

CATSKILL WATERSHED CORPORATION

Board of Directors Meeting

MINUTES

April 2, 2013 @ 1:00 p.m.

I. Call to Order

II. Roll Call of Directors

Members Present: Donald Brandow, Deborah Meyer DeWan, Martin Donnelly, James Eisel, Jeff Graf (*New York City DEP*), Thomas Hynes, Innes Kasanof, Berndt Leifeld, Georgianna Lepke, Wayne Marshfield, Tina Molé, Richard Parete, Robert Pelham, Thomas Snow (*New York State DEC*) and Michael Triolo.

Members Excused: None

Staff Members Present: Kimberlie Ackerley, Timothy Cox, Diane Galusha, Leo LaBuda, James Martin, Jason Merwin, Barbara Puglisi, Alan L. Rosa, Philip Sireci, and Frieda Suess.

Others Present: Ursula Basch (*NYS Economic Development*), Jeffrey Baker (*Young Sommer LLC, Attorney for Coalition of Watershed Towns*), Jay Braman (*Catskill Mountain News*), Kathleen Breen (*NYPIRG*), Clayton Brooks (*Former CWC Director*), David Brooks (*Councilman, T. of Denning*), Mike Brooks, Paula Brown (*Constituent Services Representative to Congressman Gibson*), Keitha Capouya (*Supervisor, T. of Meredith*), Cliff Crouch (*NYS Assembly*), Paul Dibbell (*Former CWC Director*), Peg Ellsworth (*Director, M-ARK Project*), Michael Flaherty (*Former CWC Director*), Sam Kandel (*Counselor, Small Business Development Center of Ulster County*), Henry Lamont (*Lamont Engineers*), Peter Lopez (*NYS Assembly*), Tracy Magee (*Special Assistant to Assemblyman Lopez*), Michael Meyer (*NYC DEP*), Todd Pascarella (*Mayor, V. of Fleischmanns*), Bill Rudge (*NYSDEC*), Dan Ruzow (*CWC Outside Counsel, Whiteman Ostermann & Hanna*), Rex Sanford (*Rex Sanford Engineering*), John Schwarz (*NYCDEP*), Don VanKleek (*Don VanKleek Excavating*), Steven Walker (*Supervisor, T. of Windham*), and Pamela Young (*NYSDOH*).

III. Review and Approval of March 5, 2013 Board Meeting Minutes

A motion to approve the minutes from the March 5, 2013 board meeting was made by Berndt Leifeld and seconded by Jeff Graf.

Voice Vote, carried unanimously

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**IV. Presentation of Communication**

**Finance Report**

A motion to approve the financial reports as of January 31, 2013 was made by Martin Donnelly and seconded by James Eisel.

**Voice Vote, carried unanimously**

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Executive Director’s Report

The Executive Director’s Report was presented as outlined in the board packet.
Alan Rosa announced that the next meeting of the Board will be held at the Ashokan Center in Olive. Members will meet at CWC offices to carpool if necessary. A tour of the new facilities will be offered.

Presentation of News Articles

Committee Schedule

There will be a special Stormwater/Wastewater Committee meeting held on Friday, April 12th at 10:00 a.m. to discuss further the draft Flood Hazard Mitigation Program. The regularly scheduled SW/WW Committee meeting will be held as scheduled.

Committee Meeting Minutes

V. Public Discussion

Diane Galusha took a moment to point out the 26 re-fabricated roadside commemorative signs that will replace the ones originally put up in 2004. They have been re-fabricated in brown and white, and are more reflective. These signs indicate location of towns and villages that were relocated or destroyed in the making of the NYC Watershed. The NYCDEP and NYSDOT (2 regions) will be replacing the signs in the next month or so. Once taken down, the old signs will be offered to various museums, historical societies, and individuals.

VI. Presentation of Resolutions

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**Septic Reimbursement Over \$20,000 – Vincent Cure - Tab 7**

A motion to approve Resolution No. 2263 was made by Tina Molé and seconded by Thomas Snow.

April 2, 2013

**RESOLUTION NO. 2263**

**BOARD APPROVAL OF SEPTIC CONSTRUCTION ESTIMATE OVER \$20,000:  
VINCENT CURE**

**WHEREAS**, pursuant to the Watershed Memorandum of Agreement and the Septic System Rehabilitation and Replacement Program Contracts with New York City Department of Environmental Protection, the Catskill Watershed Corporation (“CWC”) shall act as program manager for the Septic Program and implement the Septic Program consistent with the terms of said contracts; and

**WHEREAS**, pursuant to section 2:01:09 of the CWC Septic Rehabilitation and Replacement Program Rules Article 2A, if the total amount requested for reimbursement is more than Twenty Thousand Dollars (\$20,000) CWC staff shall forward the design with recommendation to the CWC Board for approval; and

**WHEREAS**, CWC staff has reviewed a construction quote submitted by a contractor for the septic system repair in the amount of Twenty-Two Thousand Four Hundred Thirty-Five Dollars (\$22,435.00); and

**WHEREAS**, the contractor's quote for this system is more than Twenty Thousand Dollars (\$20,000); and

**WHEREAS**, the CWC staff have determined the contractor's quote of Twenty-Two Thousand Four Hundred Thirty-Five Dollars (\$22,435.00) to be a reasonable cost for this system in accordance with our schedule of values; and

**WHEREAS**, the Septic Committee has reviewed the documentation and recommend approving the contractor's quote of Twenty-Two Thousand Four Hundred Thirty-Five Dollars (\$22,435.00) as it is in substantial agreement with our schedule of values.

**NOW, THEREFORE LET IT BE RESOLVED**, that the CWC Board of Directors approves the eligible cost of this system for reimbursement to be the total not-to-exceed amount of Twenty-Two Thousand Four Hundred Thirty-Five Dollars (\$22,435.00).

**Vincent Cure Backup**

Mr. Cure's property is located in the Town of Middletown, Delaware County. Homeowner and CWC staff received a quote from a contractor in the amount of \$22,435.00. This system is for a three bedroom house. The major components for this system include a siphon chamber, 140 lineal feet of 4" gravity piping, one distribution box, 290 cubic yards of fill material, one effluent filter, 250 lineal feet of absorption trench, 135 lineal feet of curtain drain, tree removal, and extensive restoration. The quote does not exceed CWC Schedule of Values. The Septic Committee recommends that the Board of Directors approve reimbursement in an amount not to exceed \$22,435.00.

***Voice Vote, carried unanimously***

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Septic Reimbursement Over \$20,000 – David Seamans - Tab 8

A motion to approve Resolution No. 2264 was made by Tina Molé and seconded by Thomas Snow.

April 2, 2013

RESOLUTION NO. 2264

**BOARD APPROVAL OF SEPTIC CONSTRUCTION ESTIMATE OVER \$20,000:
DAVID SEAMANS**

WHEREAS, pursuant to the Watershed Memorandum of Agreement and the Septic System Rehabilitation and Replacement Program Contracts with New York City Department of

Environmental Protection, the Catskill Watershed Corporation (“CWC”) shall act as program manager for the Septic Program and implement the Septic Program consistent with the terms of said contracts; and

WHEREAS, pursuant to section 2:01:09 of the CWC Septic Rehabilitation and Replacement Program Rules Article 2A, if the total amount requested for reimbursement is more than Twenty Thousand Dollars (\$20,000) CWC staff shall forward the design with recommendation to the CWC Board for approval; and

WHEREAS, CWC staff has reviewed a construction quote submitted by a contractor for the septic system repair in the amount of Twenty-Seven Thousand Nine Hundred Sixty Dollars (\$27,960.00); and

WHEREAS, the contractor’s quote for this system is more than Twenty Thousand Dollars (\$20,000); and

WHEREAS, the CWC staff have determined Twenty-Four Thousand Nine Hundred Eighty-Six Dollars (\$24,986.00) to be a reasonable cost for this system in accordance with our schedule of values; and

WHEREAS, the Septic Committee has reviewed the documentation and recommend approving reimbursement not to exceed Twenty-Four Thousand Nine Hundred Eighty-Six Dollars (\$24,986.00) in agreement with our schedule of values.

NOW, THEREFORE LET IT BE RESOLVED, that the CWC Board of Directors approves the eligible cost of this system for reimbursement to be the total not-to-exceed amount of Twenty-Four Thousand Nine Hundred Eighty-Six Dollars (\$24,986.00).

David Seamans Backup

Mr. Seamans’ property is located in the Town of Windham, Greene County. Homeowner and CWC staff received a quote from a contractor in the amount of \$27,960.00. This system is for a four bedroom house. The major components for this system include a 1,250 gallon septic tank, a pump station, and three peat modules. The quote exceeds CWC Schedule of Values by \$2,974.00. The Septic Committee recommends that the Board of Directors approve reimbursement in an amount not to exceed \$24,986.00.

Voice Vote, carried unanimously

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**Septic Reimbursement Over \$20,000 – Additional Cost – Jennifer Gladysz - Tab 9**

A motion to approve Resolution No. 2265 was made by Robert Pelham and seconded by Deborah DeWan.

April 2, 2013

**RESOLUTION NO. 2265**

**BOARD APPROVAL OF ADDITIONAL FUNDS FOR SEPTIC CONSTRUCTION  
OVER \$20,000:  
JENNIFER GLADYSZ**

**WHEREAS**, pursuant to the Watershed Memorandum of Agreement and the Septic System Rehabilitation and Replacement Program Contracts with New York City Department of Environmental Protection, the Catskill Watershed Corporation (“CWC”) shall act as program manager for the Septic Program and implement the Septic Program consistent with the terms of said contracts; and

**WHEREAS**, pursuant to section 2:01:09 of the CWC Septic Rehabilitation and Replacement Program Rules Article 2A, if the total amount requested for reimbursement is more than Twenty Thousand Dollars (\$20,000) CWC staff shall forward the design with recommendation to the CWC Board for approval; and

**WHEREAS**, by Resolution Number 2177, the CWC Board approved reimbursement to Jennifer Gladysz in an amount not to exceed Twenty-Two Thousand Five Hundred Sixty-Five Dollars (\$22,565.00); and

**WHEREAS**, CWC staff has reviewed an additional construction invoice of costs incurred submitted by the homeowner for septic tank replacement in the amount of Two Thousand Six Hundred Ninety-Three Dollars (\$2,693.00); and

**WHEREAS**, the total contractor’s invoices for this system is more than Twenty Thousand Dollars (\$20,000); and

**WHEREAS**, CWC staff have determined the total reasonable cost of the additional work according to CWC Schedule of Values to be Two Thousand Six Hundred Ninety-Three Dollars (\$2,693.00); and

**WHEREAS**, CWC staff have determined that Twenty-Five Thousand Two Hundred Fifty-Eight Dollars (\$25,258.00) is a reasonable cost for this system in accordance with our schedule of values; and

**WHEREAS**, the Septic Committee has reviewed the documentation and recommend approving total reimbursement of Twenty-Five Thousand Two Hundred Fifty-Eight Dollars (\$25,258.00) as it is in substantial agreement with our schedule of values.

**NOW, THEREFORE LET IT BE RESOLVED**, that the CWC Board of Directors approves the eligible cost of this system for reimbursement to be the total not-to-exceed amount of Twenty-Five Thousand Two Hundred Fifty-Eight Dollars (\$25,258.00).

**Jennifer Gladysz Backup**

Ms. Gladysz’s property is located in the Town of Olive, Ulster County. CWC Board of Directors previously approved reimbursement for this project at \$22,565.00. During construction the Project Engineer noticed that the existing septic tank was leaking badly at a seam. The Engineer instructed the contractor to replace the tank. The homeowner requested that an oversized tank be installed. CWC staff informed the homeowner that we would not pay for a tank that was larger than was necessary. The homeowner agreed to pay the additional cost for the larger tank. A reasonable and just cost for the additional work according to CWC Schedule of Values is \$2,693.00. The Septic Committee recommends that the Board approves an additional reimbursement of \$2,693.00, for total reimbursement not to exceed \$25,258.00.

**Voice Vote, carried unanimously**

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Septic Reimbursement Over \$20,000 – Additional Cost – Lynette Morse - Tab 10

A motion to approve Resolution No. 2266 was made by Robert Pelham and seconded by Deborah DeWan.

April 2, 2013

RESOLUTION NO. 2266

**BOARD APPROVAL OF ADDITIONAL FUNDS FOR SEPTIC CONSTRUCTION
OVER \$20,000:
LYNETTE MORSE**

WHEREAS, pursuant to the Watershed Memorandum of Agreement and the Septic System Rehabilitation and Replacement Program Contracts with New York City Department of Environmental Protection, the Catskill Watershed Corporation (“CWC”) shall act as program manager for the Septic Program and implement the Septic Program consistent with the terms of said contracts; and

WHEREAS, pursuant to section 2:01:09 of the CWC Septic Rehabilitation and Replacement Program Rules Article 2A, if the total amount requested for reimbursement is more than Twenty Thousand Dollars (\$20,000) CWC staff shall forward the design with recommendation to the CWC Board for approval; and

WHEREAS, by Resolution Number 1781, the CWC Board approved reimbursement to Lynette Morse in an amount not to exceed Twenty-Nine Thousand Nine Hundred Eighty-Four Dollars (\$29,984.00); and

WHEREAS, CWC staff has reviewed an additional construction invoice of costs incurred submitted by the homeowner for additional materials in the amount of Three Thousand One Hundred Twenty-Eight Dollars (\$3,128.00); and

WHEREAS, the total contractor’s invoices for this system is more than Twenty Thousand Dollars (\$20,000); and

WHEREAS, CWC staff have determined the total reasonable cost of the additional work according to CWC Schedule of Values to be Three Thousand One Hundred Twenty-Eight Dollars (\$3,128.00); and

WHEREAS, CWC staff have determined that Thirty-Three Thousand One Hundred Twelve Dollars and Sixty-Three Cents (\$33,112.63) is a reasonable cost for this system in accordance with our schedule of values; and

WHEREAS, the Septic Committee has reviewed the documentation and recommend approving total reimbursement of Thirty-Three Thousand One Hundred Twelve Dollars and Sixty-Three Cents (\$33,112.63) as it is in substantial agreement with our schedule of values.

NOW, THEREFORE LET IT BE RESOLVED, that the CWC Board of Directors approves the eligible cost of this system for reimbursement to be the total not-to-exceed amount of Thirty-Three Thousand One Hundred Twelve Dollars and Sixty-Three Cents (\$33,112.63).

Lynette Morse Backup

Ms. Morse’s property is located in the Town of Roxbury, Delaware County. CWC Board of Directors previously approved reimbursement for this project at \$29,984.00. During construction the Project Engineer required the contractor to use a heavier gage piping underneath the driveway to prevent heavy vehicles from crushing the carrier pipe due to the shallow depth of piping crossing the driveway. In addition, the contractor’s original estimate did not account for enough absorption fill material. The engineer requested another 112 cubic yards of absorption fill material be added to the absorption system. The engineer also required that the contractor add a second riser to the septic tank for access purposes. A reasonable and just cost for the additional work according to CWC Schedule of Values is \$3,128.63. The Septic Committee recommends that the Board approves an additional reimbursement of \$3,128.63, for total reimbursement not to exceed \$33,112.63.

Voice Vote, carried unanimously

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**Future Stormwater – Harold and Sharon Cole - Tab 11**

A motion to approve Resolution No. 2267 was made by Martin Donnelly and seconded by Tina Molé.

April 2, 2013

**RESOLUTION NO. 2267**

**BOARD REVIEW OF FUTURE STORMWATER PROGRAM APPLICATION FOR HAROLD & SHARON LINDA COLE STORMWATER CONTROLS**

**WHEREAS**, the 1997 New York City Watershed Memorandum of Agreement (“Watershed MOA”) paragraph 128 (“Future Stormwater Program”) directs the Catskill Watershed Corporation (“CWC”) to establish a program to pay for the reasonable and proper cost to design, implement, permit, construct and maintain new stormwater measures pursuant to stormwater pollution prevention plans required by the 18-39(b)(3) and 18-39(e) of the watershed regulations; and

**WHEREAS**, Section 145(ii) of the Watershed MOA and the West of Hudson Future Stormwater Program Rules provides for payment of eligible project costs required solely by the New York City Department of Environmental Protection (“NYCDEP”) and not otherwise required by State or federal law; and

**WHEREAS**, Harold and Sharon Linda Cole has applied for reimbursement of eligible design costs in the amount of Eighteen Thousand Nine Hundred Ten Dollars (\$18,910.00) for design of new stormwater controls related to improvements made to an old farm road; and

**WHEREAS**, the Future Stormwater Program Rules require that the CWC Board of Directors shall review and approve each application, with attached documentation and staff recommendations; and

**WHEREAS**, CWC staff recommended reimbursement of eligible stormwater design costs for a total not-to-exceed amount of Eighteen Thousand Nine Hundred Ten Dollars (\$18,910.00); and

**WHEREAS**, the CWC Wastewater/Stormwater Committee recommended that the application be approved by the CWC Board of Directors.

**NOW, THEREFORE, LET IT BE RESOLVED**, that the CWC Board of Directors has reviewed the attached application, staff recommendation and supporting documentation and approves payment of Eighteen Thousand Nine Hundred Ten Dollars (\$18,910.00).

**CWC Future Stormwater Controls Program**

**Harold and Sharon Linda Cole – Improved farm road, Town of Andes, Delaware County, New York:**

Harold and Sharon Linda Cole own an 83 acre lot in the Town of Andes, Delaware County. The Coles are required to design new stormwater control measures to control stormwater runoff for improved farm road.

In 2006 the Cole’s applied to the Town of Andes Planning Board to create a subdivision. The Cole’s hired an engineer to prepare a Stormwater Pollution Prevention Plan (SWPPP). A notice of complete application was given in 2008 and 2009. In 2011 the engineer retired before a design approval was issued. Mr. Cole had already begun improvements to the old farm road that disturbed a slope greater than 15%. DEP issued an NOV on January 25, 2011 requiring the Coles to comply with the Watershed Rules and Regulations enforced by the NYCDEP. The Coles have since withdrawn the subdivision application with the Town and plan no more improvements to the property. Originally the New York State DEC would have required a SWPPP for the subdivision because of the disturbance. Since the road is the only thing being disturbed the DEP is now the only regulatory agency requiring a SWPPP.

Harold and Sharon Linda Cole are eligible for 100% reimbursement of eligible costs through the CWC as they are an individual, not a small business.

CWC staff recommended reimbursement of eligible stormwater design costs to the CWC Wastewater/Stormwater Committee. The CWC Wastewater/Stormwater Committee recommends reimbursement of \$18,910.00 to Harold and Sharon Linda Cole for its SWPPP costs solely attributable to the Watershed Regulations and not otherwise required by State or federal law.

***Voice Vote, carried unanimously***

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Fiscal Policy Amendment – Collateralization of Funds - Tab 12

A motion to approve Resolution No. 2268 was made by James Eisel and seconded by Michael Triolo.

RESOLUTION NO. 2268

**AMENDMENT OF FISCAL POLICIES AND PROCEDURES –
COLLATERALIZATION OF DEPOSITS**

WHEREAS, Fiscal Policies and Procedures are necessary for the orderly conduct of the Catskill Watershed Corporation (CWC) and its business affairs; and

WHEREAS, the CWC Finance Committee has reviewed and recommends the Fiscal Policy and Procedures amendment in Attachment A relating to the collateralization of deposits and recommends its adoption.

NOW, THEREFORE BE IT RESOLVED, that the Board adopts the attached Fiscal Policies and Procedures revision, and that such policies and procedures shall be further amended from time to time based upon experience and information and as the CWC deems necessary.

Underline is proposed addition

~~Strikethrough~~ is proposed deletion

3-4.01-13.6 Collateralizing Of Deposits

All deposits of the Corporation, including certificates of deposit and special time deposits, in excess of the amount insured under the provisions of the Federal Deposit Insurance Act, shall be secured:

1. By a pledge of “eligible securities” with an aggregate “market value,” as provided by New York General Municipal law (“GML”) 10, equal to the aggregate amount of deposits, from the following categories: (I) Obligations issued, or fully insured or guaranteed as to the payment of principal and interest, by the United States of America, an agency thereof, or a United States government-sponsored corporation; Obligations issued or fully guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, and the African Development Bank; Obligations partially insured or guaranteed by an agency of the United States of America, at a proportion of the market value of the obligation that represents the amount of insurance or guaranty; and Obligations issued or fully insured or guaranteed by the State of New York, obligations issued by a municipal corporation, school district or district corporation of New York State or obligations of any public benefit corporation, which under a specific State statute, may be accepted as security for deposit of public moneys.
2. By an eligible “irrevocable letter of credit” issued by a qualified bank other than the bank with the deposits, in favor of the Corporation, for a term not to exceed 90 days with an aggregate value equal to 140% of the aggregate amount of deposits and the agreed upon interest, if any. A qualified bank is one whose commercial paper and other unsecured short-term debt obligations are rated in one of the three highest rating categories by at least one (1) nationally recognized statistical rating organization or by a bank that is in compliance with applicable Federal minimum risk-based capital requirements; or
3. By an eligible surety bond payable to the Corporation for an amount at least equal to 105% of the aggregate amount of deposits and the agreed upon interest, if any, executed by an insurance company authorized to do business in New York State, whose claims – paying ability is rated in the highest rating category by at least two nationally recognized statistical rating organizations.
4. **By an “irrevocable letter of credit” issued in favor of the corporation by a federal home loan bank whose commercial paper and other unsecured short-term debt obligations are rated in the highest rating category by at least one nationally recognized statistical rating organization, as security for the payment of 100 percent of the aggregate amount of deposits and the agreed-upon interest, if any.**

Voice Vote, carried unanimously

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**CFF Program Rule Change – Not-for-Profit Flood Recovery Program - Tab 13**

A motion to approve Resolution No. 2269 was made by Jeff Graf and seconded by Thomas Snow.

April 2, 2013

**RESOLUTION NO. 2269**

**CFF PROGRAM RULE CHANGE – ELIGIBILITY REQUIREMENTS OF  
2013 FLOOD RECOVERY GRANT PROGRAM –  
NOT-FOR-PROFITS**

**WHEREAS**, pursuant to the New York City Watershed Memorandum of Agreement (Watershed MOA) and a Program Contract with New York City Department of Environmental Protection, the Catskill Watershed Corporation (CWC) shall administer the Catskill Fund for the Future (CFF); and

**WHEREAS**, the CWC has adopted program rules consistent with the Watershed MOA and the CFF Program Contract to administer this program; and

**WHEREAS**, pursuant to the MOA, the CFF shall be used to make loans and grants to Qualified Economic Development Projects (QEDP's); and

**WHEREAS**, pursuant to the Watershed MOA, QEDP is defined as economic development studies, grants and loans for projects which encourage environmentally sound development and which encourage the goals of watershed protection and job growth in the West of Hudson Watershed communities; and

**WHEREAS**, at a special meeting held on September 13, 2011, by Resolution Number 1985, the CWC Board of Directors established the 2011 Flood Recovery Grant Program to provide grants through member towns to businesses in the West of Hudson Watershed that sustained structural damage as a result of Tropical Storms Irene and/or Lee to pay some or all of the costs to repair said structural damage; and

**WHEREAS**, structures owned by not-for-profit corporations located within the West of Hudson Watershed also sustained structural damage as a result of Tropical Storms Irene and Lee and have had difficulty raising funds to repair such damage; and

**WHEREAS**, not-for-profit corporations in the West of Hudson Watershed employ numerous watershed residents and are a vital part of the regional economy; and

**WHEREAS**, by Resolution Number 2250 the CWC Board of Directors approved the establishment of the 2013 Flood Recovery Grant Program – Not-for-Profits to provide reimbursement of up to Ten Thousand Dollars (\$10,000.00) per property for repairs of structural damage caused by Tropical Storms Irene and/or Lee to not-for-profit 501(c)3 and State-chartered

museum and that this program be limited to total awards not to exceed One Hundred Thousand Dollars (\$100,000.00) as described in the attached Program Rule Change; and

**WHEREAS**, the CWC Economic Development Committee recommends that this program include not-for-profit corporations, including those organized under 501 (c ) 19, for posts or organizations of past or present members of the Armed Forces.

**NOW, THEREFORE BE IT RESOLVED**, that the CWC Board of Directors consistent with the terms of the MOA and the Program Contract, the West of Hudson Economic Development Study and the Economic Development Committee recommendation amends the CWC Program Rules governing the Catskill Fund for the Future in accordance with Attachment A hereto.

## **Chapter 1:22 – 2013 Flood Recovery Grant Program – Not-for-Profits**

### **1:22:01 Application**

An applicant must be either a not-for-profit corporation under Section 501(c)(3) of the Internal Revenue Code, a not for profit corporation organized by and for past and present members of the United States Armed Forces, or a museum chartered by the New York State Board of Regents, that owns property in the WOH Watershed.

### **1:22:02 Eligible Projects**

Projects shall be limited to reimbursement of expenses for the repair of structural damage at property within the WOH Watershed. Reimbursable expense is limited to actual costs of structural repair/replacement (materials and/or labor costs) and including heating/cooling systems due to flood and/or wind damage that occurred between August 28, 2011 and September 9, 2011 and incurred by a not-for-profit corporation or museum chartered by New York State Board of Regents. Expenses not eligible for reimbursement include but are not limited to labor of property owner or volunteers, donated materials, purchase of inventory, income loss due to damage, an expense that is or shall be reimbursable under insurance, governmental program, and/or an approved grant, and any other expense not directly related to repair/replacement of structural damage as described above. Structures or portion thereof used for residential and/or religious purposes are not eligible.

### **1:22:03 Grant Amounts**

The maximum grant amount shall be no more than Ten Thousand Dollars (\$10,000).

### **1:22:04 Application Cycle**

CWC will accept applications until April 30, 2013.

### **1:22:05 Selection Criteria**

All applications shall be reviewed and recommended by the CWC Economic Development Committee and approved by CWC Board of Directors. Recommendations may be based in part on the following criteria:

- Amount of structural damage incurred
- Impact of the Organization on the Community
- Feasibility
- Reasonableness of cost of repairs

**1:22:06 Grant Agreement**

All approved applicants must execute a grant agreement. The grant agreement shall provide that reimbursement may only be funded by CWC upon satisfactory proof that expense is eligible for reimbursement, is reasonable cost for work performed or materials provided, and was incurred and paid for by applicant.

***Voice Vote, carried unanimously***

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CFF Program Rule Change – CWC Municipal Sewer Flood Business Retention Program - Tab 14

A motion to approve Resolution No. 2270 was made by Innes Kasanof and seconded by Martin Donnelly.

April 2, 2012

RESOLUTION NO. 2270

**ESTABLISHMENT OF THE CFF MUNICIPAL SEWER FLOOD BUSINESS
RETENTION PROGRAM AND FUNDING OF PILOT PROJECT IN VILLAGE OF
FLEISCHMANN'S**

WHEREAS, the Catskill Watershed Corporation (CWC) established the REDI Fund Loan Program for the purpose of providing low interest loans to qualified economic development projects in the West of Hudson Watershed to be administered by the CWC in accordance with the Catskill Fund for the Future (CFF) Program Rules; and

WHEREAS, CWC Board of Directors, by Resolution Number 2108, approved a CFF REDI loan to Spillian, LLC in the amount of Four Hundred Thousand Dollars (\$400,000.00) for a term of fifteen (15) years, at a rate of four percent (4.0%), adjustable every five years with a twenty year amortization after the six month construction period of interest only, to the CWC rate in effect at that time, to be amortized in equal monthly payments, such that the outstanding principal is fully paid on the last payment date; and

WHEREAS, the CFF REDI Loan to Spillian, LLC closed on September 13, 2012 and is secured by a first mortgage on property in the Village of Fleischmann's (the property); and

WHEREAS, after purchase and closing, principals of Spillian, LLC learned that the property does not contain a septic system that is compliant with the New York City Watershed Regulations and a compliant system would not be feasible or cost effective given the soil types and steep slopes on the property; and

WHEREAS, the Village of Fleischmann's expressed an interest in allowing Spillian, LLC to hook into the municipal wastewater treatment system provided a sewer main could be constructed under Route 28 to be accessible to the property; and

WHEREAS, CWC Economic Development Committee recommends the establishment of the CFF Municipal Sewer Flood Business Retention Program as described in the attached program rule change (Attachment A) to generally provide funding to municipalities, to be repaid with

annual sewer charges, for the construction of sewer main systems to serve existing or relocated businesses within the West of Hudson Watershed; and

WHEREAS, CWC staff proposes and CWC Economic Development Committee recommends that CWC accept an easement from the Village of Fleischmanns of municipal property where a sewer main would be constructed to provide service to the property in return for CWC providing up to Two Hundred Fifty-Thousand Dollars (\$250,000.00); and

WHEREAS, CWC staff proposes and CWC Economic Development Committee further recommends that CWC lease such easement to the Village of Fleischmanns with the terms of such lease including lease payments to CWC in an amount equal to Ninety-Five Percent (95%) of all sewer rents and fees collected by the Village of Fleischmanns from property owners served by the newly constructed sewer main, with such funds being paid to CWC up to the amount paid by CWC to the Village for the easement, for the purpose of constructing the sewer main; and

WHEREAS, New York State Not for Profit Corporation Law section 509 provides that “no purchase of real property shall be made by a corporation and no corporation shall sell, mortgage or lease real property, unless authorized by the vote of two-thirds of the entire board, provided that if there are twenty-one or more directors, the vote of a majority of the entire board shall be sufficient;” and

WHEREAS, the Executive Director, pursuant to the CFF Program rules, has evaluated and determined that this loan meets the criteria for a qualified economic development project, said recommendation is attached hereto and made a part hereof; and

NOW, THEREFORE BE IT RESOLVED, the CWC Board approves the establishment of the CFF Municipal Sewer Flood Business Retention Program and the Program Rule Change in Attachment A.

NOW, THEREFORE BE IT FURTHER RESOLVED, the CWC staff is authorized and directed to issue a letter informing the Village of Fleischmanns of its intention to accept an easement and enter into agreements for funding of up to Two Hundred Fifty Thousand Dollars (\$250,000) for design and construction of a sewer main extension with the terms of such agreements including lease payments to CWC in an amount equal to Ninety-Five Percent (95%) of all sewer rents and fees collected by the Village of Fleischmanns from property owners served by the newly constructed sewer main, with such funds being paid to CWC up to the amount paid by CWC to the Village for the easement, for the purpose of constructing the sewer main, subject to compliance with all applicable provisions of the New York City Watershed regulations as well as other applicable laws, rules and regulations, completion of the necessary documents, the right of objection, and staff is directed to develop the agreements, and other documentation necessary to effectuate this funding in a form agreed upon.

NOW, THEREFORE BE IT FURTHER RESOLVED, that upon said approval of easement and lease documentation CWC is authorized to close on said easement and execute said lease and is authorized to disburse proceeds thereof in accordance with the agreements and closing documents.

NOW, THEREFORE BE IT FURTHER RESOLVED, approval of an application by the Board constitutes a preliminary decision under the MOA. The decision will become final

without any further action by the Board unless an objection is timely filed with the Watershed Protection and Partnership Council.

Attachment A

Chapter 1:23 Municipal Sewer Flood Business Retention Program

Purpose: To provide loans through leaseback agreements to Watershed municipalities for expansion of service area of municipally owned wastewater treatment collection system to serve existing or relocated businesses within the West of Hudson Watershed.

1:23:01 Eligibility Requirements

To be an Eligible Municipality, an applicant:

(a) must be one of the communities on the list set forth below which has a wastewater treatment plant or community septic system; and

1. Town of Andes (Andes)
2. Town of Ashland (Ashland)
3. Town of Bovina (Bovina Center)
4. Town of Hamden (Hamden)
5. Town of Kortright (Bloomville)
6. Town of Lexington (Lexington)
7. Town of Olive (Boiceville)
8. Town of Prattsville (Prattsville)
9. Town of Roxbury (Roxbury)
10. Town of Stamford (South Kortright)
11. Town of Windham (Windham)
12. Village of Fleischmanns
13. Village of Delhi
14. Village of Hobart
15. Village of Hunter
16. Village of Stamford
17. Village of Walton

(b) one or more users of the proposed sewer extension must be an existing or relocated business within the West of Hudson Watershed that does not have an onsite septic system that complies with either the New York City Watershed Regulations or applicable New York State law and/or regulations; and

1:23:02 Loan Amounts and Use of Funds

Loans under this section shall be restricted to amount of cost of design and construction of a sewer extension to serve additional properties outside of current service area and/or sewer district. No funds may be used for construction of a privately owned lateral to a structure to be served or for operation and maintenance costs associated with a sewer extension.

1:23:03 Equity Contribution

Equity Contribution by the municipality will not be required.

1:23:04 Terms of Repayment

- a. Municipality shall charge all property owners served or eligible to be served by the sewer extension at rates that at a minimum shall be equal to the rates charged to similar properties served by the wastewater project. Under the lease agreement, municipality shall pay CWC at least quarterly an amount equal to ninety-five percent (95%) of total amount charged to all property owners served or eligible to be served by the sewer extension. Unless the term is extended by the Board, any principal, interest, fees or cost still owed the end of the term of the note shall then be immediately payable to CWC

1:23:05 Conditions to Closing

Prior to disbursement of funds, an Eligible Municipality must have: (i) created a lawful system to assess in amounts sufficient to repay the loan those Property Owners serviced by the extension on whose behalf loan funds were spent for purposes authorized by these Rules; and (ii) executed an easement lease agreement with the Catskill Watershed Corporation whereby the municipality would transfer title of easement for portion of the extension of the sewer to CWC in return for CWC leasing the easement back to the municipality with funding for construction of the extension.

1:23:06 Term of Agreements

The term of the lease shall be no more than 30 years. The term may be extended by the Board.

1:23:07 Closing Fees

The applicant will be responsible for its costs. CWC will not charge any closing fees.

Jeff Graf stated that while the NYCDEP recognizes CWC's interest due to the outstanding loan, NYC Counsel has several concerns and looks forward to the opportunity for further discussion regarding the mechanics of what's proposed in this resolution.

Georgianna asked if there is need to table this resolution or if these discussions can take place regardless of the resolution. Jeff said that discussion would be appreciated, but in the absence of those conversations he is not at liberty to vote yes for this resolution. Georgianna asked Alan if it was necessary for the Board to pass this resolution today in order for the project to move forward.

Alan stated that we have an opinion letter from CWC outside counsel, Bob McLaughlin of Hodgson Russ, closings, stating that we are not doing anything illegal and, Alan is comfortable moving forward. Alan noted that CWC is willing to have discussions with NYC attorneys at any time as this moves forward.

Alan stressed that there is a business affected that people have invested a considerable amount of personal money in. Alan continued that CWC also has invested a considerable amount of

CFF funds via a loan. Alan noted that CWC could end up with the facility back, and would have to address the sewage problem anyway. Alan concluded that he is comfortable with what CWC attorneys are advising him and is more than willing to have additional discussion regarding it, but he doesn't feel we should be holding up these people from trying to open a business up.

Martin Donnelly agreed with Alan, stating that the borrowers have over \$200,000 of their own money invested, as well as CWC's money, and he didn't agree with CWC putting this matter off. Marty concluded that CWC risks ending up with this property because the borrowers would not be able to sustain themselves without a permanent septic solution.

Thomas Snow, Jr. asked if there is a summary of concerns from NYCDEP that the Board of Directors could review. Jeff responded that DEP counsel had received an opinion letter from Bob McLaughlin late Friday afternoon and had not had sufficient time to review the document and compile their concerns. It would be premature to go into any detail. They don't object to a vote on it, but he cannot vote yes until further discussion is made.

Timothy Cox noted that there is a revised resolution for this tab and also Tab 16. The revisions restate the terms in the operative clauses and at the recommendation of Bob McLaughlin, refer not to only a lease, but to "agreements". Tim explained that the agreements with the Village of Fleischmanns would not only include a lease, but also a construction agreement, and a transfer of an easement. Tim explained that under the proposal, the Village of Fleischmanns is going to assign to CWC an easement that would be necessary for the construction of the extension. In return for that easement, CWC will be providing the Village construction funding to construct the sewer extension. CWC would also lease the easement back to the Village for a certain number of years. The Village would be paying CWC lease payments, which here would amount to 95% of the sewer fees it receives from the property owners who connect to the new line. The other 5% is the Village's to retain for administration costs. The terms of this agreement have been outlined with the Village's attorney. Tim explained that the resolution, if passed, is also subject to the 15 day right of objection. Tim noted that he is reviewing a draft lease now, and conceptually the Village is in agreement with the terms. A copy of the opinion letter from McLaughlin was distributed to the Board of Directors.

Alan noted that the City's concerns were understandable, as this is not something that they are used to, it's new and different, and the City's questions were forwarded to Bob McLaughlin as soon as they were submitted, and CWC has tried to address them as best we could.

Voice Vote, carried 14 aye, 1 nay

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### **2013 Reservoir Boating Program Funding - Tab 15**

A motion to approve Resolution No. 2271 was made by Martin Donnelly and seconded by Michael Triolo.

April 2, 2013

### **RESOLUTION NO. 2271**

### **APPROVAL OF CATSKILL WATERSHED CORPORATION FUNDING FOR THE EXPANDED BOATING PROGRAM FOR THE PEPACTON, NEVERSINK, AND SCHOHARIE RESERVOIRS**



**WHEREAS**, the Catskill Watershed Corporation (“CWC”) is a not-for-profit local development corporation whose purpose is, in part, to act in the public interest by promoting increased employment and encouraging environmentally sound development within the West of Hudson Watershed; and

**WHEREAS**, the New York City Department of Environmental Protection (NYCDEP) has collaborated with local municipal governments, environmental organizations, Chambers of Commerce and others and developed an Expanded Boating Pilot Program for the Cannonsville Reservoir in order to improve regional recreational opportunities for watershed residents and visitors and promote environmentally sound economic development by allowing certain new types of reservoir recreational boating that is compatible with water quality protection; and

**WHEREAS**, by Resolution Number 1486, the CWC Board of Directors approved funding of up to One Hundred Fifty Thousand Dollars (\$150,000.00) over three (3) years to fund the Cannonsville Reservoir Expanded Boating Pilot Program in collaboration with NYCDEP, Delaware County Economic Development and the Delaware County Chamber of Commerce; and

**WHEREAS**, the three (3) year Cannonsville Reservoir Expanded Boating Pilot Program has been completed and NYCDEP desires to expand the Boating Program to non-terminal reservoirs in the West of Hudson Watershed, including the Pepacton, Neversink, and Schoharie Reservoirs; and

**WHEREAS**, by Resolution Number 2046, the CWC Board of Directors approved funding of up to Sixty-Five Thousand Dollars (\$65,000.00) for costs for the first year of the Boating Program at non-terminal reservoirs, including steam cleaning equipment, kiosk and flag pole materials, portable restrooms, program brochures, and road; and

**WHEREAS**, the CWC Economic Development Committee recommends that CWC Board of Directors approve funding of up to Sixty-Five Thousand Dollars (\$65,000.00) for costs for the second year of the Boating Program at non-terminal reservoirs, including steam cleaning equipment, kiosk and flag pole materials, portable restrooms, program brochures, boat racks and road signs; and

**WHEREAS**, the Executive Director, pursuant to the CFF Program Contract and the CFF Program rules, has evaluated and determined that this project meets the criteria for a qualified economic development project, and said recommendation is attached hereto and made a part hereof; and

**WHEREAS**, pursuant to the CFF Program rules only the CWC Board of Directors may make an award from the CFF to an applicant.

**NOW, THEREFORE BE IT RESOLVED**, the CWC Board authorizes the President and/or the Executive Director to execute contracts for up to Sixty-Five Thousand Dollars (\$65,000.00) for the second year of the Expanded Boating Program.

**NOW, THEREFORE BE IT FURTHER RESOLVED**, the CWC staff is authorized and directed to issue a letter informing the CWC of its intention to provide funds for the second year of the Expanded Boating Program, subject to compliance with all applicable provisions of the

New York City Watershed regulations as well as other applicable laws, rules and regulations, completion of the necessary documents, and the right of objection, and staff is directed to develop an agreement and other documentation necessary to effectuate this funding.

**NOW, THEREFORE BE IT FURTHER RESOLVED**, that upon said approval of documentation CWC, is authorized to disburse proceeds thereof in accordance with the documents.

**NOW, THEREFORE BE IT FURTHER RESOLVED**, approval of an application by the Board constitutes a preliminary decision under the 1997 Watershed Memorandum of Agreement and the decision will become final without any further action by the Board unless an objection is timely filed with the Watershed Protection and Partnership Council.

### **QEDP Evaluation and CWC Staff Recommendation**

#### **Purpose: to review the Funding for the Expanded Boating Pilot Program for the Cannonsville Reservoir**

The Executive Director of the CWC makes the following evaluation concerning a Catskills Studies Funding Program Grant to CWC located on the Cannonsville Reservoir in the Towns of Deposit, Tompkins and Walton, N.Y. Evaluation is based on the Evaluation Criteria established in the Catskill Fund for the Future Program Rules, approved on August 22, 2001 and revised on May 24, 2005 by the CWC Board of Directors.

1. Based on due inquiry to the NYS DEC, the NYC DEP and to the best of CWC's knowledge, the proposed Expanded Boating Pilot Program for the Cannonsville, Neversink, Pepacton and Schoharie Reservoir is presently in compliance with all applicable environmental statutes and regulations.
2. Based on due inquiry to the NYS DEC, the NYC DEP, and to the best of CWC's knowledge, the Expanded Boating Pilot Program for the Cannonsville, Neversink Pepacton, and Schoharie Reservoirs is not subject to any enforcement actions by any regulatory agency.
3. (a) To the best of CWC's knowledge, the project is consistent with historic land use patterns, available infrastructure and sensitivity to the need for water quality protection.
  - (i) CWC will use the funds to pay for porta-johns at eight (8) launch sites, steam cleaning of boats at five (5) vendor locations and a consultant to determine the effect of the program on water quality and economic activity.
  - (ii) The project is located in the Towns of Andes, Colchester, Deposit, Gilboa, Middletown, Neversink, Prattsville, Tompkins and Walton.
  - (iii) The project will utilize portable toilets.
  - (iv) The project appears to present no threat to water quality.
  - (v) The project appears to generate no materials with the potential to degrade water quality that are not pre-treated prior to release.
  - (vi) Based upon NYC DEP, the project is in the 60-day travel time zone.
  - (vii) There is no impact on Federal or New York State Wetlands.
- (b) The project maintains the character of the Towns of Andes, Colchester, Deposit, Gilboa, Middletown, Neversink, Prattsville, Tompkins and Walton
  - (i) The project is consistent with current zoning in the Towns of Andes, Colchester, Deposit, Gilboa, Middletown, Neversink, Prattsville, Tompkins and Walton.

- (ii) The project is compatible with surrounding land uses.
  - (iii) The project will not generate excessive traffic.
  - (iv) The project as described is of such magnitude, that it does not appear likely to promote secondary growth and therefore requires no additional review of land use plans or infrastructure.
4. The project is consistent with the West-of-Hudson Economic Development Study, which has been completed.
  5. Not applicable.

**Voice Vote, carried unanimously**

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A motion to enter into Executive Session with Alan L. Rosa, Timothy Cox, Barbara Puglisi, Jason Merwin, and Phil Sireci to discuss CFF delinquent loans and new loan applicant financials was made by Thomas Snow and seconded by Richard Parete.

Voice Vote, carried unanimously

A motion to resume the regular meeting was made by Berndt Leifeld and seconded by Michael Triolo.

Voice Vote, carried unanimously

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**Authorization for Sale of Former Market Basket Property - Tab 16**

A motion to approve Resolution No. 2272 was made by Thomas Hynes and seconded by Michael Triolo.

April 2, 2013

**RESOLUTION NO. 2272**

**AUTHORIZATION FOR SALE OF REAL PROPERTY (MARKET BASKET)**

**WHEREAS**, the Catskill Watershed Corporation (CWC) established the REDI Fund Loan Program for the purpose of providing low interest loans to qualified economic development projects in the West of Hudson Watershed to be administered by the CWC in accordance with the Catskill Fund for the Future (CFF) Program Rules; and

**WHEREAS**, CWC initiated a foreclosure action against a borrower who defaulted on its loan and mortgage and as a result on December 11, 2012 became the owner of record of 43019-43201 State Route 28, Arkville, New York (“the property”), and

**WHEREAS**, Thomas Phillips and Cheryl Myers contacted CWC and desires to purchase the property “as is” for the sum of One Hundred Thousand Dollars (\$100,000.00) with CWC providing owner financing of a Ninety Thousand Dollars (\$90,000.00) for a term of fifteen (15) years, at a rate of four percent (4.0%), adjustable every five years to the CWC rate in effect at

that time, to be amortized in equal monthly payments, such that the outstanding principal is fully paid on the last payment date, for property acquisition; and

**WHEREAS**, New York State Not for Profit Corporation Law section 509 provides that “no purchase of real property shall be made by a corporation and no corporation shall sell, mortgage or lease real property, unless authorized by the vote of two-thirds of the entire board, provided that if there are twenty-one or more directors, the vote of a majority of the entire board shall be sufficient;” and

**WHEREAS**, the CWC staff has reviewed and processed this proposal, and submitted it to the Board of Directors, attached hereto; and

**WHEREAS**, the Executive Director, pursuant to the CFF Program rules, has evaluated and determined that this financing meets the criteria for a qualified economic development project, said recommendation is attached hereto and made a part hereof; and

**WHEREAS**, pursuant to the CFF Program Contract a condition of CFF loans (and grants) is that the recipient shall comply with all applicable provisions of the New York City Watershed regulations, as well as other applicable laws, rules and regulations; and

**WHEREAS**, prior to closing on this loan, all applicable approvals will have been received by the applicant; and

**WHEREAS**, pursuant to the CFF Program rules only the CWC Board of Directors may make an award from the CFF to an applicant.

**WHEREAS**, the CWC staff recommend the CWC Board waive the requirement of a participating lender pursuant to CFF Program Rule § 1:05:02 because only a first position will adequately protect the interests of CWC.

**NOW THEREFORE BE IT RESOLVED**, that the CWC Board of Directors authorizes the sale of real property located at 43019-43201 State Route 28, Arkville, New York in its current condition as is for the sum of One Hundred Thousand Dollars (\$100,000.00) to Thomas Phillips and Cheryl Myers or a corporation to be formed by them.

**NOW, THEREFORE BE IT RESOLVED**, the CWC Board determines that Thomas Phillips and Cheryl Myers’ proposal and request meets the CWC CFF qualified economic development criteria and approves of financing request in the amount of Ninety Thousand Dollars (\$90,000.00) for a term of fifteen (15) years, at a rate of four percent (4.0%), adjustable every five years to the CWC rate in effect at that time, to be amortized in equal monthly payments, such that the outstanding principal is fully paid on the last payment date and waives the requirements of a participating lender pursuant to CFF Program Rule §1:05:02.

#### **QEDPEvaluation and CWC Staff Recommendation**

**Purpose: To review the CWC Loan Application of The Market Basket LLC**

The Executive Director of the CWC makes the following evaluation concerning a REDI Fund Loan to The Market Basket LLC located in the Town of Middletown, NY. Evaluation is based

on the Evaluation Criteria established in the Catskill Fund for the Future Program Rules, approved on August 22, 2001 by the CWC Board of Directors.

1. Based on due inquiry to the NYSDEC, the NYCDEP and to the best of CWC's knowledge, the property at Route 28, Arkville, NY owned by The Market Basket LLC is presently in compliance with all applicable environmental statutes and regulations.
2. Based on due inquiry to the NYSDEC, the NYCDEP and to the best of CWC's knowledge, the property at Route 28, Arkville, NY owned by The Market Basket LLC is not subject to any enforcement actions by any regulatory agency.
3. (a) To the best of CWC's knowledge, the project is consistent with historic land use patterns, available infrastructure and sensitivity to the need for water quality protection.
  - (i) The Market Basket LLC will increase cash flow by reducing their interest rate with a pari passu agreement between the CWC and the National Bank of Stamford.
  - (ii) The project is located in the Town of Middletown.
  - (iii) The project will utilize the Margaretville waste water treatment system.
  - (iv) The project appears to present no threat to water quality.
  - (v) The project appears to generate no materials with the potential to degrade water quality that are not pretreated prior to release.
  - (vi) Based on NYCDEP the project is not in the 60 day travel time.
  - (vii) There is no impact on Federal or State wetlands.(b) The project maintains the character of the Town of Middletown.
  - (i) The project is consistent with current zoning.
  - (ii) The project is compatible with surrounding land uses.
  - (iii) The project will not generate excessive traffic.
  - (iv) "The project as described is of such magnitude that it does not appear likely to promote secondary growth and therefore requires no additional review of land use plans or infrastructure."
4. The project is consistent with the West of Hudson Economic Development Study, which has been completed.
5. Not applicable.

**Voice Vote, carried unanimously**

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CFF REDI Loan – Hidden Waters II, Inc. - Tab 17

A motion to approve Resolution No. 2273 was made by Martin Donnelly and seconded by Thomas Hynes.

April 2, 2013

RESOLUTION NO. 2273
APPROVAL OF HIDDEN WATERS HOLDINGS INC. BUSINESS LOAN

WHEREAS, the Catskill Watershed Corporation (CWC) established the REDI Fund Loan Program for the purpose of providing low interest loans to qualified economic development projects in the West of Hudson Watershed to be administered by the CWC in accordance with the Catskill Fund for the Future (CFF) Program Rules; and

WHEREAS, On December 6, 2011, by Resolution Number 2024 the Board of Directors approved a loan to Hidden Waters Holdings Inc. in the amount of One Hundred Twenty-Five Thousand Dollars (\$125,000.00) for a term of fifteen (15) years, at a rate of four percent (4.0%) adjusting to the CWC rate every five years thereafter to the CWC rate in effect at that time, to be amortized in equal monthly payments, such that the outstanding principal is fully paid on the last payment date, to relocate its storage units and other businesses currently in a flood plain to a location outside of a flood plain; and

WHEREAS, Hidden Waters Holdings Inc. has applied for a Fifty-Five Thousand Dollar (\$55,000) loan for a term of fifteen (15) years, at a rate of four percent (4.0%) adjusting to the CWC rate every five years thereafter to the CWC rate in effect at that time, to be amortized in equal monthly payments, such that the outstanding principal is fully paid on the last payment date, to expand their storage business; and

WHEREAS, pursuant to the CFF Program rules the CWC Staff has reviewed a completed CWC Loan application for Hidden Waters Holdings Inc.; and

WHEREAS, pursuant to the CFF Program rules the CWC Loan Committee has reviewed an underwriting report for Hidden Waters Holdings Inc.; and

WHEREAS, the CWC Loan Committee has recommended approval of the CWC Loan application from Hidden Waters Holdings Inc. and

WHEREAS, the CWC staff has reviewed and processed this application, and submitted a loan application report to the Board of Directors, attached hereto; and

WHEREAS, the Executive Director, pursuant to the CFF Program rules, has evaluated and determined that this loan meets the criteria for a qualified economic development project, said recommendation is attached hereto and made a part hereof; and

WHEREAS, pursuant to the CFF Program Contract a condition of CFF loans (and grants) is that the recipient shall comply with all applicable provisions of the New York City Watershed regulations, as well as other applicable laws, rules and regulations; and

WHEREAS, prior to closing on this loan, all applicable approvals will have been received by the applicant; and

WHEREAS, pursuant to the CFF Program rules only the CWC Board of Directors may make an award from the CFF to an applicant.

NOW, THEREFORE BE IT RESOLVED, the CWC Board determines that the Hidden Waters Holdings Inc. application meets the CWC CFF qualified economic development criteria and approves of the loan application in the amount of Fifty-Five Thousand Dollars (\$55,000) for a term of fifteen (15) years, at a rate of four percent (4.0%) adjustable every five years thereafter to the CWC rate in effect at that time, to be amortized in equal monthly payments, such that the outstanding principal is fully paid on the last payment date.

NOW, THEREFORE BE IT FURTHER RESOLVED, the CWC staff is authorized and directed to issue a commitment letter informing the borrower of its intention to issue the loan subject to compliance with all applicable provisions of the New York City Watershed regulations

as well as other applicable laws, rules and regulations, completion of the necessary documents, the right of objection and staff is directed to develop the loan agreement, promissory notes and other documentation necessary to effectuate this loan in a form agreed upon by NYSEFC.

NOW, THEREFORE BE IT FURTHER RESOLVED, that upon said approval of loan documentation CWC, in conjunction with NYSEFC, is authorized to close on said loan and NYSEFC is authorized to disburse proceeds thereof in accordance with the loan documents.

NOW, THEREFORE BE IT FURTHER RESOLVED, approval of an application by the Board constitutes a preliminary decision under the MOA. The decision will become final without any further action by the Board unless an objection is timely filed with the Watershed Protection and Partnership Council.

QEDPEvaluation and CWC Staff Recommendation

Purpose: To review the CWC Loan Application of Hidden Waters Holdings Inc.

The Executive Director of the CWC makes the following evaluation concerning a REDI Fund Loan to Hidden Waters Holdings Inc., located at 44401 NYS Rte. 30, Margaretville, NY. Evaluation is based on the Evaluation Criteria established in the Catskill Fund for the Future Program Rules, approved on August 22, 2001 by the CWC Board of Directors.

1. Based on due inquiry to the NYSDEC, the NYCDEP and to the best of CWC's knowledge, the property at 44401 NYS Rte 30, Margaretville, NY, owned by Hidden Waters Holdings Inc., is presently in compliance with all applicable environmental statutes and regulations.
2. Based on due inquiry to the NYSDEC, the NYCDEP and to the best of CWC's knowledge, the property at 44401 NYS Rte. 30, Margaretville, NY, owned by Hidden Waters Holdings Inc., is not subject to any enforcement actions by any regulatory agency.
3. (a) To the best of CWC's knowledge, the project is consistent with historic land use patterns, available infrastructure and sensitivity to the need for water quality protection.
 - (i) Hidden Waters Holdings Inc. will utilize loan funds to construct storage units on the property located at 44401 NYS Rte. 30, Margaretville, which is not in a flood plain.
 - (ii) The project is located in the Town of Middletown.
 - (iii) The project will utilize a septic system.
 - (iv) The project appears to present no threat to water quality.
 - (v) The project appears to generate no materials with the potential to degrade water quality that are not pretreated prior to release.
 - (vi) Based on NYCDEP the project is not in the 60 day travel time.
 - (vii) There is no impact on Federal or State wetlands.
- (b) The project maintains the character of the Town of Middletown.
 - (i) The project will comply with current land use planning in the Town of Middletown and will have planning board approval..
 - (ii) The project is compatible with surrounding land uses.
 - (iii) The project will not generate excessive traffic.
 - (iv) The project as described is of such magnitude that it does not appear likely to promote secondary growth and therefore requires not additional review of land use plans or infrastructure.
4. The project is consistent with the West of Hudson Economic Development Study, which has been completed.

5. Not applicable.

Voice Vote, carried unanimously

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**CFF REDI Loan – Cowan Excavating – Loan Modification - Tab 18**

A motion to approve Resolution No. 2274 was made by Michael Triolo and seconded by Wayne Marshfield.

April 2, 2013

**RESOLUTION NO. 2274**  
**APPROVAL OF COWAN EXCAVATING LLC**  
**BUSINESS LOAN**

**WHEREAS**, the Catskill Watershed Corporation (CWC) established the REDI-Fund Loan Program for the purpose of providing low-interest loans to qualified economic- development projects in the West-of-Hudson Watershed to be administered by the CWC in accordance with the Catskill Fund for the Future (CFF) Program Rules; and

**WHEREAS**, Cowan Excavating LLC wishes to refinance existing debt and secure working capital for its business operation; and

**WHEREAS**, Cowan Excavating LLC has applied for a One Hundred Fifty-Nine Thousand Dollar (\$159,000.00) loan for a term of fifteen (15) years at a rate of four percent (4.0%), adjustable every five years to the CWC rate in effect at that time; to be amortized in two hundred forty (240) equal monthly payments, with the one hundred and eightieth (180<sup>th</sup>) payment being a balloon payment, such that the outstanding principal is fully paid on the one hundred and eightieth (180<sup>th</sup>) payment date; to be used for the refinancing of existing debt and to secure adequate working capital for its business located at 801 Old River Road in the Hamlet of Halcottsville; and

**WHEREAS**, pursuant to the CFF Program Rules, the CWC Staff has reviewed a completed CWC Loan Application for Cowan Excavating LLC; and

**WHEREAS**, pursuant to the CFF Program Rules, the CWC Loan Committee has reviewed an underwriting report for Cowan Excavating LLC; and

**WHEREAS**, the CWC Loan Committee has recommended approval of the CWC Loan Application from Cowan Excavating LLC; and

**WHEREAS**, the CWC Staff has reviewed and processed this application and submitted a loan application report to the CWC Board of Directors, attached hereto; and

**WHEREAS**, the Executive Director, pursuant to the CFF Program Rules, has evaluated and determined that this loan meets the criteria for a qualified economic-development project; said recommendation is attached hereto and made a part hereof; and



**WHEREAS**, pursuant to the CFF Program Contract, a condition of CFF Loans (and Grants) is that the recipient shall comply with all applicable provisions of the New York City Watershed Regulations, as well as other applicable laws, rules and regulations; and

**WHEREAS**, prior to closing on this loan, all applicable approvals will have been received by the applicant; and

**WHEREAS**, pursuant to the CFF Program Rules, only the CWC Board of Directors may make an award from the CFF to an applicant.

**NOW THEREFORE, BE IT RESOLVED**, the CWC Board of Directors determines that the Cowan Excavating LLC application meets the CWC CFF qualified economic-development criteria and approves of the loan application in the amount of One Hundred Fifty-Nine Thousand Dollars (\$159,000.00) for a term of fifteen (15) years, at a rate of four percent (4.00%), adjustable every five years to the CWC rate in effect at that time; to be amortized in two hundred forty (240) equal monthly payments, with the one hundred and eightieth (180<sup>th</sup>) payment being a balloon payment, such that the outstanding principal is fully paid on the one hundred and eightieth (180<sup>th</sup>) payment date; and

**NOW, THEREFORE, BE IT FURTHER RESOLVED**, the CWC Staff is authorized and directed to issue a commitment letter informing the borrower of its intention to issue the loan subject to compliance with all applicable provisions of the New York City Watershed Regulations, as well as other applicable laws, rules and regulations; completion of the necessary documents; the right of objection; and CWC staff is directed to develop the Loan Agreement, Promissory Notes and other documentation necessary to effectuate this loan.

**NOW, THEREFORE, BE IT FURTHER RESOLVED**, that upon said approval of loan documentation, CWC is authorized to close on said loan and CWC is further authorized to disburse proceeds thereof in accordance with the loan documents.

**NOW, THEREFORE, BE IT FURTHER RESOLVED**, approval of a Loan (or Grant) Application by the CWC Board of Directors, constitutes a preliminary decision under the MOA. The decision will become final without any further action by the CWC Board of Directors, unless an objection is timely filed with the Watershed Protection and Partnership Council (WPPC).

### **QEDP Evaluation and CWC Staff Recommendation**

#### **Purpose: to review the CWC Loan Application of Cowan Excavating LLC**

The Executive Director of the CWC makes the following evaluation concerning a REDI- Fund Loan to Cowan Excavating LLC, whose offices are located in the Hamlet of Halcottsville in the Town of Halcott, N.Y. Evaluation is based on the Evaluation Criteria established in the Catskill Fund for the Future Program Rules, adopted on August 22, 2001 by the CWC Board of Directors.

1. Based on due inquiry to the NYS DEC, the NYC DEP and to the best of CWC's knowledge, the business located at 801 Old River Road, Halcottsville, N.Y. and known as Cowan Excavating LLC, and currently owned by David Cowan and Douglas Cowan as equal shareholders, is presently in compliance with all applicable environmental statutes and regulations.

2. Based on due inquiry to the NYS DEC, the NYC DEP and to the best of CWC's knowledge, the business located at 801 Old River Road, Halcottsville, N.Y. and known as Cowan Excavating LLC, and currently owned by David Cowan and Douglas Cowan as equal shareholders, is not subject to any enforcement actions by any regulatory agency.
3. (a) To the best of CWC's knowledge, the business located at 801 Old River Road, Halcottsville, N.Y., is consistent with historic land-use patterns, available infrastructure and sensitivity to the need for water-quality protection.
  - (i) Cowan Excavating LLC will refinance existing debt and secure working capital for the business located at 801 Old River Road, Halcottsville, N.Y.
  - (ii) The project is located in the Hamlet of Halcottsville in the Town of Halcott.
  - (iii) The project will utilize an existing septic sewage system.
  - (iv) The project appears to present no threat to water quality.
  - (v) The project appears to generate no materials with the potential to degrade water quality that are not pre-treated prior to release.
  - (vi) Based on NYC DEP, the project is not in the sixty (60)-day travel time.
  - (vii) There is no impact on Federal or State Wetlands.
- (b) The project maintains the character of the Hamlet of Halcottsville.
  - (i) The project is consistent with current zoning.
  - (ii) The project is compatible with surrounding land uses.
  - (iii) The project will not generate excessive traffic.
  - (iv) The project as described is of such magnitude that it does not appear likely to promote secondary growth and therefore requires no additional review of land-use plans or infrastructure.
4. The project is consistent with the West-of-Hudson Economic-Development Study, which has been completed.
5. Not applicable.

**Voice Vote, carried unanimously**

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VII. Announcements from the Chair: None

VIII. Board Member Discussion: None

A motion to adjourn was made by Martin Donnelly and seconded by James Eisel.

Voice Vote, carried unanimously

IX. Adjournment: @ 3:10 p.m.