customers, then this issue needs to be addressed.
- If rebates were given in a general nature to help offset the fixed costs that the Charter members had to pay in the beginning, the rebate issue still remains a complicated one to determine. If you simply take the literal reading for face value, we think a general concept is missed. This is the concept that the original capital costs are, and always will be, a certain value. This comes into play when you look at applying the matching concept related to the rebates. While some may consider all rebates issued to be appropriate, others may feel only the rebates that came from contributed capital be refunded.

The concept of backing out rebates makes sense when reviewing the previous buy-in calculation of the Commission. This method included adding up the fixed costs the Charter members have paid from inception to the time of the subsequent member's connection and determining subsequent member's portion of those fixed charges. If the \$66,326,287 of rebates were provided to the Charter members to help offset a portion of these fixed costs, then subtracting that portion of the rebates makes sense.

Mr. James J. Holzwart, General Manager
DuPage Water Commission

November 12, 2003
Page 6 of 8

When looking at the literal reading of the Act, if we are to take a pro-rata portion of the original capital cost, backing off rebates does not make sense, *unless* we are trying to compensate somewhat for the property and sales taxes that were collected to pay for a portion of the system. Again, the original capital costs are what they are and rebates are not directly related to a reduction in original capital costs. Therefore, if you are to apply proper matching of costs (original capital costs) and reduction in those costs (none), rebates do not come into play.

- The literal reading would suggest that if it was determined that a customers pro-rata portion was 5%, then that customer should pay 5% of the original capital costs less any rebates. This number, if based on literal reading, would pay for the capital cost but no interest as stated above. In addition, there is no discussion of when the payment is due, other than they must pay the same rates the Charter members. This leads us to believe the subsequent customers' payment should be an up front payment. The Act is silent in relation to how to handle the fact that a portion of the rates of the Charter members includes a fixed charge for recovering capital costs. If subsequent members need to pay the same rates as Charter members this issue will need to be addressed.
- The Act is silent as to retroactive application which implies that application is only required on a going forward basis. However, the Commission may wish to refund subsequent customers that have paid rate differentials and a buy-in based on another method to avoid conflicts and unfairness.
- The Act does not address the plan for the funds once collection is made from the subsequent customers. For example, if it is determined that the Charter members have funded a portion of the capacity for subsequent users, how will the funds from the buy-in be handled within the Commission and how will the Charter members receive reimbursement.

Going Forward

As discussed above, the openness of the Act language and the omission of provisions for handling certain items leaves quite a bit of leeway for the Commission. Unless all Commission members agree to the literal reading of the Act, it appears the Commission needs to work out a solution. ***This means there are several different alternatives the Commission could take and still be in compliance with the Act.*** This openness provides both an opportunity to shape the subsequent member buy-in to the Commissions needs as well as opening it up to potential challenges by outside parties.

Knowing that the governing body of DuPage County will most likely be interested in what the Commission comes up with, we understand the desire to be as complete as possible. That being said, it is obvious that the Commission needs to begin a process of working out a plan to adopt the provisions of Public Act 93-0226.

If the philosophy we outlined above is the general agreed upon philosophy of the Commission, we feel it is critical to determine how the capacity of the system related to subsequent users has been funded in the past and a policy for determining funding for the future. In order to determine how capacity has been funded in the past, we suggest a flow of funds analysis be completed.

Mr. James J. Holzwart, General Manager
DuPage Water Commission

November 12, 2003
Page 7 of 8

As an example, assume that the Commission feels that a combination of property/sales taxes and fixed charges have all supported the capacity of the system available for subsequent customers. Under this assumption, unless all Commissioners feel that property/sales taxes should not be a factor in the calculation of pro-rata portion of original capital costs less rebates, it would be in the Commission's interest to determine how much was funded via these sources.

A side benefit of the funds analysis will be a determination of the composition of the Commission's cash balances. We noted during our review of newspaper articles and press releases several references to "excess reserves" and rebating or returning a portion of those reserves to taxpayers. The funds analysis will provide an understanding of where the reserves came from and if a portion shall be returned, which party, the Charter members or the taxpayers, should the funds be returned to. Please note that we are not suggesting that any reserves be returned to any party. We are simply commenting on what we noted as some political pressure to do so.

Therefore, we propose the following steps related the Commission's implementation of the Act.

1. DuPage Water Commission needs to agree to the general overall philosophy which falls within the parameters of the Act and the negotiations that took place this past year. The philosophy will be used to guide the general concepts of the rest of the implementation plan. The following additional steps assume the Commission agrees with the philosophy stated earlier in this document.
2. If a major philosophical concept is that the Charter members should not fund any portion of the capacity of the Commission that will be used to service subsequent users, then we feel a flow of funds analysis may be needed. The flow of funds analysis (funds analysis) will demonstrate how much of the system has been funded by the Charter members. While this may be time consuming and will entail the Commission making policy decisions related rebates and property and sales taxes, we feel it will provide the clearest picture of how the original capital costs have been funded and how they should be funded in the future.
3. The Commission needs to evaluate which original capital costs should be included in the buy-in. This should include an analysis of the costs of the projects, who benefits from the projects, and a determination of capacity available to subsequent users.
4. The Commission should determine the philosophy of who "owns" the capacity available to subsequent users both in the past and going forward. Ownership in this instance is more related to who is funding the capacity available to subsequent users more than legal ownership. If sales taxes are funding the capacity, in order to alleviate cost pressure on the Charter customers, what should the buy-in be? Keep in mind, a subsequent user should not be able to simply join the Commission, which has a substantial net asset balance and substantial cash balance without a buy-in of some sort. The Commission also needs to determine how to handle subsequent customers who have not been contributing towards the property/sales tax. If Charter customers have been funding this capacity in any way, then those Charter customers deserve reimbursement for those costs paid on behalf of others. This step is critical to the whole determination of the proper buy-in amount.

Mr. James J. Holzwart, General Manager
DuPage Water Commission

November 12, 2003
Page 8 of 8

5. The Commission should determine the sources of the reserves on hand. If the analysis, after determinations on policies related to the items in #4 have been completed, show that the Charter members have funded a significant portion of the reserves via user fees and capital contributions, then the Commission should deal with how subsequent customers should share in this.

A flow chart detailing our proposed implementation plan is shown on Attachment A.

Summary

The scope of our project was to interpret the Act and relay our thoughts to the Commission. Due to the vagueness of the Act and the unique revenue structure of the Commission this is not an easy task. We provided the literal meaning of the terms "pro-rata portion of the original capital cost" and a discussion of the issue of rebates. The scope of our project asked us to provide for plan of implementation of the Act. Using the terms as provided in the Act we developed a plan to fully analyze how capacity in the system related to subsequent customers has been financed. The plan would provide an analysis of the cash reserve balance as well. Since we were required to follow the boundaries of our interpretation of the language in the Act, the plan is quite complicated. If the Commission feels they can agree on major concepts such as how to handle property and sales taxes and rebates in the buy-in computation, the flow of funds analysis may not be needed and a simpler implementation plan may be utilized.

We are available to discuss our findings with the Commission. Please call me at 1-608-240-2387 if you have any questions.

Sincerely,

VIRCHOW, KRAUSE & COMPANY, LLP

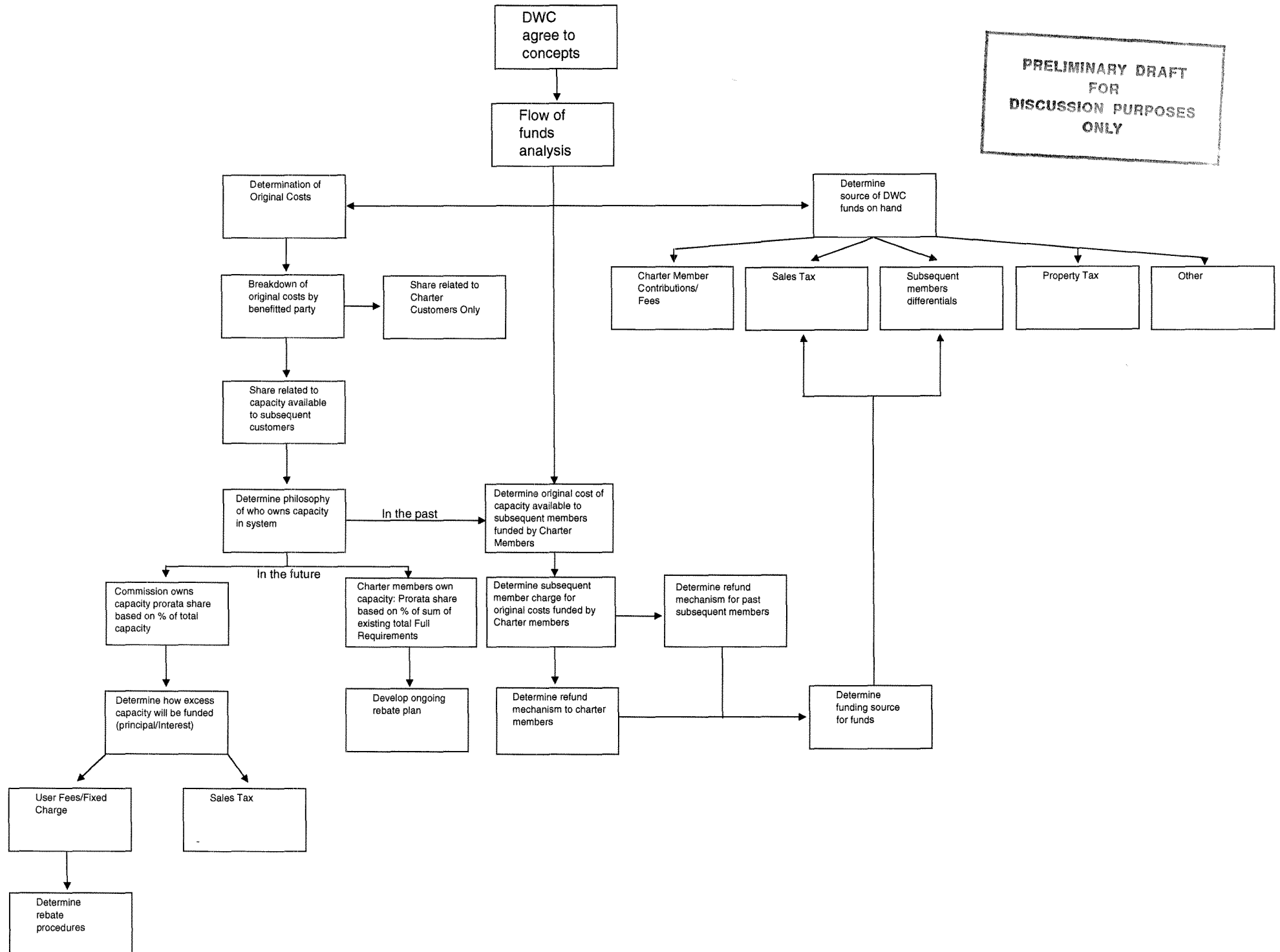


Vicki V. Hellenbrand, CPA, Partner

VVH/dh

Attachment

**Proposed Process - Adopting Public Act 93-0226
Provisions for Rate Equalization**





DuPage Water Commission

MEMORANDUM

TO: Acting General Manager

FROM: Financial Administrator

DATE: December 31, 2003

SUBJECT: Notes of discussion of Finance Committee members of the DuPage Water Commission, December 11, 2003, no quorum being present

Committee members E. Chaplin and J. Janicik were the only members to attend the Finance Committee. There being no quorum present, no Committee meeting was held. Commissioners Chaplin and Janicik, however, reviewed and discussed the agenda items toward their presentation to the Commission at its regular meeting of December 11, 2003. Financial Administrator R. Skiba was present for these discussions.

Minutes of meeting – November 13, 2003. Commissioner Janicik questioned to whom and how frequently financial reports were distributed. This issue will be reviewed at the next Finance Committee meeting.

Treasurer's report – November, 2003. The two Commissioners reviewed the November, 2003 Treasurer's Report. They will recommend acceptance of the report by the full Commission at its meeting of December 11, 2003.

Financial statements - November, 2003. The two Commissioners reviewed the November, 2003 Financial Statements. Commissioner Janicik suggested a review of the Commission's investment practices and reviewing the use of a professional investment advisor.

Accounts payable. The two Commissioners reviewed the accounts payable in the revised amount of \$3,345,262.44. Staff noted two revisions. One was for a payment to SBC for telephone services. The other was to Greenberg Traurig for executive session legal services. The two Commissioners will recommend approval of the accounts payable at the December 11, 2003 Commission meeting.

Workmen's Compensation Renewal. The two Commissioners noted the renewal of the Commission's membership in the Illinois Public Risk Fund (IPRF). Commissioner Janicik asked that staff review whether or not the Commission needed to be represented by an insurance broker in this relationship. Staff was

asked to prepare a timeline of financial activities for the Committee including insurance renewals, budget preparation, annual audit, etc.

Auditor General Intergovernmental Agreement. Staff was directed to meet with McGladrey & Pullen (M&P) and representatives from the Illinois Auditor General's (IAG) office to ascertain any potential compliance issues related to the April 30, 2004 audit. Staff was also to negotiate the terms of the intergovernmental agreement with the AIG's office. The Commission will be amenable to the intergovernmental agreement so long as M&P are allowed to serve as the AIG's contract auditors for April 30, 2004 completing the contract already established between the Commission and M&P.

Ordinances and Resolutions. The two Commissioners reviewed and will recommend approval of the following:

- I. Resolution R-49-03: A Resolution Directing the Transfer of Certain Excess Account Balances to the General Account of the Water Fund;
- II. Ordinance O-11-03: An Ordinance Transferring Appropriations Within Certain Funds for the Fiscal Year Commencing May 1, 2003 and Ending April 30, 2004.