




DuPage Water Commission

MEMORANDUM

TO: Chairman and Commissioners

FROM: Maureen A. Crowley 
Staff Attorney

DATE: March 16, 2006

SUBJECT: Supplemental Board Package Material

Attached is the following supplemental information for the March 20, 2006 Commission meeting:

1. Revised Commission Meeting Agenda
2. Resolution No. R-12-06: A Resolution Designating the Village of Carol Stream as the Municipality Most Appropriate for Supplying Water to Riviera and Judith Courts in Unincorporated Wayne Township
3. DuPage County Board Resolution PW-0008-06: Finding of Tainted or Contaminated Well Water in Wayne Township, DuPage County, Illinois
4. Letter dated March 13, 2006 received from UBS Investment Bank
5. Presentation regarding the Defeasance Evaluation



DuPage Water Commission

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

NOTICE IS HEREBY GIVEN THAT THE RESCHEDULED MARCH 2006 COMMISSION MEETING OF THE DUPAGE WATER COMMISSION WILL BE HELD AT 1:00 P.M. ON MONDAY, MARCH 20, 2006, AT ITS OFFICES LISTED BELOW. THE AGENDA FOR THE RESCHEDULED MARCH 2006 REGULAR COMMISSION MEETING IS AS FOLLOWS:

REVISED **AGENDA**

DUPAGE WATER COMMISSION
MONDAY, MARCH 20, 2006
1:00 P.M.

600 EAST BUTTERFIELD ROAD
ELMHURST, IL 60126

I. Roll Call

(Majority of the Commissioners then in office—minimum 7)

II. Public Comments

III. Approval of Minutes

A. Special Meeting of February 9, 2006

(Concurrence of a Majority of those Commissioners Present, provided there is a quorum—minimum 4)

RECOMMENDED MOTION: To approve the Minutes of the February 9, 2006 Special Meeting of the DuPage Water Commission (Voice Vote).

B. Regular Meeting of February 9, 2006

(Concurrence of a Majority of those Commissioners Present, provided there is a quorum—minimum 4)

RECOMMENDED MOTION: To approve the Minutes of the February 9, 2006 Regular Meeting of the DuPage Water Commission (Voice Vote).

IV. Treasurer's Report – February 2006

(Concurrence of a Majority of those Commissioners Present, provided there is a quorum—minimum 4)

RECOMMENDED MOTION: To accept the February 2006 Treasurer's Report (Voice Vote).

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

V. Committee Reports

A. Administration Committee

- No meeting scheduled

B. Engineering & Construction Committee

1. Report of 3/20/06 Meeting
2. Actions on Items Listed on 3/20/06 Engineering Committee Agenda

C. Finance Committee

1. Report of 3/20/06 Meeting
2. Actions on Items Listed on 3/20/06 Finance Committee Agenda

VI. Chairman's Report

VII. Omnibus Vote Requiring Majority Vote

A. Resolution No. R-8-06: A Resolution Amending the DuPage Water Commission Flexible Benefits Plan

(Concurrence of a Majority of the Appointed Commissioners—7)

B. Resolution No. R-10-06: A Resolution Directing Advertisement for Bids on a Contract for the Construction of Hydrodynamic Mixing System for Tank Site No. 4 East (Contract SS-5/06)

(Concurrence of a Majority of those Commissioners Present, provided there is a quorum—minimum 4)

C. ***Resolution No. R-12-06: A Resolution Designating the Village of Carol Stream as the Municipality Most Appropriate for Supplying Water to Riviera and Judith Courts in Unincorporated Wayne Township***

(Concurrence of a Majority of those Commissioners Present, provided there is a quorum—minimum 4)

RECOMMENDED MOTION: To adopt the items listed on the Majority Omnibus Vote Agenda in a single group pursuant to the Omnibus Vote Procedures (Roll Call).

VIII. Omnibus Vote Requiring Super-Majority or Special Majority Vote

A. Ordinance No. O-3-06: An Ordinance Approving and Authorizing the Execution of a Water Purchase and Sale Contract Between the DuPage Water Commission and the County of DuPage

Affirmative Majority of the Appointed Commissioners, containing the votes of at least 1/3 of the County Appointed Commissioners and 40% of the Municipal Appointed Commissioners—3 County + 3 Muni+1=7)

- B. Resolution No. R-9-06: A Resolution Approving and Ratifying Certain Task Orders under a Master Contract with Cathodic Protection Management, Inc. at the March 20, 2006, DuPage Water Commission Meeting

Affirmative Majority of the Appointed Commissioners, containing the votes of at least 1/3 of the County Appointed Commissioners and 40% of the Municipal Appointed Commissioners—3 County + 3 Muni+1=7)

- C. Resolution No. R-11-06: A Resolution Approving a First Amendment to Task Order No. 2 under the Master Contract with Cathodic Protection Management, Inc.

(Affirmative Majority of the Appointed Commissioners, containing the votes of at least 1/3 of the County Appointed Commissioners and 40% of the Municipal Appointed Commissioners—3 County + 3 Muni+1=7)

RECOMMENDED MOTION: To adopt the items listed on the Super/Special Majority Omnibus Vote Agenda in a single group pursuant to the Omnibus Vote Procedures (Roll Call).

IX. Old Business

- Summary of Action Taken Since Previous Meeting

X. New Business

XI. Accounts Payable

(Concurrence of a Majority of the Appointed Commissioners—7)

RECOMMENDED MOTION: To approve the Accounts Payable in the amount of \$9,103.22 subject to submission of all contractually required documentation (Roll Call).

XII. Public Comments

XIII. Executive Session

(Concurrence of a Majority of those Commissioners Present, provided there is a quorum—minimum 4)

RECOMMENDED MOTION: To go into Executive Session to discuss matters related to personnel pursuant to 5 ILCS 120/2(c)(1), to discuss acquisition of real estate pursuant to 5 ILCS 120/2(c)(5), and to discuss pending, probable or imminent litigation pursuant to 5 ILCS 120/2(c)(11) (Roll Call).


RECOMMENDED MOTION: To come out of Executive Session (Voice Vote).

XIV. Adjournment

(Concurrence of a Majority of those Commissioners Present, provided there is a quorum—minimum 4)

DATE: March 16, 2006

REQUEST FOR BOARD ACTION

AGENDA SECTION	Omnibus Vote Requiring Majority Vote	ORIGINATING DEPARTMENT	General Manager's Office
ITEM	A Resolution Designating the Village of Carol Stream as the Municipality Most Appropriate for Supplying Water to Riviera and Judith Courts in Unincorporated Wayne Township Resolution No. R-12-06	APPROVAL 	
Account Number: N/A On March 14, 2006, the County of DuPage determined that the well water supply in the area described in County Board Resolution PW-0008-06 (the "Designated Territory") is tainted or contaminated. As a result of this determination, the Commission is required by Section 0.01 of the Water Commission Act of 1985 to determine the municipality most appropriate for supplying water to the Designated Territory. Staff recommends that the Village of Carol Stream be designated as the municipality most appropriate for supplying water to the approximately 36 homes comprising the Designated Territory as the Village of Carol Stream is adjacent to the Designated Territory and the Commission, the County of DuPage, and the Commission's Charter Customers, including the Village of Carol Stream, have already entered into an Intergovernmental Agreement for the provision of Lake Michigan water to areas of DuPage County affected by contamination.			
MOTION: To approve Resolution No. R-12-06.			

DuPAGE WATER COMMISSION

RESOLUTION NO. R-12-06

A RESOLUTION DESIGNATING THE VILLAGE OF CAROL STREAM
AS THE MUNICIPALITY MOST APPROPRIATE FOR SUPPLYING WATER
TO RIVIERA AND JUDITH COURTS IN UNINCORPORATED WAYNE TOWNSHIP

WHEREAS, the DuPage Water Commission (the "Commission") is a public corporation created under the Water Commission Act of 1985, 70 ILCS 3720/0.01 *et seq.*, and Division 135 of Article 11 of the Illinois Municipal Code, 65 ILCS 5/11-135-1 *et seq.*, and is authorized to enter into contracts and agreements relating to the purchase and supply of water pursuant to the laws of the State of Illinois; and

WHEREAS, certain areas of DuPage County have been affected by contaminated well water, which contamination poses a significant threat to the health and safety of numerous individuals; and

WHEREAS, to carry out their duties and responsibilities, and desiring to create a method of providing an adequate supply of Lake Michigan water to areas of DuPage County affected by contaminated well water, the Commission, the County of DuPage (the "County"), and the Village of Carol Stream, among others, entered into that certain Intergovernmental Agreement for the Provision of Lake Michigan Water to Areas of DuPage County Affected By Contamination, effective as of October 11, 2002; and

WHEREAS, pursuant to Resolution PW-0008-06, the County officially found and determined that the well water supply in the area described in Resolution PW-0008-06 (the "Designated Territory") is tainted or contaminated for purposes of Section 0.01 of the Water Commission Act of 1985, 70 ILCS 3720/0.01; and

WHEREAS, the Designated Territory is adjacent to the Village of Carol Stream;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the DuPage Water Commission as follows:

SECTION ONE: The foregoing recitals are hereby incorporated herein as findings of the Board of Commissioners of the DuPage Water Commission.

SECTION TWO: In accordance with Section 0.01 of the Water Commission Act of 1985, 70 ILCS 3720/0.01, the Board of Commissioners of the DuPage Water Commission hereby finds and determines that the Village of Carol Stream is the municipality most appropriate for supplying water to the Designated Territory.

SECTION THREE: This Resolution shall be in full force and effect from and after its adoption.

AYES:

NAYS:

ABSENT:

ADOPTED this _____ day of _____, 2006.

Chairman

ATTEST:

Clerk

R E S O L U T I O N

PW-0008-06

FINDING OF TAINTED OR CONTAMINATED
WELL WATER IN WAYNE TOWNSHIP,
DUPAGE COUNTY, ILLINOIS

WHEREAS, in response to findings of the Illinois Environmental Protection Agency ("Illinois EPA") and the DuPage County Health Department ("DPCHD") that groundwater and water wells in certain areas of DuPage County are contaminated with vinyl chloride and other chemicals, the Illinois General Assembly approved HB 3402 on May 31, 2003, as Public Act 93-0226 ("Public Act"); and

WHEREAS, on July 22, 2003, the Governor of the State of Illinois signed Public Act 93-0226 into law; and

WHEREAS, said Public Act mandates that a municipality which is a party to a water supply contract with a county water commission must provide water to territories outside of its municipal boundaries if the well water received by those territories is tainted or contaminated ("affected territory"); and

WHEREAS, said Public Act provides that when a home county board finds that the water supply in an affected territory is tainted or contaminated such that the health of persons served by well water in that territory is likely to be adversely affected now or in the future, affected territories may be eligible to receive municipal water; and

WHEREAS, said Public Act also requires that, within thirty (30) days following the home county board finding that an area is an affected territory, the county water commission must determine which entity would be the most appropriate to undertake the task of making potable water available to an affected territory; and

WHEREAS, following extensive sampling and testing, the Illinois EPA and DPCHD have defined areas of the County of DuPage wherein the groundwater and, or, water wells are tainted and, or, contaminated with vinyl chloride and, or, other chemicals as described above (affected areas); and

WHEREAS, one of those affected areas in DuPage County is located in unincorporated Wayne Township. Approximately 36 homes are located within said two areas, which are described as follows:

RIVIERA COURT LEGAL

Lots 1 through 18 in Riviera Hills, being a subdivision in the Northwest Quarter of the Southeast Quarter of Section 23, Township 40 North, Range 9, East of the Third Principal Meridian, according to the Plat thereof recorded October 31, 1969 as Document R1969-47513, in DuPage County, Illinois

JUDITH COURT LEGAL

Lots 1 through 18 in William A. Johnson's Addition, being a subdivision in the West Half of the Southeast Quarter of Section 23, Township 40 North, Range 9, East of the Third Principal Meridian, according to the Plat thereof recorded October 20, 1975 as Document R1975-57227 and certificate of correction recorded November 26, 1975 as Document R1975-65917, in DuPage County, Illinois

WHEREAS the above described area is commonly known as Riviera Court and Judith Court; and

WHEREAS, the DuPage County Board is authorized to protect the quality of the environment and the health, welfare and safety of DuPage County's citizens by providing or facilitating access to potable water for drinking, bathing and other uses; and

WHEREAS, the County of DuPage is the home county for the Riviera Court and Judith Court areas.

NOW, THEREFORE BE IT RESOLVED that, the DuPage County Board make the findings and determinations stated in the preamble hereto. Further, in order to facilitate the installation of infrastructure to bring a potable water supply to the Riviera Court and Judith Court areas, the DuPage County Board finds that the water supply in the Riviera Court and Judith Court areas is tainted or contaminated.

BE IT FURTHER RESOLVED that the DuPage County Board declares this an emergency situation per Section 4-105 of the DuPage County Purchasing Procedures and directs the DuPage County Public Works Department to expedite the installation of public water supply to the affected areas; and

BE IT FURTHER RESOLVED that the County shall serve notice of this Resolution and send copies hereof to the DuPage Water Commission to compel the Water Commission's obligations under Public Act 93-0226, upon its approval and enactment by the Board.

BE IT FURTHER RESOLVED that the County Clerk shall publish notice hereof and send copies hereof to the DuPage Water Commission, 600 E. Butterfield Road, Elmhurst, IL 60126; DuPage County Health Department; Joseph E. Svoboda, Chief Counsel, Division of Legal Counsel, 1021 Grand Avenue East, Springfield, Illinois 62794-9276; Anthony Hayman, Assistant State's Attorney; Village of Carol Stream, 500 Gary Avenue, Carol Stream, IL 60188; Illinois Department of Public Health, 525 W. Jefferson Street, Springfield, IL 62761; Carol L. Fuller, Illinois Environmental Protection Agency, 1021 N. Grand Avenue E, PO Box 19276, Springfield, IL 62794-9276; Richard P. Cobb, Illinois Environmental Protection Agency, 1021 N. Grand Avenue E, PO Box 19276, Springfield, IL 62794-9276; and DuPage County Public Works Department.

ENACTED AND APPROVED this 14th day of March, 2006 at Wheaton, Illinois.

BY: _____
ROBERT J. SCHILLERSTROM, CHAIRMAN
DUPAGE COUNTY BOARD

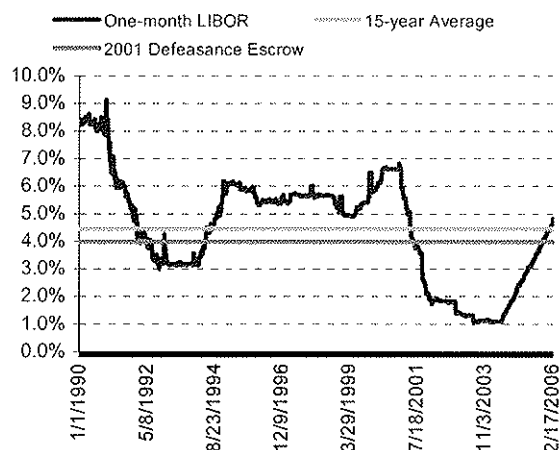
Attest BY: _____
GARY A. KING, COUNTY CLERK

To: DuPage Water Commission
 From: UBS Investment Bank
 Date: March 13, 2006
 Subject: **Defeasance of G.O. Water Refunding Bonds, Series 2001**

It has been brought to our attention that the DuPage Water Commission is considering a defeasance of its 2001 General Obligation Water Refunding Bonds. In order to accomplish this, the Commission would use excess cash on hand (accumulated sales tax funds) to fund a defeasance escrow that would pay off the outstanding debt and remove the liability from the balance sheet and income statement. The escrow would be invested in U.S. government securities that would be irrevocably pledged to pay the 2001 bonds up to and including their redemption date. Currently, it would cost the commission \$58.64 million to defease the \$65.6 million of outstanding general obligation debt. Several factors should be considered before the Commission would decide to defease the bonds, including:

- 1) **The restricted yield permitted to be earned on the escrow**
- 2) **The potential investment earnings rate if funds are not used to defease bonds**
- 3) **Policy considerations**

If the 2001 bonds are defeased the bond escrow would be restricted to an earnings rate equal to the arbitrage yield of the refunded bonds, in this case 3.98%. Alternatively, the Commission may continue investing its excess cash in unrestricted investments. The latest investment made for the sales tax funds was 4.504% and the current one-month LIBOR rate is 4.82% as of March 9, 2006. Current short-term rates indicate that the Commission can earn yields in excess of those allowed in a defeasance escrow. The adjacent graph shows one-month LIBOR over the past fifteen years. It has averaged 4.46% over this time, which is 48 basis points more than the allowable escrow yield described above.



Aside from other policy reasons to defease the 2001 bonds, the Commission should not defease the bonds if it believes the sales tax funds will realize a higher yield in short-term investments versus an escrow. The consensus amongst economists on Wall Street is that interest rates will continue to increase. The Federal Reserve has increased the federal funds rate at 14 consecutive meetings and many market participants believe there will be additional rate hikes. If interest rates continue their upward trend, the Commission would achieve more interest earnings if its excess cash remained in unrestricted investments.

Please feel free to call Tom Coomes (312.525.4645) or Mike Schumaker (312.525.4665) in the UBS Chicago office with questions regarding this memo.

Alternative Uses of Sales Tax Receipts



DuPage Water Commission

March 20, 2006



Alternatives Uses of Sales Tax Receipts

Leave Funds as Unrestricted Cash Balance

Spend on Capital Improvements

Deposit in a Rate Stabilization Fund

Defease 2001 G.O. Bonds



Alternatives Uses of Sales Tax Receipts

Leave Funds as Unrestricted Cash Balance

- ◆ **Monies may be used for any authorized purpose for maximum flexibility**
- ◆ **The investment yield is unrestricted for tax purposes**
 - **Currently investing at 4.56%**



Alternatives Uses of Sales Tax Receipts

Spend on Capital Improvements

- ◆ **To the extent capital expenditures are required, the Commission could use the funds to cash fund these expenditures**



Alternatives Use of Sales Tax Receipts

Deposit in a Rate Stabilization Fund

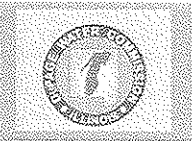
- ◆ **The funds would be segregated into a restricted account**
- ◆ **Each year, as part of the budgetary process, the Commission can determine the amount it desires to use for the current operating expenses, capital expenditures, and debt service**
 - The investment yield would not be restricted
 - Currently, the Commission is doing this for one-half of the Revenue Bond debt service
 - Stabilize or decrease rates



Alternatives Uses of Sales Tax Receipts

Defease 2001 G.O. Bonds

- ◆ The Commission may defease its 2001 G.O. Bonds and remove the debt from the balance sheet and income statement at a cost of \$58.64 million
- ◆ This may be accomplished by purchasing U.S. government securities that would be irrevocably pledged to pay off the bonds as they come due in the future
- ◆ The defeasance escrow would be limited to a yield of 3.98%



Alternatives Uses of Sales Tax Receipts

Defease 2001 G.O. Bonds

- ◆ The escrow would pay the principal payments of \$56.480 million and interest payments of \$9.113 million starting September 1, 2006 through March 1, 2011.
- ◆ Instead of establishing the escrow and the \$58.64 million was retained by the Commission and invested at 4.50%, \$5.9 million of additional interest income would be realized.



Summary of Alternatives

	Yield Restricted?	Pledged to Debt Service	Future Flexibility	Impact on Rates
Leave funds as unrestricted cash balances	No	No	Greatest	Stable or decrease
Spend on capital improvements	No	N/A	The ability to sell tax-exempt bonds in the future to replace the funds provides some flexibility	Stable or decrease
Deposit in Rate Stabilization Fund	No	No	Funds are restricted based on policy, but have a broader use than a defeasance	Stable or decrease
Defease 2001 G.O. Bonds	Yes, at 3.98%	Yes	None	Increase