

**CATSKILL WATERSHED CORPORATION**

**Board of Directors Meeting**

**MINUTES**

**April 5, 2016 @ 1:00 p.m.**

**I. Call to Order**

**II. Pledge of Allegiance:** Led by Martin Donnelly.

**III. Roll Call of Directors**

**Members Present:** Donald Brandow, Martin Donnelly, James Eisel, David Warne (*New York City DEP*), Thomas Hynes, Innes Kasanof, Berndt Leifeld, Wayne Marshfield, Mark McCarthy, Tina Molé, Richard Parete, Robert Pelham, Thomas Snow (*New York State DEC*), and Michael Triolo.

**Members Excused:**

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

**Others Present:** Jeff Baker, Counsel to Coalition of Watershed Towns (*Young/Sommer, LLC*), Bruce E. Dolph, Chairman (*Coalition of Watershed Towns*), Dean Frazier, Commissioner (*Delaware County Watershed Affairs*), Jeff Graf (*New York City DEP*), Michael Meyer (*New York City DEP*), Dan Ruzow, Outside Counsel to CWC (*Whiteman Osterman & Hanna*), and Michael Sterthous, Outside Counsel to CWC (*Whiteman Osterman & Hanna*).

**IV. Review and Approval of March 1, 2016 Board Meeting Minutes**

A motion to approve the minutes from the March 1, 2016 board meeting was made by Berndt Leifeld and seconded by Robert Pelham.

**Voice Vote, carried unanimously**

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**V. Presentation of Communication**

**Finance Report**

A motion to approve the financial reports as of January 31, 2016 was made by James Eisel and seconded by Martin Donnelly.

**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.

**Committee Schedule**

**Committee Meeting Minutes**

**VI. Public Discussion**

*Diane Galusha announced the new exhibit “Water Music” by Helene Levine Davis, a photographer/artist/writer from New Kingston. All photographs are for sale.*

**VII. Presentation of Resolutions**

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*A motion to waive Rule 14 was made by James Eisel and seconded by Richard Parete.*

**Voice Vote, carried unanimously**

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**Handout Resolution – Septic Reimbursement Over \$25,000 – Leonard Govern**

A motion to approve Resolution No. 2829 was made by Wayne Marshfield and seconded by Robert Pelham.

April 5, 2016

**RESOLUTION NO. 2829**

**BOARD APPROVAL OF SEPTIC CONSTRUCTION ESTIMATE OVER \$25,000:  
LEONARD GOVERN**

**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-Five Thousand Dollars (\$25,000) CWC staff shall forward the design with recommendation to the CWC Board for approval; and

**WHEREAS**, CWC Septic Program Rules provide no authority for the Executive Director to approve reimbursement for a second design of a septic system; and

**WHEREAS**, on December 15, 1999, CWC previously funded a NYC DEP-approved septic design for Leonard Govern in the amount of One Thousand Fifty-Nine Dollars and Ninety Cents (\$1,059.90); and

**WHEREAS**, the approval for the septic design expired, and the engineer who completed the designs is no longer in business, and the property owner desires to have a current design; and

**WHEREAS**, CWC staff has reviewed the previous design and recognized that changes in design standards since 1999, will reduce costs of construction for the septic system; and

**WHEREAS**, the CWC staff have determined the engineer's quote of Eight Hundred Fifty Dollars (\$850.00) to be a reasonable cost to update the septic design; and

**WHEREAS**, the Septic Committee has reviewed the documentation and recommend approving the engineer's quote of Eight Hundred Fifty Dollars (\$850.00).

**NOW, THEREFORE LET IT BE RESOLVED**, that the CWC Board of Directors approves the eligible cost of this system redesign for reimbursement to be the total not-to-exceed amount of Eight Hundred Fifty Dollars (\$850.00).

**Leonard Govern Backup**

This project is located in Walton. The design was completed over seventeen years ago, however this system was never constructed. After reviewing this design it became apparent that some of the parameters used in the original design no longer apply to our standards. Our current rules allow us to pay for a design one time. We asked a design engineer to value engineer the plan that better reflects today's standards. He has requested \$850.00 to perform that task. It is our opinion that the revised plan will save a substantial amount of money (\$5,000 to \$6,000) dollars. The Septic Committee recommends that the Board of Directors approve reimbursement in an amount not to exceed \$850.00 to the engineer for the redesign.

**Voice Vote, carried unanimously**

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**Septic Reimbursement Over \$25,000 – Christopher Morley – Tab 6**

A motion to approve Resolution No. 2830 was made by Wayne Marshfield and seconded by Robert Pelham.

April 5, 2016

**RESOLUTION NO. 2830**

**BOARD APPROVAL OF SEPTIC CONSTRUCTION ESTIMATE OVER \$25,000:  
CHRISTOPHER MORLEY**

**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-Five Thousand Dollars (\$25,000) 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-Five Thousand Four Hundred Fifty-Four Dollars (\$25,454.00); and

**WHEREAS**, the contractor's quote for this system is more than Twenty-Five Thousand Dollars (\$25,000); and

**WHEREAS**, the CWC staff have determined the contractor's quote of Twenty-Five Thousand Four Hundred Fifty-Four Dollars (\$25,454.00) 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-Five Thousand Four Hundred Fifty-Four Dollars (\$25,454.00) 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 Four Hundred Fifty-Four Dollars (\$25,454.00).

**Christopher Morley Backup**

Mr. Morley's property is located in the Town of Hunter, Greene County. Homeowner and CWC staff received a quote from a contractor in the amount of \$25,454.00. This system is for a four bedroom house. The major components for this system include a 1,250 gallon septic tank, 55 lineal feet of 4" gravity piping, a pump station, 70 cubic yards of absorption fill material, four peat modules, relocation of a shed, removal of several trees, and site restoration. The quote does not exceed the CWC Schedule of Values. The Septic Committee recommends that the Board of Directors approve reimbursement in an amount not to exceed \$25,454.00.

**Voice Vote, carried unanimously**

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**Septic Reimbursement Over \$25,000 – Willa Roberts – Tab 7**

A motion to approve Resolution No. 2831 was made by Wayne Marshfield and seconded by Robert Pelham.

April 5, 2016

**RESOLUTION NO. 2831**

**BOARD APPROVAL OF SEPTIC CONSTRUCTION ESTIMATE OVER \$25,000:  
WILLA ROBERTS**

**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-Five Thousand Dollars (\$25,000) 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-Six Thousand Dollars (\$26,000.00); and

**WHEREAS**, the contractor's quote for this system is more than Twenty-Five Thousand Dollars (\$25,000); and

**WHEREAS**, the CWC staff have determined the contractor's quote of Twenty-Six Thousand Dollars (\$26,000.00) 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-Six Thousand Dollars (\$26,000.00) 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-Six Thousand Dollars (\$26,000.00).

**Willa Roberts Backup**

Ms. Roberts'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 \$26,000.00. This system is for a two bedroom house. The major components for this system include a 1,000 gallon septic tank, one siphon chamber, 50 lineal feet of 4" gravity piping, 245 cubic yards of absorption fill material, one distribution box, one effluent filter, 160 lineal feet of absorption trench, 135 lineal feet of curtain drain, 155 lineal feet of swale, removal of existing culvert piping, and temporary access. The quote is within 10% of the CWC Schedule of Values. The Septic Committee recommends that the Board of Directors approve reimbursement in an amount not to exceed \$26,000.00.

***Voice Vote, carried unanimously***

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**Septic Reimbursement Over \$25,000 – Mary Seguire – Tab 8**

A motion to approve Resolution No. 2832 was made by Wayne Marshfield and seconded by Robert Pelham.

April 5, 2016

**RESOLUTION NO. 2832**

**BOARD APPROVAL OF SEPTIC CONSTRUCTION ESTIMATE OVER \$25,000:  
MARY SEGUINE**

**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-Five Thousand Dollars (\$25,000) 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-Six Thousand Five Hundred Fifty Dollars (\$26,550.00); and

**WHEREAS**, the contractor's quote for this system is more than Twenty-Five Thousand Dollars (\$25,000); and

**WHEREAS**, the CWC staff have determined the contractor's quote of Twenty-Six Thousand Five Hundred Fifty Dollars (\$26,550.00) 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-Six Thousand Five Hundred Fifty Dollars (\$26,550.00) 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-Six Thousand Five Hundred Fifty Dollars (\$26,550.00).

**Mary Seguine Backup**

Ms. Seguine's property is located in the Town of Ashland, Greene County. Homeowner and CWC staff received a quote from a contractor in the amount of \$26,550.00. This system is for a three bedroom house. The major components for this system include a 1,000 gallon H2O loading septic tank, 80 lineal feet of 4" gravity piping, 35 lineal feet of 2" forced main, 396 cubic yards of absorption fill material, one effluent filter, 245 lineal feet of absorption trench, 130 lineal feet of curtain drain, tree removal, and site restoration. The quote does not exceed the CWC Schedule of Values. The Septic Committee recommends that the Board of Directors approve reimbursement in an amount not to exceed \$26,550.00.

***Voice Vote, carried unanimously***

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**Future Stormwater – DRNC Realty, LLC – Tab 9**

A motion to approve Resolution No. 2833 was made by Richard Parete and seconded by Martin Donnelly.

April 5, 2016

**RESOLUTION NO. 2833**

**BOARD REVIEW OF FUTURE STORMWATER PROGRAM APPLICATION FOR  
DRNC REALTY, LLC (DELHI REHABILITATION AND NURSING CENTER)  
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**, DRNC Realty, LLC has applied for a not-to-exceed amount of One Hundred Sixty-Two Thousand Four Hundred Ten Dollars and Twenty-Three Cents (\$162,410.23) for design and construction of new stormwater controls related to renovations being done at an existing building being brought up to code to reopen a rehabilitation and nursing center. These renovations required a NYS SWPPP and NYC DEP had additional requirements; and

**WHEREAS**, the CWC share of stormwater funding is 50% of the eligible costs for this project because DRNC Realty, LLC is a small business under Watershed MOA Paragraph 145; 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 and construction costs for a total not-to-exceed amount of One Hundred Sixty-Two Thousand Four Hundred Ten Dollars and Twenty-Three Cents (\$162,410.23); and

**WHEREAS**, the CWC Wastewater/Stormwater Committee recommends 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 in a total amount not to exceed One Hundred Sixty-Two Thousand Four Hundred Ten Dollars and Twenty-Three Cents (\$162,410.23).

**CWC Future Stormwater Controls Program - DRNC Realty, LLC – Town of Delhi, Delaware County**

DRNC Realty, LLC has applied for design and construction funding. NYC DEP had additional requirements above and beyond State and Federal Regulations. DRNC Realty, LLC submitted a Stormwater Pollution Prevention Plan with revisions to comply with NYC DEP regulations. The engineer has tracked his time separately from the first meeting with NYC DEP. Design approval was issued by NYC DEP on January 26, 2016. This is a small business 50% DEP and 50% CWC funding.

Total Requested Funding: \$324,820.46  
Total Recommended CWC Funding: **\$162,410.23**

Recommended CWC funding 50% of eligible SWPPP construction costs \$162,410.23

*Voice Vote, carried unanimously*

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**Future Stormwater – Masserson Properties (Stratton Falls) – Tab 10**

A motion to approve Resolution No. 2834 was made by Richard Parete and seconded by James Eisel.

April 5, 2016

**RESOLUTION NO. 2834**

**BOARD REVIEW OF FUTURE STORMWATER PROGRAM APPLICATION FOR  
MASSERSON PROPERTIES (THE ROXBURY AT STRATTON FALLS)  
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**, Masserson Properties has applied for design funding in a not-to-exceed amount of Twenty Thousand Nine Hundred Seventy-Seven Dollars and Twenty-Five Cents (\$20,977.25) for design of new stormwater controls related to new impervious surfaces being built at the Stratton Falls House. These renovations required a NYS SWPPP and NYC DEP had additional requirements; and

**WHEREAS**, the CWC share of stormwater funding is 50% of the eligible costs for this project because Masserson Properties is a small business under Watershed MOA Paragraph 145; 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 Twenty Thousand Nine Hundred Seventy-Seven Dollars and Twenty-Five Cents (\$20,977.25); and

**WHEREAS**, the CWC Wastewater/Stormwater Committee recommends 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 in a total amount not to exceed Twenty Thousand Nine Hundred Seventy-Seven Dollars and Twenty-Five Cents (\$20,977.25).

**CWC Future Stormwater Controls Program - Masserson Properties – Town of Roxbury, Delaware County**

Gregory Henderson has applied for design funding. This site required at NYS SWPPP. NYC DEP has additional requirements. The Project Engineer has determined the increase in treatment to be 67% of the total stormwater costs which will be applied to the construction portion of this project. The Engineer has billed separately for the design costs incurred due to NYC DEP requirements. Design approval was issued by NYC DEP on November 13, 2015. This is a small business making it 50% CWC funding and 50% NYC DEP funding.

Total requested Design Funding: \$41,954.50  
Total Recommended CWC Funding 50%: **\$20,977.25**

Recommended CWC funding 50% of eligible SWPPP construction costs \$162,410.23

**Voice Vote, carried unanimously**

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**Future Stormwater – Additional Funds – The Windham Foursome, LLC – Tab 11**

A motion to approve Resolution No. 2835 was made by Berndt Leifeld seconded by Wayne Marshfield.

April 5, 2016

**RESOLUTION NO. 2835**

**BOARD REVIEW OF FUTURE STORMWATER PROGRAM APPLICATION FOR  
THE WINDHAM FOURSOME, LLC ADDITIONAL FUNDS  
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**, by Resolution Number 2811, The Windham Foursome, LLC was approved for a not-to-exceed amount of Fifteen Thousand Five Hundred Thirty-Six Dollars and Thirty-Two

Cents (\$15,536.32) for design of new stormwater controls related to a 10 lot subdivision with under five acres of disturbance; and

**WHEREAS**, The Windham Foursome, LLC has applied for additional funding for eligible construction project costs in the amount of Two Hundred Seventy-Four Thousand Six Hundred Fifty-Three Dollars and Eighty-Nine Cents (\$274,653.89); and

**WHEREAS**, the CWC share of stormwater funding is 50% of the eligible costs for this project because The Windham Foursome, LLC is a small business under Watershed MOA Paragraph 145; 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 construction costs in an amount not to exceed Two Hundred Seventy-Four Thousand Six Hundred Fifty-Three Dollars and Eighty-Nine Cents (\$274,653.89), for a total not-to-exceed amount of Two Hundred Ninety Thousand One Hundred Ninety Dollars and Twenty-One Cents (\$290,190.21); 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 in a total amount not to exceed Two Hundred Ninety Thousand One Hundred Ninety Dollars and Twenty-One Cents (\$290,190.21).

**CWC Future Stormwater Controls Program - The Windham Foursome, LLC – Town of Windham, Greene County**

The Windham Foursome, LLC purchased property in the Town of Windham, Greene County. The corporation then subdivided the property into 10 lots with a total disturbance of less than five acres. This action requires a SWPPP approved by NYC DEP and soil erosion control plan filed with NYS DEC. The Windham Foursome, LLC is a small business with under 100 employees and therefore they are eligible for 50% reimbursement of eligible costs from the CWC and are eligible to apply to the NYC DEP for the remaining 50%.

Total Eligible Construction Costs	\$549,307.77
NYCDEP 50% Share	\$274,653.89

Recommended CWC funding 50% of eligible SWPPP construction costs \$274,653.89

**Voice Vote, carried unanimously**

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**Future Stormwater Program Rules Amendment – Eligible Costs – Tab 12**

A motion to approve Resolution No. 2836 was made by James Eisel and seconded by Martin Donnelly.

**RESOLUTION NO. 2836**  
**FUTURE STORMWATER PROGRAM RULES AMENDMENTS**  
**ELIGIBLE COSTS**

**WHEREAS**, pursuant to Paragraph 128 of the 1997 New York City Watershed Memorandum of Agreement, the Catskill Watershed Program (CWC) administers the Future Stormwater Program fund to provide for the reimbursement of expenses related to design, construction, implementation, and maintenance of stormwater measures pursuant stormwater pollution prevention plan required by § 18-39(b)(3) of the New York City Watershed Regulations that are not otherwise required by federal and/or State law; and

**WHEREAS**, as set forth in Paragraph 145 of the Watershed MOA, entitled “Future Stormwater Controls Paid for by the City: Single-Family Houses, Small Businesses, Low-Income Housing,” the City has agreed to pay for certain costs of stormwater measures required by the Watershed Regulations that are not otherwise required by State and/or federal law (the “MOA 145 Stormwater Program”); and

**WHEREAS**, the City has promulgated *Rules and Regulations for the Protection from Contamination, Degradation and Pollution of the New York City Water Supply and its Sources*, 10 NYCRR Part 128-1.1. *et seq.*; 15 RCNY Chapter 18-11, *et seq.* (the “Watershed Regulations”); and

**WHEREAS**, Section 18-39 of the Watershed Regulations requires a property owner to prepare and implement stormwater pollution prevention plans (“SWPPPs”), which are subject to the review and approval of DEP, for certain construction projects located within the watershed of the City’s drinking water supply (the “Watershed”); and

**WHEREAS**, Section 18-39 of the Watershed Regulations further provides that a SWPPP must be prepared and implemented pursuant to New York State Department of Environmental Conservation (NYSDEC) General Permit 0-10-001 (GP 10-01) that are applicable to construction activities identified in Table 2 of Appendix B, and subject to seven additional requirements; and

**WHEREAS**, CWC staff reviewed Future Stormwater reimbursements and report that on average eligible costs exceed fifty percent of all stormwater costs when both NYCDEP Watershed Regulations and NYSDEC stormwater requirements; and

**WHEREAS**, a majority of CWC Wastewater Committee recommend attached changes to Future Stormwater Program Rules to provide for presumption that 50% of stormwater costs are City-only requirements when both NYCDEP Watershed Regulations and NYSDEC stormwater requirements apply, and other changes relating to reimbursement.

**NOW THEREFORE BE IT RESOLVED**, that the CWC Board of Directors approves the attached Program Rule Change.

**NOW THEREFORE BE IT FURTHER RESOLVED**, that the CWC Board of Directors may further amend the CWC Future Stormwater Program Rules as may be required from time to time.

## PROPOSED FUTURE STORMWATER PROGRAM RULE CHANGES

### These changes would be effective for applications received on or after May 2, 2016

#### 5:00:03. Eligible Projects

This program shall fund new stormwater projects located west of the Hudson River as follows.

1. The project is required solely by Watershed Regulations section 18-39(b)(3) or 18-39(e), not otherwise required by federal and/or State law, and is developed pursuant to one of the following:
  - A Stormwater Pollution Prevention Plan (SPPP)
  - An Individual Residential Stormwater Plan (IRSP)
  - For purposes of this program, any action required by a Total Maximum Daily Loads analysis developed by NYSDEC for a NYC reservoir west of the Hudson River solely for phosphorus control shall not constitute a requirement of federal / State law.

For construction projects that are required to have an SPPP on file by State and Federal regulation, CWC policy identifies such projects as eligible for part of the project costs, as is discussed in the eligible cost portion of these rules, section 5:00:04.

2. The project must be in compliance with the Watershed Regulations, all applicable state and local regulations and these program rules and standards.
3. The project shall be designed, constructed, implemented, operated and maintained by a qualified contractor.
4. Program funds may be used only to pay the costs of eligible projects incurred after the effective date of the Watershed Regulations (May 1, 1997).
5. Paragraph 145 of the MOA entitled: "Future Stormwater Controls Paid for by the City: Single – Family Houses, Small Businesses, Low Income Housing" was adopted to provide additional support to those categories while reducing the burden on the West of Hudson Future Stormwater Fund. Under paragraph 145 (b) (ii) of the MOA, the City is obligated to "pay reasonable and proper costs for work completed in designing, implementing, and maintaining stormwater measures ... within 90 days of submission of appropriate invoices and backup material." For single family housing the City is obligated to pay "the entire cost of designing and implementing Stormwater pollution prevention measures". For low-income housing, under Paragraph 145 (b)(iii) of the MOA, the City is obligated to pay 100% of the incremental costs of designing and implementing a stormwater pollution prevention plan required by Section 18-39(b) of the Watershed Regulations, and not otherwise required by State or federal law. For those two categories of projects, CWC staff is available to provide assistance to the applicant in preparing the submission of "appropriate invoices and backup material" for the work completed and will provide assistance in tracking the City's payment obligation.
6. For a project for a small business as defined herein, Paragraph 145 (b)(ii) provides that the City will pay 50% of the incremental costs of designing and implementing stormwater pollution prevention plans not otherwise required by state and federal law.

For those projects, the applicant shall submit a complete application to CWC for funding. The CWC Board will review the application and determine the eligible amount and fund 50% of such eligible amount. Upon approval of the application for funding and the determination of the eligible amount by the CWC Board, CWC will submit to the NYCDEP the application, the backup material and its written determination and will provide assistance in tracking the City's payment obligation. In order to obtain reimbursement from DEP, the applicant is required to provide NYCDEP with invoices for the work completed. **Program funds shall be used to pay for eligible projects that are not otherwise funded by NYCDEP. The program funds may not be used to pay any costs that have been or will be paid for with funds provided under any other program pursuant to the MOA. The following table illustrates portion of projects that may be funded by NYCDEP and portions that may be funded under this program.**

7. If a project applies for and is denied funding by NYCDEP under MOA Paragraph 145 (and therefore would not receive 100% funding of eligible stormwater costs), CWC Board may fund those eligible costs not funded by NYCDEP. CWC shall require the applicant to provide to CWC an assignment of claim for the costs denied reimbursement by NYCDEP.

Percentage of Costs of New Stormwater Controls Eligible for CWC Funding / NYCDEP Funding, By Property Use

|                               | <u>Low Income Housing (1)</u>                           | <u>One Family Housing (1)</u>              | <u>Small Businesses as defined in MOA (145)</u> | <u>All Other Projects (2)</u> |
|-------------------------------|---------------------------------------------------------|--------------------------------------------|-------------------------------------------------|-------------------------------|
| <u>Funded by this program</u> | <u>Eligible Costs not funded by NYCDEP</u><br><b>0%</b> | <u>Eligible Costs not funded by NYCDEP</u> | <u>Eligible Costs not funded by NYCDEP</u>      | <u>Up to 100%</u>             |
| <u>Funded by NYCDEP</u>       | <b>100%</b>                                             | <b>100%</b>                                | <b>Up to 50%</b>                                | <b>0%</b>                     |

**Footnotes:**

- (1) Per MOA Section 145, NYCDEP will fund 100% of the incremental costs of stormwater measures required solely by the Watershed Regulations for new one family residences where lot constraints prevent the construction of the home outside of the limiting distance, i.e. within 100 feet of a perennial stream or wetland, and 100% of the incremental costs for facilities funded through publicly-subsidized low-income housing programs. Any portion not funded by NYCDEP may be eligible under this program.
- (2) All other projects include all other businesses, municipal projects, churches, two or more family residences, etc.
- (3) Small businesses are defined as resident in New York State, independently owned and operated, and employ one hundred (100) or less individuals.

5:00:04:01. Potentially Eligible Costs for SPPPs/ IRSPs Required by Watershed Regulations

1. Design fees, including fees for permitting and environmental assessments, including **but not limited to** those described in Table A. Under the reimbursement funding method, this program will reimburse the design costs after the design has received NYCDEP approval.
2. Cost of easements.

3. Legal fees, ~~excluding litigation.~~ **Litigation expenses may only be funded upon separate application and approval by the CWC Board of Directors. Such application shall include a description of the dispute.**
4. Construction costs. Under the reimbursement funding method, this program will reimburse the construction costs after the construction has received all necessary permits and approvals. Under the Voucher funding method, CWC shall hold a portion of the construction costs as retainage to be paid contingent upon receiving all necessary approvals.
5. The cost of land purchase, as needed for installation of eligible stormwater measures. In the event that a parcel with excess land is proposed for purchase, the program shall pay only for the costs of that portion of land needed for the eligible project. The program may pay for additional land if it is determined that no other appropriate land parcel of lesser size is available for construction of the facility. Land purchase costs shall be justified by appropriate documentation, including an appraisal by a licensed appraiser, documentation of closing costs and a phase one environmental site assessment, and shall require approval by the CWC Board. The appraiser's fee and cost of the phase one environmental site assessment shall be eligible costs, for the land or portion thereof approved by the Board.
6. Operation and maintenance costs – Reasonable and necessary costs of operation and maintenance of stormwater measures for projects of which the design and construction have been paid for under this program may be wholly or partly eligible, except for costs that are paid for by insurance, emergency relief funding, NYCDEP funding or other grant funding. All operation and maintenance funding shall be in accordance with a contract with the project sponsor and CWC. This program will reimburse the maintenance costs only of projects that have received all necessary permits and approvals. Per the MOA, maintenance costs can be funded from earnings on the principal of program funds, and not from the principal itself. Thus, CWC funding of operation and maintenance is contingent on the availability of such earnings. In the case of projects that are required by State /Federal Regulations to have a SPPP, this program will fund only those measures that are above and beyond state / federal requirements.
7. Other reasonable and necessary costs.

5:00:04:02. Potentially Eligible Costs for SPPPs Required by State / Federal Regulations

For a site that is required by State/ Federal Regulations to have a SPPP, CWC policy permits partial payment of the project costs. State and Federal regulations require that the facility owner for such a site prepare and follow a SPPP, which plan must be on file at the site **and file a Notice of Intent.** ~~No submission or review process is mandated.~~ The Watershed Regulations require that a SPPP be submitted to NYCDEP for independent review and approval.

**For a site where a State/federal SPPP is required to be prepared and a Notice of Intent is required to be filed, and a NYCDEP SPPP approval, as described herein, is also required, eligible costs shall be fifty percent (50%) of all reasonable and eligible stormwater costs, as defined in section 5:00:04:01, and CWC share of reimbursement, if applicable, shall be as provided 5:00:03. Applicant shall be required to submit proof of all SPPP costs, including but not limited to:**

- 1. Preparation and submittal of SPPP**
- 2. Coordination and meetings for design and construction review**
- 3. Response to regulatory review comments**
- 4. Costs of installation and construction of SPPP measures**

Thus, the submission and approval process could potentially require additional eligible costs for the following. **In CWC Board's sole discretion, CWC may reimburse more than fifty percent (50%) of all reasonable and eligible SPPP costs and at the CWC share of costs as provided in 5:00:03, if the applicant can show costs greater than 50% of all reasonable and eligible SPPP costs for stormwater plans required by the Watershed Regulations as provided herein and not otherwise required by federal and/or State law. The Applicant must provide proof of actual costs for:**

**Preparation of submittal to NYCDEP;**

**Coordination and meetings for design and construction review;**

**Response to NYCDEP comments;**

**Installation of measures required by NYCDEP that are not otherwise required by State or Federal regulations;**

Costs or incremental costs incurred solely to comply with 18-39(c) Watershed Regulations, including but not limited to costs to address a 2-year 24-hour storm as required by NYCDEP that are greater than costs to address a one-year 24-hour storm as required under the NYS General Permit; **and**

Any other costs listed in 5:00:04:01 due solely to NYCDEP requirements.

#### 5:00:04:03. Recommended Record-keeping of Potentially Eligible Costs

The potential applicant should maintain records of all out-of-pocket expenses for submissions, meetings and communications **of SPPP preparation, and particularly for communications and dealings with NYCDEP** including but not limited to:

1. Hours and hourly rates of consultants and employee time for preparing and maintaining files of submissions and responses to NYCDEP, other than SPPP required by State or Federal regulations;
2. Travel costs;
3. Cost of printing, postage and other communication related to NYCDEP;
4. Cost of designing, constructing, implementing and maintaining measures required solely by NYCDEP and not otherwise required by state or federal regulations.
5. Date expense was incurred.

Eligible costs will be determined based on a review of actual cost for services, time and materials, and on a CWC schedule of reasonable costs for typical stormwater BMPs. CWC will base its schedule of reasonable costs on the costs contained in NYCDEP's Stormwater Best Management Practices Details, Specifications and Unit Cost Estimates and on costs incurred in this program.

#### 5:00:06. Application for Project Inclusion

An applicant may apply for funding under this program for new stormwater controls measures herein described as an eligible project.

In order to apply for funding for new projects, each applicant shall fill out an application form supplied by CWC, and shall supply information to allow CWC to evaluate project eligibility and to prepare a proposed schedule and budget for each project. The application form shall include the following:

- The proposed site location
- Structural design, facility(ies) being replaced if relevant

- Land purchases and costs
- Itemization administrative costs
- Other estimated costs,
- Tentative schedule and budget if known
- Itemization of claimed eligible costs resulting solely from NYCDEP requirements, and not otherwise required by State or Federal laws or regulations
- Copy Submission of SPPP to NYCDEP
- Copy of Approval Letter of SPPP by NYCDEP, including enumeration of specific claimed NYCDEP only requirements by NYCDEP
- Copy of Funding request to NYCDEP
- Other information as requested by CWC

Each application, with all attached documentation and staff recommendations, shall be presented to the Board for approval of funding through this program.

**For small businesses, as defined in section 5:00:03, CWC shall provide a copy of the approved application and all attachments to NYCDEP, in accordance with MOA Paragraph 145 (b)(ii).**

In order to apply for funding of operation and maintenance costs, the applicant shall apply to enter into contract with CWC for funding of application and maintenance cost. The contract shall itemize which costs are eligible.

*Voice Vote, carried – 13 aye, 1 nay, 1 vacant*

*David Warne stated that NYC DEP believes that the requested changes are inconsistent with the contract and the MOA. The City is willing to continue discussions following the Board meeting to try to address concerns that were raised in the Stormwater/Wastewater Committee meeting.*

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**Flood Hazard Mitigation Implementation Program Rules Amendment – Eligible Projects – Tab 13**

A motion to approve Resolution No. 2837 was made by Tina Molé and seconded by Robert Pelham.

April 5, 2016

**RESOLUTION NO. 2837**

**BOARD APPROVAL OF FLOOD HAZARD MITIGATION PROGRAM RULES  
AMENDMENTS – ELIGIBLE PROJECTS**

**WHEREAS**, the Catskill Watershed Corporation (CWC) is a not-for-profit corporation established to administer Watershed Protection and Partnership Programs as more fully described herein; and

**WHEREAS**, ninety percent of New York City’s water supply originates in the Catskill Mountain region from an area commonly referred to as the West of Hudson portion of the watershed of the New York City water supply (the “West of Hudson Watershed” or “Watershed”), which spans over 1,600 square miles and portions of five counties, forty-one towns, and eight villages; and

**WHEREAS**, the CWC, City of New York (City), all municipalities in the West of Hudson Watershed, New York State, the federal Environmental Protection Agency, and several

environmental organizations recognized that the goals of drinking water protection and economic vitality within the West of Hudson Watershed communities are not inconsistent and under the 1997 New York City Watershed Memorandum of Agreement (“Watershed MOA”) agreed to cooperate in the development and implementation of watershed protection programs that maintain and enhance the quality of the City’s drinking water supply system and the economic and social character of the West of Hudson Watershed communities; and

**WHEREAS**, extensive flooding resulting from tropical storms Irene and Lee, in August and September 2011, respectively, caused catastrophic losses in certain towns and villages within the West of Hudson Watershed which affected the economic and social character of certain West of Hudson watershed communities and adversely impacted water quality in the West of Hudson Watershed; and

**WHEREAS**, as a condition of the draft 2013 Mid-Term Filtration Avoidance Determination Review, New York City Department of Environmental Protection (NYCDEP) has agreed to fund a Flood Hazard Mitigation Implementation Program to reduce repetitive flood losses that also pose a threat to water quality during storm events; and

**WHEREAS**, by Resolution Number 2439, on March 4, 2014, the CWC Board of Directors agreed to serve as program manager of such a program to be referred to as the CWC Flood Hazard Mitigation Implementation Program and approved a Program Agreement with the City; and

**WHEREAS**, by Resolution Number 2460, on May 6, 2014, the CWC Board of Directors approved program rules for the CWC Flood Hazard Mitigation Implementation Program; and

**WHEREAS**, the CWC Wastewater/Stormwater Committee reviewed and recommends adoption of amendments to the Flood Hazard Mitigation Implementation Program Rules to provide for greater eligibility of projects recommended by a local flood analysis (a copy of which is attached hereto as Attachment A).

**NOW, THEREFORE BE IT RESOLVED**, that the CWC Board of Directors adopts the attached Flood Hazard Mitigation Implementation Program Rules as amended (Attachment A), as per the Committee’s recommendation.

**NOW, THEREFORE BE IT FURTHER RESOLVED**, that the Flood Hazard Mitigation Implementation Program Rules may be amended from time to time by the CWC Board of Directors, in consultation with NYCDEP.

**PROPOSED FLOOD HAZARD MITIGATION IMPLEMENTATION PROGRAM RULE CHANGES**

**17:00:03. Eligible Projects**

1. In addition, Eligible Projects must fall into one of the following categories:
  - a. Assistance for relocation of an Anchor Business that has sustained Substantial Damage, or can be shown through records of past damages and/or by the depth-damage functions of FEMA’s benefit cost analysis, to have sustained flood related structural damage having a cumulative cost of repairs that exceeds 50% of the current market value of the structure. The Anchor Business must relocate to a

location within the same town (unless the requirement to relocate within the same town has been waived by the Town).

- b. Assistance for relocation of a Critical Community Facility that has sustained Substantial Damage, or can be shown through records of past damages and/or by the depth-damage functions of FEMA’s benefit cost analysis, to have sustained flood related structural damage having a cumulative cost of repairs that exceeds 50% of the current market value of the structure. The Critical Community Facility must relocate to a location within the same Town.
- c. Assistance for relocation of a residence or business to a location within the same town where the need for such relocation is identified by LFA.
- d. Assistance for relocation of a Critical Community Facility to a location within the same town where the need for such relocation is identified in the LFA to facilitate a flood hazard mitigation project that has a benefit cost ratio greater than 1.0.
- e. Assistance for the relocation of a residence or business to a location within the same town when the residence or business is purchased pursuant to the City Flood Buyout Program to a location within the same town.
- f. Alterations to an aspect of public infrastructure identified in the LFA that is expected to reduce water surface elevations, alter flow paths, reduce velocities, and otherwise minimize the potential for flood damage (e.g. enlarging a bridge, installing floodplain drains, but not including road relocation).
- g. Property Protection measures identified by an LFA **that provide off-site flood elevation relief by decreasing or alleviating downstream flooding and flood related damage (e.g. proper venting of a building to allow flow through a basement or crawl space).**
- h. Activities identified by an LFA that will eliminate a potential source of manmade pollution that could result from a flood event in the MOA Hamlet studied by an LFA (e.g., the relocation or securing of a fuel tank; does not include pollution clean-up costs).
- i. Emergency Stream Debris removal from stream channels and/or Floodplains following a storm event as described in Section 17.00.09 herein (“Emergency Stream Debris Removal Projects”).
- j. Stream Related Construction Work identified by LFA **that provide off-site flood elevation benefit.**
- k. Flood Buyout Activities.

**17:02:03. Project Costs and Caps**

- 6. Project Costs for property protection measures are limited to:
  - a. feasibility studies up to a maximum of \$5,000 per project;
  - b. design costs up to a maximum of 10% of construction costs; and
  - c. 75% of construction costs **up to a maximum of \$20,000.**

**Voice Vote, carried – 13 aye, 1 nay, 1 vacant**

**David Warne stated that NYCDEP believes that the connections between elevation projects and offsite flood hazard mitigation benefit have not been demonstrated and the changes are inconsistent with the purpose of the program as DEP understood it.**

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A motion to approve Resolution No. 2838 was made by Berndt Leifeld seconded by Wayne Marshfield.

April 5, 2015

**RESOLUTION NO. 2838**

**PRESIDENT’S COMPENSATION**

**WHEREAS**, pursuant to the Board Policies and Procedures, the Board of Directors shall act upon the joint Finance and Policy Committee recommendation regarding the compensation of the President at the next regularly scheduled Board meeting following the Annual Board meeting; and

**WHEREAS**, by Resolution Number 2645, CWC Board of Directors directed that the President receive an annual salary of Fifteen Thousand Nine Hundred Thirteen Dollars and Fifty Cents (\$15,913.50) plus out of pocket expenses including mileage; and

**WHEREAS**, the joint CWC Finance and Policy Committee recommend that the President’s salary be increased by three percent for an annual salary of Sixteen Thousand Three Hundred Ninety-One Dollars (\$16,391.00) plus out of pocket expenses, including mileage.

**NOW, THEREFORE BE IT RESOLVED**, that the Board directs that the President receive an annual salary of Sixteen Thousand Three Hundred Ninety-One Dollars (\$16,391.00) plus out of pocket expenses, including mileage.

**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 James Eisel and seconded by Donald Brandow.

**Voice Vote, carried unanimously**

A motion to resume the regular meeting was made by Richard Parete and seconded by James Eisel.

**Voice Vote, carried unanimously**

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**CFF REDI Loan – Heart of the Catskills Communications, Inc. d/b/a MTC Cable – Tab 15**

A motion to approve Resolution No. 2839 was made by Innes Kasanof and seconded by James Eisel.

April 5 2016

**RESOLUTION NO. 2839**

**APPROVAL OF LOAN TO HEART OF THE CATSKILLS COMMUNICATIONS, INC.  
D/B/A MTC CABLE FOR  
BROADBAND EXPANSION TO UNSERVED AND UNDER SERVED**

**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 (WOH); and

**WHEREAS**, to foster the goals of environmentally sound development and increased employment the CWC will from time to time enter into demonstration projects and alliances with other organizations with similar goals that can be replicated throughout the WOH with funding from the Catskill Fund for the Future (CFF); and

**WHEREAS**, the CWC Economic Development Committee has recognized the need to extend broadband internet service to as much of the watershed area as practical to foster economic development, improve educational opportunities and improve the quality of life; and

**WHEREAS**, the Margaretville Telephone Company (MTC) has successfully implemented and maintained Direct Subscriber Lines (DSL) and Cable broadband service in over 90% of its service area; and

**WHEREAS**, the deployment of broadband service in un-served and underserved areas has the potential to increase adult employment, improve educational opportunities and improve the quality of life in the watershed community; and

**WHEREAS**, on August 4, 2009, by Resolution Number 1575, the CWC Board of Directors approved an alliance with MTC and M-ARK Project in an amount up to Two Hundred Fifty Thousand Dollars (\$250,000.00) for expansion of broadband internet service to un-served and underserved areas of Schoharie and Delaware Counties; and

**WHEREAS**, on April 6, 2010, by Resolution Number 1721, the CWC Board of Directors under the Catskills Studies Funding Program approved Twenty-Four Thousand Seven Hundred Fifty Dollars (\$24,750.00) to fund environmental, market development feasibility and engineering studies by MTC Cable for the extension of broadband services to the un-served Schoharie County Towns of Gilboa and Conesville, the purpose of which is to improve job opportunities and local employment while protecting the environment; and

**WHEREAS**, on September 3, 2013, by Resolution Number 2372, the CWC Board of Directors, under the Catskills Studies Funding Program, approved MTC's request for a letter of support from the CWC for the MTC Wireless Broadband Project and matching funds from CWC to strengthen their application in the amount of Ten Thousand Dollars (\$10,000.00); and

**WHEREAS**, on July 1, 2014, by Resolution Number 2516, the CWC Board of Directors, under the Catskills Studies Funding Program, approved Delaware County Broadband Initiative (DCBI) request for a letter of support from the CWC for the MTC Wireless Broadband Project and matching funds from CWC to provide broadband to un-served and underserved residences and businesses in Delaware County and strengthen their application in the amount of Twenty-Five Thousand Dollars (\$25,000.00); and

**WHEREAS**, on September 1, 2015, by Resolution Number 2737, the CWC Board of Directors approved a loan to Heart of the Catskills Communications, Inc. d/b/a MTC Cable for a One Million One Hundred Thousand Dollar (\$1,100,000.00) for a term of five (5) years, interest only for the first twenty-four months, at a rate of two percent (2.0%), such that the outstanding principal is fully paid on the sixtieth (60<sup>th</sup>) payment date, for the purpose of fulfilling their grant obligations; and

**WHEREAS**, Heart of the Catskills Communications, Inc. d/b/a MTC Cable has applied for a grant from the State of New York to expand broadband service in watershed towns in Delaware, Greene, and Schoharie Counties and has expanded broadband service in Ulster County; and

**WHEREAS**, Heart of the Catskills Communications, Inc. d/b/a MTC Cable has applied for a Four Million Three Hundred Twenty Two Thousand Dollar One Hundred Twenty Three Dollars and no cents (\$4,322,123.00) loan for a term of fifteen (15) years, with a twenty (20) year amortization, at a rate of two percent (2.0%), and interest only payments to be made for the first twenty-four months, such that the outstanding principal is fully paid on the one hundred eightieth (180<sup>th</sup>) payment date, for the purpose of fulfilling their broadband grant obligations; and

**WHEREAS**, pursuant to the CFF Program rules the CWC Staff has reviewed a completed CWC Loan request for Heart of the Catskills Communications, Inc. d/b/a MTC Cable; and

**WHEREAS**, the CWC Board of Directors recommends waiving the requirement that the loan be reviewed by loan committee, waive the 10% equity contribution, and waive the restriction for the maximum loan amount because the borrower is a utility, one-half of the project funds will be grant funds, and the direct economic benefit for numerous watershed towns in four counties, residents, and business who would be provided broadband internet from Heart of the Catskills Communications, Inc. d/b/a MTC Cable if it is awarded the grant(s) from the State of New York to expand broadband internet service; and

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

**WHEREAS**, CWC staff further suggest that the Loan Closing Fee of One Percent per CFF Program Rules § 1:05:07 be waived and that CWC charge actual closing costs as a loan closing fee; 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 Heart of the Catskills Communications, Inc. d/b/a MTC Cable's application meets the CWC CFF qualified economic development criteria and approves of the loan application in the amount Four Million Three Hundred Twenty Two Thousand Dollar One Hundred Twenty Three Dollars and no cents (\$4,322,123.00) for a term of fifteen (15) years, with a twenty (20) year amortization, interest only for the first twenty-four months, at a rate of two percent (2.0%), such that the outstanding principal is fully paid on the one hundred eightieth (180<sup>th</sup>) payment date and waives the requirement for a participating lender pursuant to CFF Program Rules section 1:05:02 based upon special financial conditions of the applicant and that the Loan Closing Fee payable at closing shall be actual CWC closing costs and conditioned upon the applicant being awarded a grant from the State of New York for expansion of broadband internet service.

**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 CWC.

**NOW, THEREFORE BE IT FURTHER RESOLVED**, that upon said approval of loan documentation CWC is authorized to close on said loan and 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.

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

**Purpose: To review the CWC Loan Application of Heart of the Catskills Communications, Inc. d/b/a MTC Cable**

The Executive Director of the CWC makes the following evaluation concerning a REDI Fund Loan to Heart of the Catskills Communications, Inc. d/b/a MTC Cable located in the Village of 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 579 Main Street, Margaretville, NY, owned by Heart of the Catskills Communications, Inc. d/b/a MTC Cable, 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 579 Main Street, Margaretville, NY, owned by Heart of the Catskills Communications, Inc. d/b/a MTC Cable, 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) Heart of the Catskills Communications, Inc. d/b/a MTC Cable will fulfill its broadband grant obligations and provide broadband service to unserved and underserved residents and businesses.
  - (ii) The project is located in the Village of Margaretville.
  - (iii) The project will utilize a municipal 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 in the 60 day travel time.
  - (vii) There is no impact on Federal or State wetlands.
- (b) The project maintains the character of the Village of Margaretville.
- (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 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 13 aye, 1 abstained, 1 vacant**

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**VIII. Announcements from the Chair:**

**IX. Board Member Discussion:**

*Board President, Michael Triolo, and several other board members acknowledged and thanked Jeff Graf for serving on the CWC Board as the NYCDEP representative over the years, stating that his fairness, willingness to listen to and take into consideration the desires and viewpoint of the Watershed communities when discussing issues brought before the Board and committees, and his level of professionalism are all qualities that will be remembered by the Board and CWC staff. Jeff expressed that it was an honor to work with the CWC since the beginning, and working with people of great character. He feels he's been a very small part in doing great things here in the Watershed.*

A motion to adjourn was made by Donald 'Mike' Brandow and seconded by Berndt Leifeld.

**Voice Vote, carried unanimously**

**X. Adjournment: @ 1:40 p.m.**