

# Resource Recovery Agency

Materials compiled for the Special Committee on the Future of the RRA

**ULSTER COUNTY LEGISLATURE**

August 27, 2012

# County of Ulster/RRA Agreement

- Dated: August 10, 2010

# ULSTER COUNTY ATTORNEY

244 Fair Street, PO Box 1800  
Kingston, New York 12402  
845-340-3685 • Fax: 845-340-3691  
**MICHAEL P. HEIN**  
*County Executive*

**BEATRICE HAVRANEK**  
*County Attorney*  
845-340-3685

**KRISTIN A. GUMAER**  
*Assistant County Attorney*  
845-334-5402

**SUSAN K. PLONSKI**  
*Assistant County Attorney/  
Contract Manager*  
845-340-3441

**CLINTON G. JOHNSON**  
*First Assistant County Attorney*  
845-340-3685

**ROBERT J. FISHER**  
*Assistant County Attorney*  
845-340-3685

**ROLAND A. BLOOMER**  
*Assistant County Attorney/  
Assistant Contract Manager*  
845-331-2447



*Service by facsimile or e-mail not accepted*

## MEMORANDUM

**TO:** Karen L. Binder, Clerk of the Legislature  
Ulster County Legislature

**FROM:** Beatrice Havranek, Esq. *BH*  
County Attorney

**DATE:** August 10, 2010

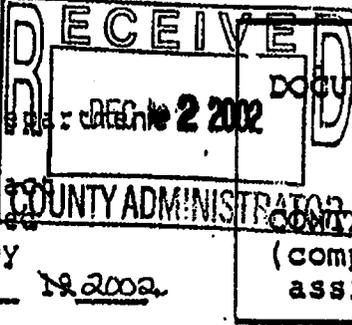
**RE:** Ulster County Resource Recovery Agency

Enclosed please find a copy of the agreement between the County of Ulster and the Ulster County Resource Recovery Agency together with the amendment as kept in the County Attorney's file.

By way of copy of this memorandum, I am forwarding the enclosed to Laura Walls, Deputy Comptroller, on your behalf.

BH:gr  
enclosure

cc.: Laura Walls, Deputy Comptroller (w/enc.)



DO NOT USE

021976

From: County Attorney

Date: 11/19/02

I hereby request the attached contract (agreement) be executed and delivered pursuant to the authority granted by Res. # 349 dated November 14 19 2002

DOCUMENT #  
CONTRACT #  
(computer-assigned)

By: Sandy Flintosh

Title: Conf. Secretary

Date: 11/19/02

ORIGINAL CONTRACT

Type Code: 6100

Start Date: 1/1/92 (mm/dd/ccyy)

End Date: 3/1/2017 (mm/dd/ccyy)

Vendor: UC Resource Recovery Agency

Contract Amt: —

Payment Type: A/A (hrly, wkly, monthly, etc)

Dept ID # 1420

Apprpr #: \_\_\_\_\_ Apprpr Amount: \_\_\_\_\_  
(12 digits) (account total)

AMENDMENT UC Resource Recovery #4

Initial Contract #: 9200644

Amend Start: \_\_\_\_\_ (mm/dd/ccyy)

Amend End: 3/31/2025 (mm/dd/ccyy)

Amend Amount: \_\_\_\_\_

New Contract Amt: \_\_\_\_\_  
(Includes Amend Amt)

Description of Amendment:  
Provide revised amortization schedule + to extend term to 2025  
Due to refinancing @ low rate

Description of Contract: Solid Waste Service Agreement

SELF-INSURANCE

Insurance is:

Approved  Disapproved  Not Necessary  
(Exp. Date 12/15/02 (mm/dd/ccyy))

Date: 11/26/02

By: Jeri O'Brien

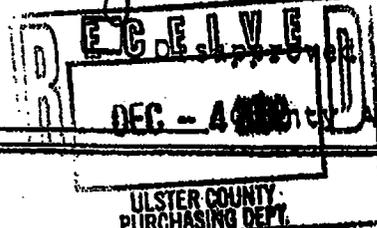
COUNTY ATTORNEY

Document is:

Approved as to form

Date: 11/27/02

By: [Signature]



CHAIRMAN OF THE LEGISLATURE

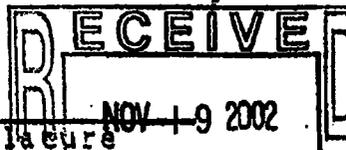
Document Signed

Document Disapproved

Date: 12/2/02

By: [Signature]

Chairman, Ulster County Legislature



(Submit one original, four copies & any copies your department)

INSURANCE

FOURTH AMENDMENT TO SOLID WASTE SERVICE AGREEMENT

This Fourth Amendment to Solid Waste Service Agreement dated as of the 1<sup>st</sup> day of December, 2002 by and between the COUNTY OF ULSTER (the "County") and the ULSTER COUNTY RESOURCE RECOVERY AGENCY (the "Agency") amends the Solid Waste Service Agreement dated as of January 1, 1992, as amended, by and between the County and the Agency (the "Service Agreement").

WITNESSETH:

WHEREAS, the County and the Agency have entered into and have previously amended the Service Agreement, and

WHEREAS, the Agency intends to refinance outstanding debt to take advantage of current low interest rates and to generate savings in annual debt service payments, and

WHEREAS, the County will benefit from the refinancing because net service fees will be reduced, and

WHEREAS, in order to achieve these savings it is necessary to amend the Service Agreement to provide a revised amortization schedule and to extend the term of the Service Agreement to December 31, 2025, and

WHEREAS, the County and the Agency desire to amend the Service Agreement to achieve the purpose described above,

NOW, THEREFORE, the parties hereto agree as follows:

1. Section 6.01 entitled "Term of Agreement" is hereby amended by striking the date March 31, 2017 and replacing said date with the date March 31, 2025.

2. Schedule "A" to the Service Agreement is hereby replaced in its entirety by the revised Schedule "A" annexed hereto and made a part of this Fourth Amendment to Solid Waste Service Agreement.

3. In all other respects, the parties agree that the Service Agreement remains in full force and effect in accordance with its original and previously amended terms.

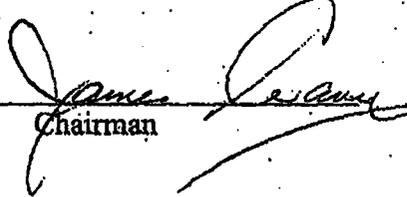
IN WITNESS WHEREOF, the County and the Agency have executed this Fourth Amendment to Solid Waste Agreement by their authorized officers on the 2<sup>nd</sup> day of ~~November~~, 2002.

*December,*

COUNTY OF ULSTER

BY:   
Chairman, Ulster County  
Legislature

ULSTER COUNTY RESOURCE  
RECOVERY AGENCY

BY:   
Chairman

JUN 4 2002 DOCUMENT COUNTY ADMINISTRATOR

DO NOT USE

021153

From: County Attorney Department

I hereby request the attached contract (agreement) be executed and delivered pursuant to the authority granted by Res. # 105 dated 3/14/02 19    .

CONTRACT # (computer-assigned)

By: Sandy Flustosh Title: Conf. Secretary Date: 6/7/02

ORIGINAL CONTRACT

Type Code: 6100

Start Date: 1/1/92 (mm/dd/ccyy)

End Date: 3/1/2017 (mm/dd/ccyy)

Vendor: UC Resource Recovery Agency

Contract Amt:     

Payment Type: N/A (hrly, wkly, monthly, etc)

Dept ID # 1400

Apprpr #:      (12 digits) Apprpr Amount:      (account total)

AMENDMENT UC Resource Recovery #3

Initial Contract #: 9200644

Amend Start:      (mm/dd/ccyy)

Amend End:      (mm/dd/ccyy)

Amend Amount:     

New Contract Amt:      (Includes Amend Amt)

Description of Amendment: Amending Schedule A to reflect potential future issuance of Bonds here set to be numbered 014 - Solid Waste System Revenue

Description of Contract: Solid Waste Service Agreement

SELF-INSURANCE on file

Insurance is:  Approved  Disapproved  Not Necessary

(Exp. Date 12/15/02 (mm/dd/ccyy))

Date: 6/13/02 By: Joni O'Bryan

COUNTY ATTORNEY Document is:  Approved as to form  Disapproved

Date: 6/13/02 By:      County Attorney

CHAIRMAN OF THE LEGISLATURE  Document Signed  Document Disapproved

Date: 6/17/02 By:      Chairman, Ulster County Legislature

(Submit one original, four copies & any copies your department may require)

UCRRA

Bond Balance

Comparison of Total Outstanding Principal with County Agreement Caps  
 Refunding of 1993 and 2000 Public Bonds Included  
 Reamortization of 1996, 1999, 1999 LCAP, and 2000 EFC to 2025 Included

Total Debt Outstanding (as of 1/1 of each year)

| Fiscal Year as of 1/1 | 1993 and 2000 Ref. 2025 with CABS | 1999 LCAP | 1999 LCAP Reamort. 2026 | 1998    | 1998 Reamort. |           | 1999 Reamort. |           | 2000      | 2000 Public Bonds | Potential 2004 Bonds | Total      | Bond Balance from Original County Agreement (as of 1/1/00) | Difference |
|-----------------------|-----------------------------------|-----------|-------------------------|---------|---------------|-----------|---------------|-----------|-----------|-------------------|----------------------|------------|--|------------|
|                       |                                   |           |                         |         | 2025          | 1999      | 2025          | 2000      |           |                   |                      |            |  |            |
| 2002                  | 17,511,000                        | 5,120,000 | -                       | 970,000 | -             | 2,795,000 | -             | 1,930,000 | -         | 7,295,000         | -                    | 36,621,000 | 36,016,000   | 494,000    |
| 2003                  | 26,483,178                        | -         | 4,775,000               | -       | 2,645,000     | -         | 1,740,000     | -         | 1,740,000 | -                 | -                    | 35,561,178 | 34,235,000   | 1,326,178  |
| 2004                  | 26,834,130                        | -         | 4,540,000               | -       | 2,514,161     | -         | 1,650,000     | -         | 1,650,000 | -                 | -                    | 36,418,291 | 32,380,000   | 4,038,291  |
| 2005                  | 27,203,458                        | -         | 4,375,000               | -       | 2,424,086     | -         | 1,595,000     | -         | 1,595,000 | -                 | 2,940,000            | 39,387,544 | 33,386,000   | 6,001,544  |
| 2006                  | 26,842,123                        | -         | 4,210,000               | -       | 2,332,029     | -         | 1,540,000     | -         | 1,540,000 | -                 | 2,740,000            | 38,484,162 | 31,160,000   | 7,324,162  |
| 2007                  | 26,401,139                        | -         | 4,040,000               | -       | 2,237,947     | -         | 1,480,000     | -         | 1,480,000 | -                 | 2,545,000            | 37,489,086 | 28,266,000   | 9,223,086  |
| 2008                  | 25,881,572                        | -         | 3,865,000               | -       | 2,141,795     | -         | 1,420,000     | -         | 1,420,000 | -                 | 2,340,000            | 36,398,387 | 26,439,000   | 9,959,387  |
| 2009                  | 25,334,544                        | -         | 3,685,000               | -       | 2,043,528     | -         | 1,360,000     | -         | 1,360,000 | -                 | 2,130,000            | 35,268,072 | 23,900,000   | 11,368,072 |
| 2010                  | 24,511,236                        | -         | 3,505,000               | -       | 1,943,059     | -         | 1,295,000     | -         | 1,295,000 | -                 | 1,910,000            | 33,844,336 | 21,245,000   | 12,599,336 |
| 2011                  | 23,667,893                        | -         | 3,320,000               | -       | 1,840,461     | -         | 1,230,000     | -         | 1,230,000 | -                 | 1,680,000            | 32,363,364 | 18,510,000   | 13,853,364 |
| 2012                  | 22,805,821                        | -         | 3,130,000               | -       | 1,735,564     | -         | 1,165,000     | -         | 1,165,000 | -                 | 1,435,000            | 30,881,386 | 16,826,000   | 14,055,386 |
| 2013                  | 21,921,397                        | -         | 2,935,000               | -       | 1,628,360     | -         | 1,095,000     | -         | 1,095,000 | -                 | 1,175,000            | 29,329,767 | 12,430,000   | 16,899,767 |
| 2014                  | 21,011,072                        | -         | 2,735,000               | -       | 1,518,797     | -         | 1,025,000     | -         | 1,025,000 | -                 | 905,000              | 27,729,869 | 9,070,000  | 18,659,869 |
| 2015                  | 19,376,369                        | -         | 2,530,000               | -       | 1,406,824     | -         | 950,000       | -         | 950,000   | -                 | 620,000              | 26,378,183 | 2,876,000  | 23,502,183 |
| 2016                  | 18,378,895                        | -         | 2,325,000               | -       | 1,292,387     | -         | 875,000       | -         | 875,000   | -                 | 320,000              | 23,648,282 | 1,816,000  | 21,832,282 |
| 2017                  | 17,350,337                        | -         | 2,115,000               | -       | 1,175,433     | -         | 800,000       | -         | 800,000   | -                 | -                    | 21,886,778 | 346,000  | 21,540,778 |
| 2018                  | 16,282,475                        | -         | 1,900,000               | -       | 1,055,906     | -         | 720,000       | -         | 720,000   | -                 | -                    | 20,333,381 | -  | 20,333,381 |
| 2019                  | 15,172,178                        | -         | 1,680,000               | -       | 933,749       | -         | 640,000       | -         | 640,000   | -                 | -                    | 18,766,927 | -  | 18,766,927 |
| 2020                  | 13,815,479                        | -         | 1,455,000               | -       | 808,905       | -         | 555,000       | -         | 555,000   | -                 | -                    | 16,779,384 | -  | 16,779,384 |
| 2021                  | 12,194,422                        | -         | 1,225,000               | -       | 681,314       | -         | 470,000       | -         | 470,000   | -                 | -                    | 14,720,736 | -  | 14,720,736 |
| 2022                  | 10,453,063                        | -         | 990,000                 | -       | 550,916       | -         | 380,000       | -         | 380,000   | -                 | -                    | 12,568,979 | -  | 12,568,979 |
| 2023                  | 8,715,227                         | -         | 750,000                 | -       | 417,650       | -         | 290,000       | -         | 290,000   | -                 | -                    | 10,322,877 | -  | 10,322,877 |
| 2024                  | 6,864,916                         | -         | 505,000                 | -       | 281,452       | -         | 195,000       | -         | 195,000   | -                 | -                    | 7,966,368  | -  | 7,966,368  |
| 2025                  | 4,956,597                         | -         | 255,000                 | -       | 142,257       | -         | 100,000       | -         | 100,000   | -                 | -                    | 6,603,854  | -  | 6,603,854  |

### THIRD AMENDMENT TO SOLID WASTE SERVICE AGREEMENT

This Third Amendment to Solid Waste Service Agreement dated as of the 1<sup>st</sup> day of June, 2002 by and between the COUNTY OF ULSTER (the "County") and the ULSTER COUNTY RESOURCE RECOVERY AGENCY (the "Agency") amends the Solid Waste Service Agreement dated as of January 1, 1992, as amended, by and between the County and the Agency (the "Service Agreement").

#### WITNESSETH:

WHEREAS, the County and the Agency have entered into and have previously amended the Service Agreement, and

WHEREAS, the Agency is constructing and equipping a new Materials Recovery Facility (the "MRF") at its property at 999 Flatbush Avenue, Town of Ulster, Kingston, New York, and

WHEREAS, the Agency anticipates recycling grant funding from the New York State Department of Environmental Conservation ("NYSDEC") to pay a portion of the costs for the constructing and equipping of the MRF, but such funding has been delayed indefinitely, and

WHEREAS, it is, therefore, necessary for the Agency to issue Bond Anticipation Notes ("BANs") to complete the equipping of the MRF and to provide other equipment necessary for Agency recycling operations, which BANs the Agency will retire with the NYSDEC recycling grant funds, and

WHEREAS, the Agency must authorize the future issuance of Bonds in order to authorize the issuance of the BANs, even though it is anticipated that the BANs will be retired with the NYSDEC recycling grant funds, and

WHEREAS, it is necessary to amend Schedule A to the Service Agreement to reflect the potential future issuance of Bonds, and

WHEREAS, the County and the Agency desire to amend the Service Agreement to achieve the purpose described above,

NOW, THEREFORE, the parties hereto agree as follows:

1. A new section to be numbered 6.14 and entitled "Solid Waste System Revenue Note Series 2002A" is hereby added, to read as follows:

**6.14. Solid Waste System Revenue Note Series 2002A.**

The Agency agrees that all funds received from NYSDEC recycling grants shall be applied by the Agency to retire the Solid Waste System Revenue

Note, Series 2002A and, if such funds are received after the issuance of Bonds for such purpose, to retire the Bonds.

2. Schedule "A" to the Service Agreement is hereby replaced in its entirety by the revised Schedule "A" annexed hereto and made a part of this Third Amendment to Solid Waste Service Agreement.

3. In all other respects, the parties agree that the Service Agreement remains in full force and effect in accordance with its original and previously amended terms.

IN WITNESS WHEREOF, the County and the Agency have executed this Third Amendment to Solid Waste Agreement by their authorized officers on the 17<sup>th</sup> day of June, 2002.

COUNTY OF ULSTER

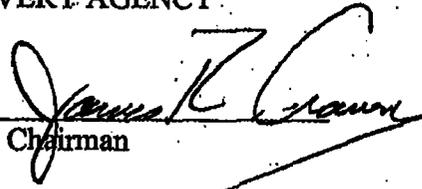
BY:



Chairman, Ulster County  
Legislature

ULSTER COUNTY RESOURCE  
RECOVERY AGENCY

BY:



Chairman

UCRRA  
Bond Balance Comparison of Total Outstanding Principal with County Agreement Caps with 2002 BANS Converted to Bonds in 2004

SCHEDULE A

| Date (Calendar Years as of 1/1) | Total Debt Outstanding (as of 9/1/00) |           |           |           |           | 2000 Public Bonds | Bond Balance from Original County Agreement (as of 1/1/00) | Difference | Potential Bond Balance if 2002 BANS are Converted to Bonds | Total |
|---------------------------------|---------------------------------------|-----------|-----------|-----------|-----------|-------------------|--|------------|--|-------|
|                                 | 1993                                  | 1999 LCAP | 1998      | 1999      | 2000      |                   |  |            |  |       |
| 2000                            | 18,291,000                            | 5,460,000 | 1,025,000 | 2,940,000 | 1,918,850 | 7,295,000         | 36,929,850   | 2,425,150  | 36,929,850   |       |
| 2001                            | 18,291,000                            | 5,460,000 | 1,025,000 | 2,940,000 | 1,918,850 | 7,295,000         | 36,929,850   | 785,150    | 36,929,850   |       |
| 2002                            | 17,511,000                            | 5,120,000 | 970,000   | 2,795,000 | 1,830,000 | 7,295,000         | 35,521,000   | 494,000    | 35,521,000   |       |
| 2003                            | 16,691,000                            | 4,775,000 | 915,000   | 2,645,000 | 1,740,000 | 7,295,000         | 34,061,000   | 174,000    | 34,061,000   |       |
| 2004                            | 15,825,000                            | 4,425,000 | 860,000   | 2,495,000 | 1,645,000 | 7,130,000         | 32,380,000   | -          | 32,380,000   |       |
| 2005                            | 14,910,000                            | 4,065,000 | 805,000   | 2,340,000 | 1,550,000 | 6,775,000         | 30,445,000   | -          | 30,445,000   |       |
| 2006                            | 13,940,000                            | 3,685,000 | 745,000   | 2,180,000 | 1,450,000 | 6,410,000         | 28,420,000   | -          | 28,420,000   |       |
| 2007                            | 12,915,000                            | 3,320,000 | 685,000   | 2,020,000 | 1,345,000 | 6,025,000         | 26,310,000   | -          | 26,310,000   |       |
| 2008                            | 11,830,000                            | 2,935,000 | 625,000   | 1,855,000 | 1,240,000 | 5,605,000         | 24,090,000   | -          | 24,090,000   |       |
| 2009                            | 10,685,000                            | 2,545,000 | 560,000   | 1,685,000 | 1,130,000 | 5,165,000         | 21,770,000   | -          | 21,770,000   |       |
| 2010                            | 9,470,000                             | 2,145,000 | 495,000   | 1,515,000 | 1,020,000 | 4,690,000         | 19,335,000   | -          | 19,335,000   |       |
| 2011                            | 8,180,000                             | 1,735,000 | 430,000   | 1,340,000 | 905,000   | 4,240,000         | 16,830,000   | -          | 16,830,000   |       |
| 2012                            | 6,815,000                             | 1,320,000 | 365,000   | 1,160,000 | 785,000   | 3,645,000         | 14,090,000   | -          | 14,090,000   |       |
| 2013                            | 5,365,000                             | 890,000   | 295,000   | 975,000   | 685,000   | 3,065,000         | 11,255,000   | -          | 11,255,000   |       |
| 2014                            | 3,830,000                             | 450,000   | 225,000   | 790,000   | 540,000   | 2,330,000         | 8,165,000  | -          | 8,220,000  |       |
| 2015                            | -                                     | -         | 150,000   | 600,000   | 410,000   | 1,095,000         | 2,255,000  | -          | 2,375,000  |       |
| 2016                            | -                                     | -         | 75,000    | 405,000   | 275,000   | 440,000           | 1,195,000  | -          | 1,390,000  |       |
| 2017                            | -                                     | -         | -         | 205,000   | 140,000   | -                 | 345,000  | -          | -  |       |

DO NOT USE

COUNTY ADMINISTRATOR

980489

DOCUMENT #

CONTRACT # (computer-assigned)

From: County Attorney Department

I hereby request the attached contract (agreement) be executed and delivered pursuant to the authority granted by Res. # 101 dated 3/12 1998.

By: Sandy Flutash Title: Conf. Secretary Date: 3/13/98

ORIGINAL CONTRACT

Type Code: \_\_\_\_\_

Start Date: \_\_\_\_\_ (mm/dd/ccyy)

End Date: 3-1-2017 (mm/dd/ccyy)

Vendor: \_\_\_\_\_

Contract Amt: \_\_\_\_\_

Payment Type: \_\_\_\_\_ (hrly, wkly, monthly, etc)

Apprpr #: \_\_\_\_\_ (12 digits) Apprpr Amount: \_\_\_\_\_ (account total)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

AMENDMENT #2 U.C. RESOURCE RECOVERY

Initial Contract #: 9200644

Amend Start: \_\_\_\_\_ (mm/dd/ccyy)

Amend End: \_\_\_\_\_ (mm/dd/ccyy)

Amend Amount: \_\_\_\_\_

New Contract Amt: \_\_\_\_\_ (Includes Amend Amt)

Description of Amendment: amt of outstanding Bonds will be gradually reduced to be paid off by 2017 etc

Description of Contract: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SELF-INSURANCE

Insurance is:  Approved  Disapproved  Not Necessary (Exp. Date \_\_\_\_\_ (mm/dd/ccyy))

Date: 3/17/98 By: Bonnie Szponlerki

COUNTY ATTORNEY

Document is:  Approved as to form  Disapproved

Date: 3/17/98 By: [Signature]

COUNTY ATTORNEY

CHAIRMAN OF THE LEGISLATURE

Document Signed  Document Disapproved

Date: 3/17/98 By: [Signature]  
Chairman, Ulster County Legislature

MAR 16 1998

INSURANCE

(Submit one original, four copies & any copies your department may require)

SECOND AMENDMENT TO SOLID WASTE SERVICE AGREEMENT

This Second Amendment to Solid Waste Service Agreement dated as of the 1st day of March, 1998 by and between the COUNTY OF ULSTER (the "County") and the ULSTER COUNTY RESOURCE RECOVERY AGENCY (the "Agency ") amends the Solid Waste Service Agreement dated as of January 1, 1992, as amended, by and between the County and the Agency (the "Service Agreement").

W I T N E S S E T H:

WHEREAS, the County and the Agency have entered into the Service Agreement dated as of January 1, 1992, and

WHEREAS, the First Amendment to the Service Agreement was executed by the parties on March 25, 1993, and

WHEREAS, the Agency is providing for financial surety for post-closure monitoring of the Consolidation Landfills and is refinancing monies borrowed to fund the Landfill Closure Assistance Plan ("LCAP"), both of which initiatives result in cost savings, and

WHEREAS, the Agency and the County desire to amend further the Service Agreement to extend the term of the Service Agreement eleven years to coincide with the thirty-year post-closure monitoring period for the Consolidation Landfills, and to revise the definition of bonds concerning the \$40 Million bonding cap,

NOW THEREFORE the parties hereto agree as follows:

1. The definition of the term "Bonds" set forth in Section 1.01 of the Service Agreement entitled "Definitions" is hereby amended to read in its entirety as follows:

"Bonds" shall mean the revenue bonds issued or to be issued by the Agency to finance the System, a portion of the costs of the closure of existing municipal landfills, reimbursement of monies advanced by the County, and such other purposes as are set forth in or contemplated by the Plan and this Agreement, except that the principal amount of Bonds outstanding at any time shall not exceed \$40 Million without the approval of the County Legislature, and the amount of such outstanding bonds shall be hereafter reduced substantially in accordance with Schedule A annexed hereto.

2. The term of the Agreement as defined in Section 6.01 of the Service Agreement entitled "Term of Agreement" is hereby amended by adding the following sentence to that paragraph:

Notwithstanding the above, this Agreement shall remain

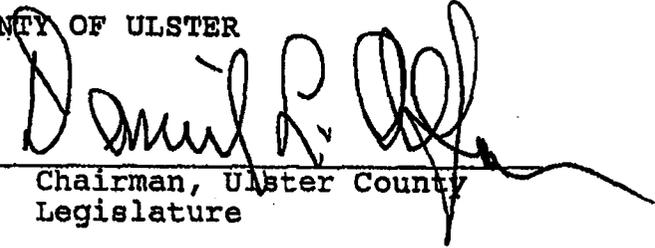
in full force and effect until December 31, 2028, provided that the extension period shall only bind the County to pay Net Service Fees related to post-closure monitoring and maintenance of the Consolidation Landfills.

3. In all other respects, the parties agree that the Service Agreement, as previously amended, remains in full force and effect in accordance with its original terms.

IN WITNESS WHEREOF, the County and the Agency have executed this Second Amendment to Solid Waste Service Agreement by their duly authorized officers on the \_\_\_\_ day of \_\_\_\_\_, 1998.

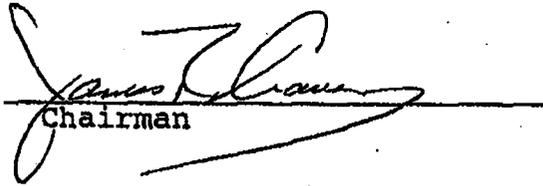
COUNTY OF ULSTER

BY:

  
Chairman, Ulster County  
Legislature

ULSTER COUNTY RESOURCE RECOVERY  
AGENCY

BY:

  
Chairman

ULSTER COUNTY RESOURCE RECOVERY AGENCY

Debt Service Summary

Issued and Proposed Long - Term Debt

Based on "Bonds Outstanding"

| Calendar Year | 1993 Bonds    | \$1,796,000 EFC Long Term #1 | \$3,392,700 EFC Long Term #2 | \$5,601,000 Proposed EFC Long-Term #3 | \$1,281,000 Proposed EFC Long-Term #4 | Projected Change in Principal from LCAP Refinancing | Proposed 1999 Bond Issues (3) | Proposed Long Term Principal | Bonds Outstanding Start of Year |
|---------------|---------------|------------------------------|------------------------------|---------------------------------------|---------------------------------------|---|-------------------------------|------------------------------|---------------------------------|
| 1998          | 870,000       | 80,000                       | 102,700                      | 206,000                               | 41,000                                | (235,000)   | -                             | 1,052,700                    | 39,208,700                      |
| 1999          | 910,000       | 80,000                       | 110,000                      | 216,000                               | 50,000                                | (245,000)   | -                             | 1,482,000                    | 38,157,000                      |
| 2000          | 955,000       | 85,000                       | 110,000                      | 216,000                               | 50,000                                | (260,000)   | 105,000                       | 1,640,000                    | 39,355,000                      |
| 2001          | 1,010,000     | 85,000                       | 115,000                      | 220,000                               | 55,000                                | (270,000)   | 110,000                       | 1,700,000                    | 37,715,000                      |
| 2002          | 1,060,000     | 90,000                       | 120,000                      | 235,000                               | 55,000                                | (275,000)   | 115,000                       | 1,780,000                    | 36,016,000                      |
| 2003          | 1,120,000     | 90,000                       | 125,000                      | 245,000                               | 55,000                                | (285,000)   | 120,000                       | 1,855,000                    | 34,235,000                      |
| 2004          | 1,185,000     | 90,000                       | 135,000                      | 255,000                               | 60,000                                | (305,000)   | 125,000                       | 1,935,000                    | 32,380,000                      |
| 2005          | 1,255,000     | 95,000                       | 140,000                      | 265,000                               | 60,000                                | (320,000)   | 130,000                       | 2,025,000                    | 30,445,000                      |
| 2006          | 1,325,000     | 100,000                      | 145,000                      | 275,000                               | 60,000                                | (340,000)   | 135,000                       | 2,110,000                    | 28,420,000                      |
| 2007          | 1,405,000     | 100,000                      | 155,000                      | 290,000                               | 65,000                                | (360,000)   | 145,000                       | 2,220,000                    | 26,310,000                      |
| 2008          | 1,485,000     | 105,000                      | 160,000                      | 305,000                               | 70,000                                | (380,000)   | 150,000                       | 2,320,000                    | 24,090,000                      |
| 2009          | 1,575,000     | 106,000                      | 170,000                      | 320,000                               | 70,000                                | (405,000)   | 160,000                       | 2,435,000                    | 21,770,000                      |
| 2010          | 1,670,000     | 110,000                      | 175,000                      | 335,000                               | 75,000                                | (430,000)   | 170,000                       | 2,555,000                    | 19,335,000                      |
| 2011          | 1,770,000     | 115,000                      | 185,000                      | 355,000                               | 80,000                                | (455,000)   | 175,000                       | 2,690,000                    | 16,780,000                      |
| 2012          | 1,880,000     | 120,000                      | 195,000                      | 375,000                               | 85,000                                | (480,000)   | 185,000                       | 2,835,000                    | 14,090,000                      |
| 2013          | 1,990,000     | 185,000                      | 205,000                      | 395,000                               | 90,000                                | (510,000)   | 195,000                       | 3,035,000                    | 11,255,000                      |
| 2014          | 4,960,000     | -                            | 220,000                      | 415,000                               | 95,000                                | (1,270,000)   | 210,000                       | 5,645,000                    | 8,220,000                       |
| 2015          | -             | -                            | 230,000                      | 435,000                               | 100,000                               | -   | 220,000                       | 985,000                      | 2,375,000                       |
| 2016          | -             | -                            | 585,000                      | 460,000                               | 105,000                               | -   | 230,000                       | 1,390,000                    | 1,390,000                       |
| 2017          | -             | -                            | -                            | -                                     | -                                     | -   | -                             | -                            | -                               |
|               | \$ 26,425,000 | \$ 1,635,000                 | \$ 3,392,700                 | \$ 5,601,000                          | \$ 1,281,000                          | \$ (6,550,000)                                      | \$ 2,880,000                  | \$ 41,889,700                |                                 |

- (1) Proposed EFC Long-Term Borrowing of \$5,601,000 would refinance two outstanding short-term 0% loans from EFC for the Term of Ulster landfill closure, provide the necessary deposit to the Debt Service Reserve Fund and pay the costs of issuance.
- (2) Proposed EFC Long-Term Borrowing of \$1,281,000 would reimburse the Agency \$1.1 million for the Term of New Paltz landfill closure, provide the necessary deposit to the Debt Service Reserve Fund and pay the costs of issuance.
- (3) Proposed 1999 Borrowing of \$2,880,000 would fund capital projects of \$2.3 million, provide the necessary deposit to the Debt Service Reserve Fund and pay the costs of issuance.

Environmental Capital

Bond Principal Summary/Principal Cap Comparison

TO SIGN CONTRACT, AMENDMENT OR CHANGE ORDER **MAR 23 1993**  
 AUTHORIZED BY RESOLUTION

|                                   |            |
|-----------------------------------|------------|
| DOCUMENT #                        | DO NOT USE |
| #3923                             | 00529      |
| CONTRACT #<br>(computer-assigned) |            |

County Attorney Department

I hereby request the attached contract (agreement) be executed and delivered pursuant to the authority granted by Res. # 76 dated March 11 1993.

By: Francis T. Murray Title: County Attorney Date: 3/22/93

**ORIGINAL CONTRACT**

Type Code: \_\_\_\_\_

Start Date: \_\_\_\_\_ (mm/dd/ccyy)

End Date: \_\_\_\_\_ (mm/dd/ccyy)

Vendor: UC Resource Rec. Agency

Contract Amt: \_\_\_\_\_

Payment Type: \_\_\_\_\_ (hrly, wkly, monthly, etc)

Apprpr #: \_\_\_\_\_ (2 digits)      Apprpr Amount: \_\_\_\_\_ (account total)

**AMENDMENT #1**

Initial Contract #: 92001644

Amend Start: \_\_\_\_\_ (mm/dd/ccyy)

Amend End: 3/1/2017 (mm/dd/ccyy)

Amend Amount: N/A

New Contract Amt: N/A  
(Includes Amend Amt)

Description of Amendment:  
Agency must enter into solid waste management agreements to the extent it represents at least 10% of solid waste generated in the County

Description of Contract: Agreement between UCRRRA and County of Ulster Solid Waste Service Agreement

**SELF-INSURANCE**

Insurance is:  Approved  Disapproved  Not Necessary  
 (Exp. Date \_\_\_\_\_ (mm/dd/ccyy))

Date: \_\_\_\_\_ By: \_\_\_\_\_

**COUNTY ATTORNEY**

Document is:  Approved as to form  Disapproved

Date: 3/23 By: [Signature] County Attorney

**CHAIRMAN OF THE LEGISLATURE**

Document Signed  Document Disapproved

Date: 3-25-93 By: Aerald Benjamin  
 Chairman, Ulster County Legislature

(Submit one original, four copies & any copies your department may require)

FIRST AMENDMENT TO SOLID WASTE SERVICE AGREEMENT

This First Amendment to Solid Waste Service Agreement dated as of the 1st day of March, 1993 by and between the COUNTY OF ULSTER (the "County") and the ULSTER COUNTY RESOURCE RECOVERY AGENCY (the "Agency ") amends the Solid Waste Service Agreement dated as of January 1, 1992 by and between the County and the Agency (the "Service Agreement").

W I T N E S S E T H:

WHEREAS, the County and the Agency have entered into the Service Agreement dated as of January 1, 1992, and

WHEREAS, the Service Agreement was made contingent upon (i) the validity and enforceability of the County's solid waste flow control powers; or (ii) the Agency's entering into agreements with each municipality of the County providing contractual control over solid waste and regulated recyclables generated in each municipality, and

WHEREAS, the Agency has entered into solid waste management agreements with certain municipalities which are responsible for solid waste management, which agreements provide, among other things, for a contractual obligation on the part of the municipality to send solid waste and regulated recyclable materials into the Agency's system, and

WHEREAS, the Agency has executed and delivered solid waste management agreements with the following towns: Denning, Esopus, Gardiner, Hardenburgh, Hurley, Kingston, Lloyd, Marblatown, Marlborough, New Paltz, Plattekill, Olive, Rochester, Rosendale, Shandaken, Shawangunk, Ulster, and Wawarsing, and

WHEREAS, the City of Kingston, which has approved a solid waste management agreement, also has a continuing contract with the Town of Ulster to send solid waste to the Town of Ulster landfill, which is now being operated by the Agency as a Consolidation Landfill under the Agency's Landfill Consolidation Plan, and

WHEREAS, the solid waste and regulated recyclable materials generated in the municipalities under agreement with the Agency, and in the City of Kingston, amounts to over 80% of the solid waste stream generated in Ulster County, as defined and quantified in Section 3 of the Ulster County Solid Waste Management Plan, and

WHEREAS, the Agency has shown that a Financing Plan based upon capture of at least 66% of the solid waste stream is feasible to finance, implement and operate the solid waste management system as defined in the Service Agreement (the

CRUMBS KRANIS  
WING, P.C.

ATTORNEYS AT LAW  
POUGHKEEPSIE, NEW YORK



"System"), and

WHEREAS, on or about February 1, 1993, the New York State Department of Environmental Conservation issued notices to all municipalities maintaining existing municipal landfills in the County that those landfills will cease accepting solid waste within 120 days of the date of the letter, and

WHEREAS, the Agency has begun implementing the Landfill Consolidation Plan to provide interim services for solid waste disposal and is continuing to provide interim recycling services, and

WHEREAS, the Agency must be in a position to issue revenue bonds in the near future if it is to be able to take further action to implement the System, including providing service to the municipalities of the County under the solid waste management agreements and completing the siting, permitting, and construction of the County-wide 6 NYCRR Part 360 landfill and the permanent satellite aggregation center, and

WHEREAS, the Agency and the County desire to amend the Service Agreement to provide that the Agency must enter into solid waste management agreements to the extent they represent at least 66% of the Solid Waste generated in the County,

NOW THEREFORE the parties hereto agree as follows:

1. Section 7.01 of the Service Agreement entitled "Contingency" is hereby amended to read in its entirety as follows:

Section 7.01. Contingency.

This Agreement is contingent upon the validity and enforceability of the County's local laws dealing with the management of Regulated Recyclable Material and Solid Waste, including control of the flow thereof (Local Law #8 of 1991 and Local Law #9 of 1991) or, alternatively, upon the Agency obtaining valid and enforceable agreements with a sufficient number of municipalities in the County to provide the Agency with the exclusive right to dispose of the municipality's Solid Waste and Regulated Recyclable Materials for a minimum of twenty years to the extent that such agreements represent at least 66% of the total amount of Solid Waste generated within the County as defined and quantified in the Plan.

2. In all other respects, the parties agree that the Service Agreement remains in full force and effect in accordance with its original terms.



IN WITNESSETH WHEREOF, the County and the Agency have executed this First Amendment to Solid Waste Service Agreement by their duly authorized officers on the \_\_\_\_ day of March, 1993.

COUNTY OF ULSTER

BY: *Donald Bryan*  
Chairman, Ulster County  
Legislature

ULSTER COUNTY RESOURCE RECOVERY  
AGENCY

BY: *Robert M. ...*  
Chairman

COMBS KRANIS  
...ING, P.C.  
ATTORNEYS AT LAW  
POUGHKEEPSIE, NEW YORK



REQUEST FOR CHAIRMAN OF LEGISLATURE  
TO SIGN CONTRACT, AMENDMENT OR CHANGE ORDER

DEC - 4 1992

RECEIVED  
DEC - 2 1992  
Department  
COUNTY ADMINISTRATOR

COUNTY ADMINISTRATOR

From: COUNTY ATTORNEY

DOCUMENT # 1755

V.C. 08612901

CONTRACT # (computer-assigned) 9200644

I hereby request the attached contract (agreement) be executed and delivered pursuant to the authority granted by Res. # 390 dated December 30 191.

By: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

ORIGINAL CONTRACT

Type Code: 6100

Start Date: 1/1/92 (mm/dd/ccyy)

End Date: 3/1/2017 (mm/dd/ccyy)

Vendor: Ulster County Resource Recovery Agency

Contract Amt: ---

Payment Type: N/A (hrly, wkly, monthly, etc)

Dept ID: 1420

Apprpr #: \_\_\_\_\_ (12 digits)

Apprpr Amount: \_\_\_\_\_ (account total)

AMENDMENT

Initial Contract #: \_\_\_\_\_

Amend Start: \_\_\_\_\_ (mm/dd/ccyy)

Amend End: \_\_\_\_\_ (mm/dd/ccyy)

Amend Amount: \_\_\_\_\_

New Contract Amt: \_\_\_\_\_ (Includes Amend Amt)

Description of Amendment: \_\_\_\_\_

Description of Contract: Solid Waste Service Agreement between County and RRA for that agency to develop a solid waste management plan for the County

SELF-INSURANCE

Insurance is:  Approved  Disapproved  Not Necessary

(Exp. Date \_\_\_\_\_ [mm/dd/ccyy])

Date: \_\_\_\_\_ By: S/N/A

COUNTY ATTORNEY

Document is:  Approved as to form  Disapproved

Date: 11/25/92 By: [Signature] County Attorney

CHAIRMAN OF THE LEGISLATURE

Document Signed  Document Disapproved

Date: 12/2/92 By: [Signature] Chairman, Ulster County Legislature

(Submit one original four copies & any copies your department may require)

**SOLID WASTE SERVICE AGREEMENT**

**Between**

**THE COUNTY OF ULSTER**

**And**

**ULSTER COUNTY RESOURCE RECOVERY AGENCY**

**Dated as of January 1, 1992**

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SOLID WASTE SERVICE AGREEMENT

SOLID WASTE SERVICE AGREEMENT dated as of January 1, 1992 between THE COUNTY OF ULSTER, a municipal corporation of the State of New York (the "County"), and ULSTER COUNTY RESOURCE RECOVERY AGENCY, a public benefit corporation duly organized and existing under the laws of the State of New York (the "Agency"):

W I T N E S S E T H:

WHEREAS, the County has determined that disposal of solid waste generated in the County is a serious problem and has concluded that the development and implementation of a comprehensive solid waste management plan providing an environmentally sound, efficient and economically acceptable solution to the solid waste disposal problem should be undertaken; and

WHEREAS, at the request of the County, the State Legislature has by special act created the Agency and empowered the Agency, among other things, to plan, develop, finance and construct solid waste management facilities; and

WHEREAS, the County has retained the services of the Agency pursuant to a certain agreement dated January 20, 1988, as amended, to develop a comprehensive solid waste management plan for the County and to present such a plan to the County for approval; and

WHEREAS, the County has appropriated and paid funds to the Agency for the purpose of developing and implementing such a plan; and

WHEREAS, the Agency has prepared a comprehensive solid waste management plan (the "Plan"), and as "lead agency", has conducted a review pursuant to Article 8 of the Environmental Conservation Law and 6 NYCRR Part 617 (collectively "SEQRA"), on the Plan, including the following specific issues: adoption of the Plan; implementation of a county-wide recycling plan; selection of solid waste disposal technologies; and implementation of host community benefit programs for municipalities affected by Agency-owned facilities; and

WHEREAS, a Final Generic Environmental Impact Statement and Supplemental Final Generic Impact Statement (the "Final GEIS" and "Supplemental Final GEIS") were authorized and duly filed, including filing with the County; and

WHEREAS, the Agency adopted and approved the Plan and adopted findings in connection with the Final GEIS and Supplemental Final GEIS; and

WHEREAS, the County, acting through its Legislature, adopted and approved the Plan and adopted findings in connection therewith; and

WHEREAS, the New York State Department of Environmental Conservation has approved the Plan; and

WHEREAS, in Article 3.0 of the findings issued in connection with the approval and adoption of the Plan, the Agency has determined to proceed with the establishment of a County-wide solid waste management strategy using an aggressive reduction, reuse and recycling program, landfill disposal, municipal organic solid waste composting, sewage sludge management, a household hazardous waste program, and transfer stations; and

WHEREAS, the Agency further found and determined in its findings as follows:

Revenue bonds should be issued by the Agency to finance its facilities, not general County debt. Since the General Obligation Bonds impact the County government's debt limit, revenue bond financing should be pursued as the primary financing tool for all facilities.

An agreement between the County and the Agency providing that solid waste generated in the County will be delivered to Agency facilities to pay the capital and operating cost of those facilities should be pursued. Such an agreement may be a necessary prerequisite to the issuance of revenue bonds. This issue is addressed in Draft GEIS, Volume I, Section 15.7; and

WHEREAS, the County and the Agency, have determined that it is necessary and desirable to implement the Plan, manage solid waste in the County and obtain financing for facilities to provide for the acceptance, and processing, recycling and/or disposal of Solid Waste during the term of this Agreement; and

WHEREAS, the parties propose to enter into this Agreement in order that the Agency furnish to the County the service of accepting and processing, and/or disposing of all Solid Waste and accepting, processing and marketing of Regulated Recyclable Materials within the County in consideration for the payment by the County to the Agency for such service of Net Service Fees, if and to the extent required pursuant to the terms hereof;

NOW, THEREFORE, in consideration of the premises and the respective representations and agreements hereinafter contained and other good and valuable consideration, receipt of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE I - DEFINITIONS AND INTERPRETATION

Section 1.01. Definitions. For the purpose of this Agreement, the following words and terms shall have the respective meanings set forth below, unless the context otherwise requires:

"Agency" means Ulster County Resource Recovery Agency, a corporate governmental agency constituting a public benefit

corporation of the State duly organized and existing under the laws of the State, and any body, board, authority, agency or other political subdivision of the State which shall hereafter succeed to the powers, duties and functions of the Agency.

"Agency Engineer" means a nationally-recognized, independent consulting engineer retained by the Agency to perform services required in connection with this Agreement.

"Agreement" means this Solid Waste Service Agreement and any supplements and amendments hereto made in conformity with the terms hereof.

"Alternate Disposal" means disposal of Solid Waste at any lawfully available facility or facilities within or outside the County as may hereafter be utilized by the Agency from time to time and designated by the Agency pursuant to Section 3.05 hereof for the disposal of Solid Waste for purposes of this Agreement.

"Bonds" shall mean the revenue bonds issued or to be issued by the Agency to finance the System, a portion of the costs of the closure of existing municipal landfills, reimbursement of monies advanced by the County, and such other purposes as are set forth in or contemplated by the Plan and this Agreement, except that the Agency shall not have the authority to issue Bonds in excess of the principal amount or accreted value of \$40 million without the prior approval of the County Legislature.

"County" means the county of Ulster, State of New York.

"Effective Date" means the date of the first issuance of the Bonds under this Agreement.

"Net Service Fees" means those amounts required to be paid by the County to the Agency pursuant to Article IV hereof.

"Regulated Recyclable Materials" has the meaning set forth in Local Law #8 of 1991.

"Solid Waste" means all materials or substances discarded or rejected within the County as being spent, useless, worthless, or in excess to the owners at the time of such discard or rejection, including, but not limited to garbage, refuse, industrial and commercial waste, sludges from air or water pollution control facilities or water supply treatment facilities, rubbish, ashes, contained gaseous material, incinerator residue, demolition and construction debris and offal, but not including sewage and other highly diluted water-carried materials or substances and those in gaseous form, source, special nuclear or by-product material within the meaning of the United States Atomic Energy Act of 1954, as amended, waste which appears on the list of hazardous waste promulgated by the Commissioner of Environmental Conservation pursuant to Section 27-0903 of the Environmental Conservation Law of the State of New York, and scrap or other material of value separated from the waste stream and held for purposes of materials recycling, as such definition may be amended from time to time by the State.

"Solid Waste Flow Control Laws" means the provisions of Local Law #8 of 1991 and Local Law #9 of 1991 which respectively require the delivery of Regulated Recyclable Materials and the disposal of Solid Waste at designated facilities.

"Solid Waste Management Plan" means the plan for management of Solid Waste in the County approved by the State Department of Environmental Conservation on December 3, 1991, as amended from time to time pursuant to law.

"State" means the State of New York.

"System" means collectively all elements of any sites containing the facilities constructed or obtained by the Agency to carry out the purposes of this Agreement, including Interim Satellite Aggregation Centers for the processing of Regulated Recyclable Materials and interim landfills to be obtained pursuant to law and agreement with the municipalities owning such landfills, and the facilities identified in the Solid Waste Management Plan, except that the term "System" shall not include any incinerator or waste-to-energy facility.

ARTICLE II - AGREEMENT TO FINANCE AND CONSTRUCT SYSTEM.

Section 2.01. No Responsibility of County with Respect to System; Financing of System. The County is not responsible, by reason of the execution and delivery of this Agreement or any other reason whatsoever, and has not undertaken any responsibility for the design, construction or equipping of the System and related structures or the ownership, operation or maintenance thereof, and the County shall not in any way be deemed to have incurred any liability to the Agency, any trustee for the Bonds, any holder of the Bonds or any other person whatsoever with respect to any matters relating thereto. It is understood and agreed that the primary interest of the County in the System is to enable the Agency to provide for the service of accepting, processing and/or disposing of Solid Waste and accepting, processing and marketing of Regulated Recyclable Materials delivered to the System in accordance with Sections 3.02 and 3.05 of this Agreement. It is understood that the provisions of this paragraph shall in no way limit the obligation of the County to pay Net Service Fees if and to the extent required under Section 4.01 of this Agreement in consideration for the services rendered hereunder by the Agency to the County.

The Agency agrees to cause the costs of planning, designing, constructing and equipping the System to be financed in accordance with a resolution authorizing the Bonds. Any Bonds issued by the Agency to finance a portion of such costs of the

System shall not constitute a debt of the State or the County, and neither the State nor the County shall be liable thereon, nor shall the Bonds be payable out of any funds of the Agency other than those pledged in accordance with a resolution authorizing the Bonds.

Section 2.02. Construction of System. The Agency, as part of the service to be provided hereunder, will cause the planning, design, construction, equipping and completion of the System as more fully described in the Solid Waste Management Plan.

The Agency shall notify the County of the existence or occurrence of (a) any circumstance of which the Agency shall have knowledge and which would directly and materially adversely affect the ability of the Agency to construct, equip and complete the System in accordance herewith and (b) any event or circumstance, whether immediate or prospective, of which the Agency shall have knowledge and which would result in the obligation of the County to pay a Net Service Fee. In addition, the Agency shall deliver to the County such additional information as the County may request including but not limited to (a) periodic reports estimating the anticipated Net Service Fee, and (b) periodic statements of costs that will cause adjustments to the Net Service Fee as further provided in Section 4.01 of the Agreement. The County shall have the right to assist in or participate, at its expense, in any action or proceeding in which the Agency shall have a right to assist or participate in relating to an actual or potential

increase in the amount of the Net Service Fee but the outcome will in no way reduce the County's obligation to pay the Net Service Fee.

Section 2.03. Minimum Performance Standards for the System. The Agency will cause the System to be planned, designed, constructed, equipped and completed so as to meet all applicable permit conditions and environmental requirements, including the obtaining of commercially available warranties regarding all facilities to be constructed.

Section 2.04. Source Separation and Waste Reduction. Nothing in this Agreement shall be construed to restrict the rights of the inhabitants of the County to practice source separation for the recovery and recycling of any material, or waste reduction, or the right of the Agency or the County to sponsor, encourage or require source separation or waste reduction. No adjustment in the Net Service Fee shall be made as a consequence of any source separation or waste reduction program or the implementation of the New York State Returnable Container Act or similar measures imposing restrictions on the disposal of containers or Regulated Recyclable Materials.

ARTICLE III - OPERATION OF SYSTEM

Section 3.01. General Operating and Maintenance Responsibilities. The Agency shall operate and maintain the System in such manner as to ensure that the System is able on a continuous basis (subject to the requirements of sound operating practice) to accept, process, and/or dispose of Solid Waste and accept, process and market Regulated Recyclable Materials with the object of maximizing the revenues generated by the System and minimizing the costs of operation and maintenance, all in accordance with the Solid Waste Management Plan, prudent engineering and operating practices, permit conditions and environmental requirements.

The Agency and the County acknowledge that a substantial objective of the County is to secure solid waste services for the County in an environmentally sound manner and accordingly the Agency agrees that it shall cause the facilities of the System to be kept neat and clean at all times and to ensure that the System will be operated in full compliance with all environmental permits and approvals, and that the operation of the System will not create odor, litter, pollutants or other negative effects.

Section 3.02. Obligation of Agency to Accept Solid Waste. On and after the Effective Date, the Agency will provide, or will cause to be provided, the service of accepting, processing and/or disposing of Solid Waste and accepting, processing, and

marketing of Regulated Recyclable Materials. In the event that the Agency should, for any reason, be unable to process or dispose of Solid Waste at the System, upon notice to such effect to the County, the Agency shall cause such Solid Waste to be diverted to an Alternate Disposal facility. The diversion of such Solid Waste shall be deemed, with respect to such Solid Waste, compliance by the Agency of its obligation hereunder to provide the service of accepting, processing and/or disposing of Solid Waste and such diversion shall not constitute a basis for either reduction, delay or offset of the County's obligation to pay Net Service Fees hereunder.

Section 3.03. Obligation of County to Deliver Solid Waste. The County shall deliver or cause to be delivered to any Solid Waste Management facility as defined in local laws #8 and #9 of 1991, designated by the Agency and in the County, all Solid Waste and Regulated Recyclable Materials generated within the County.

Section 3.04. Receiving and Operating Hours; Records. The Agency will keep the System open for the receiving of Solid Waste at least from 7:00 a.m. until 4:00 p.m. Monday through Saturday, excluding legal holidays in the State and at such other times as the Agency and the County mutually agree. The Agency shall cause the System to be operated in accordance with all permit conditions.

The Agency shall maintain and operate such scales as it deems necessary for the operation of the System. These scales shall meet accuracy requirements of the Ulster County Director of Weights and Measures and shall weigh all vehicles transporting Solid Waste and Regulated Recyclable Materials to, and those removing Solid Waste or Regulated Recyclable Materials from the System. The County may, at its own expense, have a representative present whenever the scales are operated.

Section 3.05. Alternate Disposal. The Agency shall provide for Alternate Disposal of Solid Waste. The Agency shall designate Alternate Disposal sites and deliver written notice to the County of such designation. The Agency may change the designation of the Alternate Disposal sites from time to time. The Agency agrees to exercise its best efforts to minimize the costs of such disposal.

In the event an Alternate Disposal site is used for a period of six months, the Agency shall, within 90 days thereafter, seek public, competitive proposals and award a contract for the Alternate Disposal of Solid Waste to the financially and environmentally responsible proposer submitting the least expensive, responsive proposal. In seeking proposals, the Agency shall seek from the County a list of potential proposers to be used in the process.

Section 3.06. Enforcement of Solid Waste Stream Flow Control Laws. The Agency and the County acknowledge the importance of the Solid Waste Stream Flow Control Laws. The Agency agrees to enforce, and the County agrees to cooperate and assist in the enforcement of the Solid Waste Stream Flow Control Laws to assure that sufficient Solid Waste and Regulated Recyclable Materials enter the System.

ARTICLE IV - PAYMENT OF NET SERVICE FEES TO THE AGENCY

Section 4.01. Net Service Fees. (A) In consideration for providing the service of accepting and processing and/or disposing of Solid Waste and accepting, processing and marketing Regulated Recyclable Materials delivered by or on behalf of the County hereunder and such other services being rendered by or on behalf of the Agency to the County in connection therewith, commencing on the Effective Date the Agency shall have the right to charge the County and the County shall have the obligation to pay to the Agency Net Service Fees when due, calculated according to the following formula:

$$(BDS + BRF + AE) \text{ minus } (TF + RMR + OR)$$

where:

- BDS = Bond Debt Service, the amount of principal of and interest on Bonds owed during the calculation period, including any coverage requirements.
- BRF = Bond Reserve Funds, the amounts, if any, required to be deposited during the calculation period in the Debt Service Reserve Fund, Operating Reserve Funds, and other reserve funds established under the trust indenture.
- AE = Agency Expenses, the actual expenses of the Agency for the calculation period, including costs incurred in operating the System, and paying the costs of Alternate Disposal, as determined pursuant to Subsection 4.01(c) hereof.
- TF = The total of the per ton fees collected by the Agency for processing or disposal of Solid Waste, and processing of Regulated Recyclable Materials at the System.
- RMR = Regulated Recyclable Materials Revenues, the total amount of revenues received by the Agency during the calculation period from the sale of Regulated

Recyclable Materials.

OR = Other Revenues, the total amount of other funds available to the Agency for purposes of meeting its obligations hereunder.

Calculation periods will be the six-month periods ending on September 1 and March 1 of each year. By September 30 of each year, the Agency shall notify the County of the amount, if any, payable as the Net Service Fee for the two prior calculation periods and any Net Service Fees due and owing from previous calculation periods. The amount of the Net Service Fee will be due and payable by the County on the tenth business day preceding the Bond Interest Payment Date next following the end of such calculation period. The County shall appropriate in its annual budget funds sufficient to pay the Net Service Fee.

(B) The Agency covenants to establish per ton fees for disposal of Solid Waste at the System at rates reasonably calculated to result in  $(TF + RMR + OR)$  being not less than  $(BDS + BRF + AE)$  for each calculation period described above. The Agency further covenants to fund and maintain throughout the term of this Agreement an operating reserve account which shall be used in the first instance to fund any short-term operating deficit. The Agency shall notify the County of any draw on the operating reserve account. If the Agency fails to receive sufficient revenues in any calculation period to pay  $(BDS + BRF + AE)$  for such calculation period, or fails to maintain a sufficient operating reserve account, and Net Service Fees are paid by the County pursuant to this Article IV, the Agency shall thereafter exercise its best

efforts in consultation with the County to reimburse the County amounts paid by the County for Net Service Fees as a result of such failure. The obligation to reimburse the County for Net Service Fees paid by the County shall be continuing.

The Agency further agrees to plan for future capital improvements by considering increasing per ton fees for disposal of Solid Waste to fund such reserve funds for such capital improvements as the Agency shall from time to time establish.

(C) Agency Budget; Modifications. No later than July 15 of each year the Agency shall provide to the County Legislature the proposed Agency Budget for the next ensuing calendar year. The County Legislature shall have the right to make reasonable requests for documentation in support of the estimates of all items of revenue and expenditures set forth therein, and the Agency shall promptly and fully comply with all such requests. The County Legislature shall have the right, not later than the following August 15, to request modifications with respect to such proposed Agency Budget, which modifications shall be accepted by the Agency and the adopted Agency Budget for such calendar year shall contain such modifications, provided, however, that in the event the Agency determines that such modifications are not in the best interest of the Agency, the Agency, by the affirmative vote of at least two-thirds of the entire voting strength of the members of the Agency, may adopt a resolution requesting that such modifications not be made or that such modifications be modified, in whole or in part, and stating the reason or reasons therefor, which resolution shall

immediately be transmitted to the County Legislature not later than the following September 1 by delivery to the Clerk of the County Legislature, in which event the County Legislature shall consider such request, and not later than twenty-one days after receiving such request, notify the Agency whether it agrees to any such request, in whole or in part, which determination by the County Legislature shall be a final and binding determination of such modifications, and failure of the County Legislature to so act within the twenty-one day period shall be deemed to be an agreement with such request; provided, further that the Agency Budget shall not, as finally modified, be less than the sum of (i) the principal of and interest on any obligations of the Agency payable during such calendar year; (ii) the amounts, if any, required to be deposited during such calendar year, including bond coverage requirements, in any debt service reserve fund, and/ or, operating reserve fund established under any trust indenture with respect to any Bonds of the Agency; and (iii) the estimated expenses of the Agency as set forth in the Agency budget for such calendar year to be incurred in the operation and maintenance of the System and for Alternate Disposal. For purposes of determining the estimated expenses to be incurred in the operation and maintenance of the System and for Alternate Disposal for purposes of this Section, operation and maintenance and Alternate Disposal expenses shall not include any administrative expenses of the Agency, salaries of administrative personnel, including benefits and other perquisites for such administrative personnel, and any other expenses not

necessary for the physical operation and maintenance of the System or for Alternate Disposal. The determination of whether an operation and maintenance expense is necessary for the physical operation and maintenance of the System or for Alternate Disposal shall be made by the Agency, which determination shall be final and conclusive. Notwithstanding anything herein to the contrary, administrative expenses of the Agency and salaries of administrative personnel, including benefits and perquisites for administrative personnel, shall not be reduced by the County Legislature to an amount less than that in the Agency Budget for the then current calendar year as previously submitted to the County Legislature and may be increased to an amount not exceeding twenty percent in excess of that contained in such Agency Budget for the then current fiscal year without being subject to the modification process herein set forth.

For the purpose of this subsection, the term "County Legislature" shall mean the legislative body of the County, commonly known as the County Legislature, or a duly appointed committee or representative of the County Legislature, and the term "Agency Budget" shall mean the annual operating budget of the Agency and shall not include any capital fund or account established under any trust indenture with respect to the Bonds.

Section 4.02. Obligation of County to Pay Net Service Fees. The amount of Net Service Fees payable hereunder from time to time, if any, shall be deemed to be an operating expense of

the County, and the County agrees that, for so long as the service of accepting and processing and/or disposing of Solid Waste and accepting, processing and marketing Regulated Recyclable Materials is provided in accordance with this Agreement, the obligation of the County to pay Net Service Fees hereunder, in the amount and at the times herein specified, whether to the Agency or a trustee of the Bonds, shall be absolute and unconditional and shall not be subject to any defense (other than payment) or any right of set-off, recoupment, counterclaim, deduction or other right which the County or any other entity may have against the Agency, a trustee of the Bonds, any holder of Bonds, or any other person whatsoever. The County shall take such action as may be necessary to provide for the timely payment of the Net Service Fees due hereunder. The County hereby acknowledges that the services to be provided by the Agency pursuant to this Agreement are of a valuable and unique nature to the County and that the Net Service Fees to be paid by the County to or for the account of the Agency constitute fair consideration therefor.

Section 4.03. Annual Settlement Statement. The Agency shall cause all records related to the computation of Net Service Fee and all weight tickets to be audited by a firm of independent public accountants selected by the Agency within 30 days following the end of the Agency's fiscal year. The Agency shall deliver a certified copy of the audit report to the County and any adjustment required thereby shall take place within 60 days of delivery of the

audit report, and any such adjustment shall constitute a final settlement of the account between the parties for such year.

Section 4.04. Default of the County and Remedies of Agency. The Agency shall have all the remedies prescribed by law and by this Agreement for the enforcement of collection of the Net Service Fees to be made by the County under this Agreement. Notwithstanding the initiation of any of such remedies, the County shall remain obligated to pay the Net Service Fees required to be made by it under this Agreement.

Section 4.05. Default of the Agency and Remedies of County. The County shall have the right to enforce this Agreement by the exercise of all the remedies set forth in this Agreement or prescribed by or otherwise available under law, provided such remedies shall not include a right to terminate this Agreement as long as there are Bonds outstanding. Notwithstanding the initiation of any of such remedies, the Agency shall remain obligated to provide such services required to be undertaken by it under this Agreement.

Section 4.06. Assignment of Claims. In the event and to the extent that the County's payment of Net Service Fees results from the failure of another person to fulfill a payment obligation to the Agency, the Agency shall assign to the County its claim for payment from such person. To the extent the County is reimbursed

for the payment of such Net Service Fees from a source other than such claim for payment, such claim for payment shall be assigned by the County back to the Agency.

ARTICLE V - ADDITIONAL COVENANTS

Section 5.01. Licenses, Approvals and Permits. The County will provide or cause to be provided all such cooperation and assistance as may reasonably be requested by the Agency in connection with the obtaining and maintaining in a timely manner of all licenses, approvals and permits to be obtained for the System and its operation as provided in the Agreement. This provision shall not be construed as a waiver by the County of its own requirements.

Section 5.02. Right of Inspection. The Agency covenants and agrees to permit duly authorized representatives of the County to have reasonable access to the System for the purpose of inspection and verification of the construction, operation and maintenance of the System, provided that the County will comply with all reasonable safety rules and will use its best efforts to cause minimum interference with the operation of the System.

Section 5.03. Insurance. The Agency shall obtain and maintain throughout the term of this Agreement insurance, to the extent commercially available, to cover the properties and liabilities in such coverage amounts as are reasonable and customary.

Section 5.04. Non-Interference with the Obligations of the Agency. The County pledges and agrees that the County will not limit or impair the rights vested in the Agency to purchase, construct, maintain, operate, repair, improve, increase, enlarge, extend, reconstruct, renovate, rehabilitate or dispose of the System, or any part or parts thereof, to establish and collect rates, rents, fees and other charges as contemplated hereunder and to fulfill the terms of this Agreement, and any other agreements with any person with respect to the System, or in any way impair the rights and remedies of the holders of the Bonds, until the Bonds, together with interest thereon, with interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the holders of the Bonds are fully met and discharged.

5.05 Activities of the Agency. The Agency covenants and agrees that it will not engage in any activities other than those authorized or reasonably contemplated by the Solid Waste Management Plan or this Agreement without the written consent of the County Legislature.

Section 5.06. Other Users of the System. The Agency shall not accept and dispose of and/or process in the System Solid Waste or Regulated Recyclable Materials from outside the County, unless the County shall consent in writing prior thereto.

Section 5.07. Reports, Net Service Fee Estimates and Other Information. The Agency shall report on a regular basis to the appropriate committees of the County Legislature and to the County Administrator's office and Treasurer's office on request. The Agency shall submit monthly written reports to the County with respect to such matters relating to the operation and maintenance of the System and the administration of this agreement, including estimated and projected Net Service Fees including monthly written reports which shall, at a minimum, certify: (i) the number of gross tons of Solid Waste or Regulated Recyclable Materials delivered to the System; (ii) the quantity of Solid Waste disposed of and Regulated Recyclable Materials processed and sold; (iii) the types and quantity of wastes which were refused acceptance for disposal or processing; and (iv) the amount and price of Regulated Recyclable Materials sold and other revenues.

Section 5.08. Indemnification with Respect to System Operation. The Agency agrees that it will protect, indemnify, and hold harmless the County and its officers, employees and agents (collectively, the "Indemnified Parties") from and against all liabilities, actions, damages, claims, demands, judgments, losses, costs, expenses, suits or actions and attorneys' fees, and will defend the Indemnified Parties in any suit, including appeals, for personal injury to, or death of, any person or persons, or loss or damage to property arising out of the operation of the System or the performance (or non-performance) of the Agency's obligations

under this Agreement. The Agency shall not, however, be required to reimburse or indemnify any Indemnified Party for loss or claim due to the negligence of any Indemnified Party, and the Indemnified Party whose negligence is adjudged to have been the primary cause of such loss or claim will reimburse the Agency for the costs of defending any suit as required above. An Indemnified Party shall promptly notify the Agency of the assertion of any claim against it for which it is so entitled to be indemnified, shall give the Agency the opportunity to defend such claim, and shall not settle such claim without the approval of the Agency. These indemnification provisions are for the protection of the Indemnified Parties only and shall not establish, of themselves, any liability to third parties.

Section 5.09. Effect of Breach. Failure on the part of the Agency in any instance or under any circumstance to observe or fully perform any obligation assumed by or imposed upon it by this Agreement or law shall not make the Agency liable in damages to the County or relieve the County of its obligations to make payments of Net Service Fees hereunder or to fully perform any other obligation required of it under this Agreement for so long as the Agency shall be providing the solid waste disposal services contracted to be provided by the Agency under this Agreement. The Agency specifically recognizes that the County is entitled to sue the Agency, and the County specifically recognizes that the Agency is entitled to sue the County, for injunctive relief, mandamus,

specific performance or to exercise such other legal or equitable remedies (other than termination of this Agreement except under the conditions set forth herein) not herein excluded, to enforce the obligations and covenants of the other under this Agreement.

Section 5.10. Notice of Litigation. The County shall deliver written notice to the Agency of any litigation or similar proceeding to which the County shall be a party and which shall question the validity or enforceability of this Agreement. The Agency shall have the opportunity to contest any such litigation or proceeding.

Section 5.11. Funds Toward Closure of Existing Landfills. The Agency agrees to provide funds to municipalities within the County to assist in the proper closure of existing landfills, which funds shall be allocated in accordance with a formula to be agreed upon by the Agency and the County.

ARTICLE VI - MISCELLANEOUS

12/31/28  
Section 6.01. Term of Agreement. This Agreement shall be in full force and effect and be legally binding upon the Agency and the County from the date of the execution and delivery hereof. This Agreement shall remain in full force and effect through March 31, 2017. This Agreement may be extended by mutual agreement by the parties.

Section 6.02. Termination of Agreement. The County shall not have the right to terminate this Agreement for so long as any Bonds remain outstanding. Except as expressly provided above, the County shall have no right to terminate this Agreement for any reasons whatsoever, including breach or default by the Agency in its obligations hereunder; notwithstanding the foregoing, the County's obligation to pay Net Service Fees hereunder is conditioned upon the provision by the Agency of the service of accepting and processing and/or disposing of Solid Waste and accepting, processing, and marketing Regulated Recyclable Materials in accordance with this Agreement.

Notwithstanding any contrary provision contained in the Agreement, the County shall have the right to terminate the Agreement on 360 days written notice, subject to completion of the following conditions in advance of such termination:

(i) the payment by the County to the Agency of an amount sufficient to defease the Bonds, or upon other provisions

satisfactory to the trustee for the Bonds being made to protect and preserve the rights of the owners of the Bonds under the trust indenture;

(ii) County acquisition of all assets and assumption of all liabilities of the Agency, subject to any defenses that may exist; and

(iii) the satisfaction of all necessary regulatory and other approvals.

The Agency shall have no right to terminate this Agreement.

Section 6.03. Amendment of Agreement. This Agreement may be amended, waived, modified, and supplemented by agreement of the parties. Any amendment to this Agreement so consented to as provided above shall be by written agreement, duly authorized and executed by the Agency and the County.

Section 6.04. Further Assurances. At any and all times the Agency and the County so far as may be authorized by law shall pass, make, do, execute, acknowledge and deliver any and every such further resolution, acts, deeds, conveyances, instruments, assignments, transfers and assurances as may be necessary or desirable for the better assuring, conveying, granting, assigning and confirming all and singular the rights and interests and payments of Net Service Fees now or hereafter pledged or assigned, or intended so to be, as security for the Bonds or any portion

thereof. The Agency and the County shall each at all times, to the full extent permitted by law, defend, preserve and protect the pledge of the Net Service Fees and all the rights of every holder of any Bonds against all claims and demands of all persons whomsoever. The County shall also provide such information, execute such further instruments and documents and take such reasonable action as may be reasonably requested by the underwriters for the Agency, not inconsistent with the provisions of this Agreement and not involving the assumption of obligations other than those provided for in this Agreement, to permit the offer and sale of the Bonds.

Section 6.05. Nonassignability. Except as expressly provided in this Section 6.05, no party to this Agreement may assign or encumber any interest herein to any person without the consent of the other party hereto, and the terms of this Agreement shall inure to the benefit of and be binding upon the respective successors or assigns of each party hereto. The parties hereto retain the right to reorganize and to have any other body corporate and politic succeed to the rights, privileges, powers, immunities, liabilities, disabilities, functions and duties of either party hereto, as may be authorized by law, in the absence of any prejudicial impairment of any obligation of contract hereby imposed. The Agency may assign its rights hereunder to a trustee as security as may be required in connection with the issuance of Bonds or to the providers of any surety/insurance or credit

facility securing the Bonds.

Section 6.06. Beneficiaries of Agreement. Except as specifically provided in Section 6.05, nothing in this Agreement, whether express or implied, shall be construed to give to any other person whatsoever other than the parties hereto, a trustee of the Bonds, the providers of any surety/insurance or credit facility, and the holders of the Bonds any legal or equitable right, remedy or claim under or in respect of this Agreement, and this Agreement shall be for the sole and exclusive benefit of the parties hereto, a trustee of the Bonds, the providers of any surety/insurance or credit facility and the holders of the Bonds, and their successors and assigns.

Section 6.07. Notices. Any notice or communication required or permitted hereunder shall be in writing and sufficiently given if delivered in person or sent by certified or registered mail, postage prepaid, as follows:

If to the County: Chairman  
Ulster County Legislature  
244 Fair Street  
P. O. Box 1800  
Kingston, New York 12401

If to the Agency: Ulster County Resource Recovery Agency  
Attention: Executive Director  
52 Main Street, UPO Box 4298  
Kingston, New York 12401

Changes in the respective addresses to which such notices

Section 6.11. Waiver. Unless otherwise specifically provided by the terms of this Agreement, no delay or failure to exercise a right resulting from any breach of this Agreement will impair such right or shall be construed to be a waiver thereof, but such right may be exercised from time to time and as often as may be deemed expedient. Any waiver must be in writing and signed by the party granting such waiver. If any covenant or agreement contained in this Agreement is breached by any party and thereafter waived by any other party, such waiver will be limited to the particular breach so waived and will not be deemed to waive any other breach under this Agreement.

Section 6.12. Governing Law and Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State.

Section 6.13. References and Headings. Except as otherwise indicated, all references herein to Sections and Articles are to sections and articles of this Agreement. Section and article headings herein have been inserted for convenience of reference only and will not limit, expand or otherwise affect the construction of this Agreement.

may be directed may be made from time to time by any party by notice to the other party.

Section 6.08. Severability. If any provision of this Agreement shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not effect any of the remaining provisions of this Agreement and this Agreement shall be construed and enforced as if such invalid and unenforceable provision had not been contained herein.

Section 6.09. Execution of Documents. This Agreement may be executed in any number of counterparts, any of which shall be regarded for all purposes as an original and all of which shall constitute but one and the same instrument. Each party agrees that it will execute any and all deeds, documents or other instruments, and take such other action as is necessary to give effect to the terms of this Agreement.

Section 6.10. Entirety. This Agreement merges and supersedes all prior negotiations, representations and agreements between the parties hereto relating to the subject matter hereof and constitutes the entire agreement between the parties hereto in respect thereof, all prior negotiations, representations and agreements, whether oral or written, having been merged herein.

Amend 3 in 6.14

ARTICLE VII - CONTINGENCY

Section 7.01. Contingency. This Agreement is contingent upon the validity and enforceability of the County's local laws dealing with recycling and flow control (Local Law #8 of 1991 and Local Law #9 of 1991) or, alternatively, upon the Agency obtaining valid and enforceable agreements with each municipality in the County which will allow the Agency the exclusive right to dispose of the municipalities' Solid Waste and Regulated Recyclable Materials for the duration of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers or representatives as of the day and year first above written.

ULSTER COUNTY RESOURCE RECOVERY  
AGENCY

BY: *Bill Matten*  
TITLE: CHAIRMAN

COUNTY OF ULSTER

BY: *David Benz*  
TITLE: CHAIRMAN, COUNTY LEGISLATURE

# RRA/Waste Management Agreement

- Dated: June 17, 2009

**AGREEMENT**

AGREEMENT made as of this <sup>th</sup> 17 day of June 2009, between the **ULSTER COUNTY RESOURCE RECOVERY AGENCY**, a public benefit corporation of the State of New York with offices at 999 Flatbush Road, P.O. Box 6219, Kingston, New York 12402 ("AGENCY"), and **WASTE MANAGEMENT OF NEW YORK, LLC.**, a New York limited liability corporation, with offices at 100 Ransier Drive, West Seneca , New York 14224 ("WASTE MANAGEMENT").

**THE PARTIES AGREE AS FOLLOWS:**

1. **DELIVERY OF ACCEPTABLE SOLID WASTE TO THE AGENCY BY WASTE MANAGEMENT.** (A) The Agency hereby agrees to accept from Waste Management municipal solid waste (hereafter "Acceptable Waste") for disposal at the Agency's transfer stations located in New Paltz, New York, and the Town of Ulster (Kingston), New York, (hereinafter the "Transfer Station(s)"), as hereinafter provided. The Agency agrees to operate the Transfer Stations in accordance with laws and regulations applicable to such facilities and in accordance with good engineering and management practices. For purposes of this Agreement, Acceptable Waste shall consist of the following:

Non-toxic, non-hazardous and putrescible and non-putrescible materials and substances that are discarded or rejected as being spent, useless, or worthless, generated in Ulster County.

Waste Management shall not deliver to the Agency the following, which shall be defined as Unacceptable Waste:

- any material that is prohibited by the Agency's Transfer Stations operating permit, including incinerator ash, liquids, chemicals, explosives, regulated medical wastes, sewerage, septage;
- waste from a municipality that has not implemented a recyclables recovery program satisfying 6 NYCRR § 360-1.9(f) provided that the Agency has given written notice to Waste Management of any such municipalities;
- hazardous waste;
- infectious waste;
- electrical fixtures containing hazardous liquids;
- fuel tanks;
- items prohibited by any applicable law, regulations, or the Department of Environmental Conservation, United States Environmental Protection Agency (EPA), or other governmental authority having legal jurisdiction;
- sludges; or
- unreasonable quantities of regulated recyclables as defined by the Agency's rules and regulations. The term "unreasonable quantities" shall be defined as 10 percent (10%) or more of any load of Acceptable Waste delivered to the Agency.

Waste Management shall maintain ongoing internal controls for inspection and monitoring of Acceptable Waste. Waste Management shall transport Acceptable Waste to the Transfer Stations safely and in accordance with all applicable environmental standards and be solely responsible for such transport.

Acceptance by the Agency of any Unacceptable Waste delivered by Waste Management to the Transfer Stations shall not relieve Waste Management of its responsibility to deliver only

Acceptable Waste. Such acceptance by the Agency shall not constitute a waiver by the Agency of Waste Management's continuing obligation to deliver only Acceptable Waste hereunder. Notwithstanding any such acceptance by the Agency, Waste Management shall be liable for the consequences of its delivery of any Unacceptable Waste hereunder, provided that the Agency mail written notice of the delivery of Unacceptable Waste by certified mail, return receipt requested, within 48 hours (excluding weekends and federal and state holidays) of the delivery of same.

(B) Waste Management agrees to deliver and the Agency agrees to accept from Waste Management all Acceptable Waste which was previously directed to Waste Management's Kingston transfer station facility, from Waste Management's own collection routes, consisting of approximately 50,000 tons per year of Acceptable Waste during the term of this agreement, as defined in paragraph 3, below, for disposal at the Agency's Transfer Stations.

Waste Management shall deliver Acceptable Waste in reasonable amounts per day, Monday through Saturday, excepting holidays and such other times during which the Transfer Stations are required to be closed pursuant to DEC permit provisions. The Agency shall have the right, on not less than 5 days' written notice, to limit tonnage from Waste Management from time to time on a daily or weekly basis to ensure that the Transfer Stations can accept all solid waste generated in Ulster County and delivered to the Transfer Stations without violating the conditions of its permit from the DEC, but in no event shall the Agency accept less than 3,500 tons per month of Acceptable Waste.

(C) Waste Management shall pay the Agency according to the following rate schedule for each ton of Acceptable Waste delivered to the Transfer Stations under this agreement:

|                                     |                 |
|-------------------------------------|-----------------|
| July 1, 2009 – December 31, 2009    | \$73.00 per ton |
| January 1, 2010 – December 31, 2010 | \$73.50 per ton |

|                                     |                  |
|-------------------------------------|------------------|
| January 1, 2011 – December 31, 2011 | \$ 74.00 per ton |
| January 1, 2012 – December 31, 2012 | \$ 74.50 per ton |

The above rates are inclusive of all surcharges and/or fees, except that the Agency may charge its standard fuel surcharge on Waste Management's deliveries of Acceptable Waste under this agreement.

Waste Management recognizes that the rates set forth above are special rates extended to Waste Management specifically under this Agreement. Waste Management agrees that, in order to receive such rates, Waste Management will deliver to the Agency all Acceptable Waste which was previously directed to Waste Management's Kingston transfer station facility, from Waste Management's own collection routes. Waste Management further acknowledges and agrees that the special rates have been extended also based upon its promise to pay invoices for disposal of solid waste on a current, 30 day basis. Waste Management agrees that if it fails to pay such invoices on a current, 30 day basis, it may be subject to interest on the unpaid balance at the maximum rate allowed by State law and Waste Management agrees that if it fails to pay such invoices on a current, 30 day basis, it shall pay to the Agency its regular gate price for the solid waste billed under such delinquent invoice, and shall be subject to exclusion from the Agency's Transfer Stations unless and until the delinquent invoice is paid and Waste Management deposits with the Agency and maintains one month's projected disposal cost deposit until the Agency determines that it no longer requires it.

**2. DELIVERY OF ACCEPTABLE WASTE BY THE AGENCY TO WASTE MANAGEMENT:** (A) Waste Management hereby agrees to accept from the Agency municipal solid waste and construction and demolition debris for disposal at Waste Management's High Acres Landfill in Fairport, New York ("the Landfill"). Waste Management agrees to operate the Landfill in accordance with laws and regulations applicable to such facilities and in accordance with good engineering and management practices. Solid waste to be delivered to the Landfill by the Agency shall be as defined in paragraph 1 (A) above, except that the Agency may also deliver construction & demolition debris to the Landfill (hereinafter Landfill Acceptable Waste). The Agency shall not deliver, or cause to be delivered, to the Landfill any materials defined hereinabove as Unacceptable Waste.

The Agency shall maintain ongoing internal controls for inspection and monitoring of Landfill Acceptable Waste. The Agency shall transport all such Landfill Acceptable Waste, or cause such Landfill Acceptable Waste to be transported to the Landfill safely and in accordance with all applicable environmental standards and be solely responsible for such transport. Acceptance by Waste Management of any Unacceptable Waste delivered by the Agency to Waste Management shall not relieve the Agency of its responsibility to deliver only Landfill Acceptable Waste. Such acceptance by Waste Management shall not constitute a waiver by Waste Management of the Agency's continuing obligation to deliver only Landfill Acceptable Waste hereunder. Notwithstanding any such acceptance by Waste Management, the Agency shall be liable for the consequences of its delivery of any Unacceptable Waste hereunder, provided that Waste Management mail written notice of the delivery of Unacceptable Waste by certified mail, return receipt requested, within 48 hours (excluding weekends and federal and state holidays) of the delivery of same.

(B) (1) The Agency agrees to deliver and Waste Management agrees to accept from the Agency during the term of this agreement, as defined in paragraph 3, below, all Landfill Acceptable Waste received at the Transfer Stations from Waste Management. (2) In the event the Agency receives more than 100,000 tons per year of Landfill Acceptable Waste from all sources other than Waste Management, the Agency agrees to deliver all such Landfill Acceptable Waste over 100,000 tons per year received from all sources other than Waste Management, up to 20,000 tons per year, to the Landfill. Provided, however, that in no event shall the Agency deliver annual volumes of Landfill Acceptable Waste which are less than the annual volumes of Acceptable Waste delivered to the Transfer Stations by Waste Management.

Landfill Acceptable Waste from the Transfer Stations shall be delivered in reasonable amounts per day, Monday through Saturday, excepting holidays and such other times during which the Landfill is required to be closed pursuant to DEC permit provisions. Waste Management shall have the right, on not less than 5 days' written notice, to limit tonnage from the Agency from time to time on a daily or weekly basis to ensure that the Landfill can accept all such Landfill Acceptable Waste delivered to the Landfill without violating the conditions of its permit from the DEC, but in no event shall Waste Management accept less than 4,000 tons per month of Landfill Acceptable Waste.

(C) The Agency shall pay Waste Management according to the following rate schedule for each ton of Landfill Acceptable Waste delivered by the Agency or its contractors to the Landfill during the term of this agreement.

|                                     |                  |
|-------------------------------------|------------------|
| July 1, 2009 – December 31, 2009    | \$ 23.00 per ton |
| January 1, 2010 – December 31, 2010 | \$ 23.50 per ton |
| January 1, 2011 – December 31, 2011 | \$ 24.00 per ton |

January 1, 2012 -- December 31, 2012

\$ 24.50 per ton

The above rates are inclusive of all fees and/or surcharges. The Agency recognizes that the rates set forth above are special rates extended to the Agency specifically under this Agreement. Except to the extent that deliveries of Landfill Acceptable Waste are limited by Waste Management, the Agency agrees to deliver the Landfill Acceptable Waste as described in Section 2(B) hereof to the Landfill. The Agency further acknowledges and agrees that the special rates have been extended also based upon its promise to pay invoices for disposal of Landfill Acceptable Waste on a current, 30-day basis. The Agency agrees that if it fails to pay such invoices on a current, 30 day basis, it may be subject to interest on the unpaid balance at the maximum rate allowed by State law and it shall pay to Waste Management its regular gate price for the Landfill Acceptable Waste billed under such delinquent invoice, and shall be subject to exclusion from Waste Management's Landfill unless and until the delinquent invoice is paid and Waste Management deposits with Waste Management and maintains one month's projected disposal cost deposit until Waste Management determines that it no longer requires it.

3. **TERM:** This Agreement shall commence July 1, 2009 and shall terminate on December 31, 2012, unless extended by the parties pursuant to a written modification and extension agreement signed by all of the parties.

4. **EXCUSE OF PERFORMANCE:** Failure of performance by either party of any of its obligations pursuant to this Agreement may be excused temporarily in the event such performance is prevented by a cause or causes beyond reasonable control of such party and not resulting from malfeasance or misfeasance, provided that a prompt notice of such failure is given and the party is diligent in attempting to remove such cause(s). Such cause(s) shall be only acts of God, war, riot, fire, explosion, flood, sabotage, national defense requirements, governmental

laws, regulations, orders or actions. In the event of termination due to such causes, each party's obligation shall be to pay for solid waste tonnage delivered through the date of termination.

Any conduct or performance which is excused under the terms of this Section 4 shall not constitute an event of default under Section 5 of the Rider attached hereto and made a part hereof.

In addition, either party shall be relieved of its obligation to accept materials under this Agreement, without obligation to the other party, if (a) DEC or any court or other agency terminates the party's right to operate the Transfer Stations or Landfill; and/or (b) this entire contract is declared illegal or unenforceable by any court of competent jurisdiction. In the event DEC or any court or other agency limits either party's right to accept solid waste, then the other party shall have the right to reduce proportionately the maximum amount it must accept from the other party.

**6. HAULING OF WASTE:** (A) All Acceptable Waste delivered to the Agency Transfer Stations pursuant to this Agreement shall be hauled in vehicles owned, operated or contracted for by Waste Management and properly identified and insured by Waste Management or its contractor in accordance with this Agreement. All Acceptable Waste shall be delivered in conventional rear load, side load, front load or roll off solid waste compactor units, or such other units acceptable to the Agency.

(B) All Landfill Acceptable Waste delivered to the Landfill pursuant to this Agreement shall be hauled in vehicles owned, operated or contracted for by the Agency and properly identified and insured by the Agency or its contractor in accordance with this Agreement. All Landfill Acceptable Waste shall be delivered in walking floor trailers or other vehicles acceptable to Waste Management.

7. **STATUTORY COMPLIANCE:** Each party shall be responsible for ensuring that all applicable Federal, State and Agency Laws, rules and regulations are completely met in regard to the operation of their respective facilities as defined hereunder. Each party shall comply with the provision of all applicable State and Agency requirements and all State and Federal laws applicable to them as an employer of labor or otherwise, and in regard to its performance hereunder, including the delivery only of materials acceptable hereunder.

8. **ASSIGNMENT:** Neither party shall assign, transfer, convey, sublet or otherwise transfer this Agreement or any of its rights, titles or interest therein or obligations thereunder, or the power to execute this Agreement, without the prior, written consent of the other party.

9. **ENTIRE AGREEMENT:** This Agreement, and annexed Rider, contains the sole and entire Agreement between the parties relating to the services provided hereunder and shall supersede any and all other agreements between the parties. Any other statements or representations made by either party are void and have no force or effect.

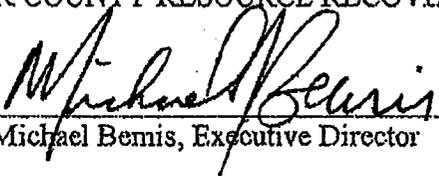
10. **NOTICE:** Any demand, notice or other communication given hereunder shall be in writing and either be delivered personally or by certified mail, return-receipt requested, postage prepaid, to the respective addresses set forth above.

11. **VENUE:** This Agreement shall be governed by, and construed in accordance with the laws of the State of New York applicable to agreements made and to be performed entirely within that State and any action or suit brought by any person for claims arising out of this Agreement shall be brought in New York State Supreme Court for Ulster County.

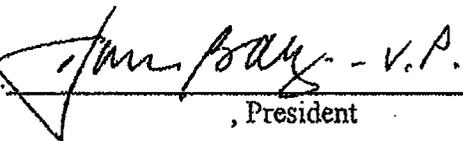
12. **COUNTERPARTS:** This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but which together shall constitute one and the same instrument.

13. **SECTION HEADINGS:** The section headings contained in this Agreement are inserted for convenience of reference only and shall not affect the meaning or interpretation of this agreement.

ULSTER COUNTY RESOURCE RECOVERY AGENCY

By:   
Michael Bemis, Executive Director

WASTE MANAGEMENT OF NEW YORK, LLC.

By:  - v.p.  
, President

**RIDER**  
**TO AGREEMENT BETWEEN ULSTER COUNTY RESOURCE RECOVERY AGENCY**  
**AND WASTE MANAGEMENT OF NEW YORK, LLC., DATED JUNE \_\_, 2009**

**1 INSURANCE**

Each party shall, at its own expense, maintain in full force and effect during the term of this Agreement policies providing at least the following insurance coverages:

| <u>Type of Coverage</u>   | <u>Limits of Coverage</u>                            |
|---|--|
| Workers' Compensation and Disability Benefits   | Statutory  |
| Employer's Liability or similar insurance   | \$1,000,000 each occurrence                          |
| Automobile Liability (owned and non-owned)<br>Bodily Injury<br>Property Damage  | \$1,000,000 aggregate<br>\$1,000,000 each occurrence |
| Commercial General Liability, including broad form contractual liability, products/completed operations, bodily injury, and property damage | \$2,000,000 aggregate<br>\$1,000,000 each occurrence |

Such policies are to be in the broadest form available on usual commercial terms and shall be written by insurers of recognized financial standing satisfactory to each Party who have been fully informed as to the nature of the services to be performed. Except for Workers' Compensation, each party shall be an additional insured on the other party's policies with the understanding that any obligations imposed upon the insured (including, without limitation, the liability to pay premiums) shall be the sole obligations of primary insured party, and not the party named as additional insured. The provision of insurance shall not in any way limit each

party's liability under this Agreement. Each party shall attach to this Agreement certificates of insurance evidencing its respective compliance with these requirements.

Each policy of insurance shall contain clauses to the effect that (i) such insurance shall be primary without right of contribution of any other insurance carried by or on behalf of the other party with respect to its interests, (ii) it shall not be cancelled, including, without limitation, for non-payment of premium, or materially amended, without 30 days' prior written notice to the additional insured party. Cancellation or material amendment to the detriment of the additional insured party shall be a default by the primary.

Each policy of insurance shall be provided on either an "occurrence" basis, or on a "claims made" basis. All such "claims made" policies shall provide that:

A. Policy retroactive dates coincide with or precede the start of the performance of the services (including subsequent policies purchased as renewals or replacements);

B. Each party will maintain similar insurance for at least 3 years following final acceptance of the services;

C. If the insurance is terminated for any reason, the cancelled party agrees to purchase an unlimited extended reporting provision to report claims arising from the services performed for the non-cancelled party; and

D. Immediate notice shall in the case of the Agency be given to the Agency through, its counsel, Stephen J. Wing, Esq., c/o Ulster County Resource Recovery Agency, P. O. Box 6219, Kingston, New York 12402, or in the case of Waste Management to its counsel, Michael S. Keszler, Group Counsel, Waste Management, 448 Lincoln Highway, Fairless Hills, PA. 19030 of circumstances or incidents that might give rise to future claims with respect to the services performed under this Agreement.

## 2. INDEMNIFICATION

Each party shall defend, indemnify, and hold harmless the other, its officers, employees, and agents against all claims, liabilities, damages, costs, and expenses (including but not limited to reasonable counsel fees and the costs of litigation or settlement) arising from any negligent act or omission or willful misconduct of the indemnifying party, its employees, representatives, subcontractors, assignees, or agents under this Agreement.

## 3. MONITORING OF PERFORMANCE

Each party shall have the continuing right following the term of this Agreement to ensure that the solid waste delivered by the other party has been delivered as agreed. Each party hereby consents to the examination of its records and agrees to provide to or permit the examining party to obtain copies of any documents relating to the performance of this Agreement. Each party shall maintain all records required by this paragraph for one year after the date this Agreement is terminated or ends.

## 4. INDEPENDENT CONTRACTOR

The parties agree that their relationship to each other is that of an independent contractor and that neither party or its respective employees or agents will hold themselves out as, nor claim to be officers or employees of the other party, and that they will not, by reason of this Agreement, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the other party, including, but not limited to, Worker's Compensation coverage, health coverage, Unemployment Insurance Benefits, Social Security coverage or employee retirement membership or credit, nor shall they act as agent, or be an agent, of the other party.

## 5. DEFAULT/BREACH OF CONTRACT

A party shall be in default upon (i) failure to comply with any material term or condition of this Agreement; (ii) the filing by or against Waste Management of a petition in bankruptcy or under any law relating to insolvency; (iii) failure to comply with any statute or regulation that materially affects its performance of this Agreement; (iv) the determination that any representation or certification by either party made under this Agreement is untrue. Material breach includes but is not limited to (i) failure to pay, (ii) delivery of unacceptable waste under ¶ 1 & 2 of this Agreement, (iii) either party's delivery of less than the 3-month minimum amount of acceptable solid waste, and (iv) failure by either party to accept delivery of acceptable solid waste from the other party unless otherwise allowed under this Agreement.

If a party defaults, the non-defaulting party shall notify the other party in writing of the default. The defaulting party shall have five (5) business days from receipt of the notice to cure the default. If the defaulting party fails to cure the default within five (5) business days, or if the default is not curable within five (5) business days and the defaulting party does not within the five-day period undertake such efforts to cure the fault within a reasonable time, the non-faulting party may at its option (i) terminate this Agreement; (ii) refuse to accept/deliver (as the case may be) any more solid waste until the default is cured; (iii) declare any outstanding balance immediately due and payable or refundable (as the case may be), which amount, in the case of either party's default or breach of its obligation to delivery the minimum monthly amount of acceptable solid waste, shall included the amount of payments that would have been due to the other party had the agreement remained in effect, described in and except as otherwise provided for in this Agreement; (iv) recover counsel fees and all costs incurred to enforce this Agreement; (v) pursue such other remedies as may be available under law or this Agreement. These remedies are cumulative.

6. MODIFICATION

This Agreement may be modified only by a writing signed by both parties.

ULSTER COUNTY RESOURCE RECOVERY AGENCY

By: Michael M Bemis  
Michael Bemis, Executive Director

WASTE MANAGEMENT OF NEW YORK, LLC.

By: Jan Kelly - VP  
, President

STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF ULSTER )

On the      day of June in the year 2009 before me, the undersigned, personally appeared Michael Bemis, personally known to me or proved to me on the basis of satisfactory evidence to be the individual (s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Kelly Utter  
Notary Public

KELLY A UFFER  
Notary Public, State of New York  
No. 01UT6098872  
Qualified in Ulster County  
Commission Expires September 22, 2011

STATE OF New York )  
 ) ss.:  
COUNTY OF ERIE )

On the 19 day of June in the year 2009 before me, the undersigned, personally appeared DAVID BALBIERZ, personally known to me or proved to me on the basis of satisfactory evidence to be the individual (s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Richard D. Sturges  
Notary Public  
RICHARD D. STURGES  
EXP DATE: 01/21/2010  
REG #: 01 ST 4990938  
ERIE County

# Solid Waste Policy in Ulster County/ Flow Control

- Dated: March 17, 2009
- Authored: Stephen Wing

**SOLID WASTE POLICY IN ULSTER COUNTY**

In the 1980's the federal and state governments passed laws mandating solid waste planning under a hierarchy of reuse and recycle, then dispose of what remained. In New York State, the State Legislature placed the burden on county governments to implement this hierarchy. Management of solid waste had generally been left up to town governments and the private sector. But stricter laws more protective of the environment put cost of compliance beyond the reach of town governments, and compliance was resisted by the private sector. A solid waste management crisis ensued. With disposal alternatives dwindling, private sector companies, some connected with organized crime participated in price gouging.

Public solid waste management became a necessity. Solid waste management was viewed as any other public utility service. Lawful, fair and consistent management of solid waste was as essential to the health, welfare and economic growth of communities as were water and power systems. Private sector solid waste companies could not be relied upon to operate such a system, especially one based upon recycling, because the private sector interest is one of profit. In order to insure profitability, private sector solid waste companies will, to the greatest extent possible 1) avoid or delay cost of environmental compliance; 2) externalize costs - make the taxpayers pay for environmental compliance such as landfill closures, etc.; 3) obtain the greatest possible market share, the ultimate goal being a private monopoly on a national or local basis that guarantees increased profits; and 4) terminate unprofitable services or products, such as recycling. As shown recently, and in connection with one solid waste company operating in the County, private companies will also go to great lengths to overstate revenues and hide expenses in order to deceive the market and investors, Again, the motive being profit.

A publicly managed system is not run for profit. The interests of the customers (the public) are not secondary to the company's goal of profit making. Public benefit is the primary goal and responsibility of the system. Providing mandated services in accordance with law at the lowest cost is the goal of the public system. If a service is mandated or essential, it cannot be discontinued. The public system must continue to provide it as efficiently as possible. Such is the case with recycling.

A public system does not mean that private sector companies are excluded. To the contrary, the solid waste system established by the County government in Ulster County and operated by the Resource Recovery Agency ensures fair competition among

companies regardless of size or market share by providing a level playing field. This is accomplished by providing convenient and consistent recycling and solid waste disposal facilities at a fair price to all. These facilities have been constructed with public money to handle the solid waste generated by the public. In order to pay for these facilities, a system whereby the costs of construction and operation of the facilities would be paid for by the users of them, and not the taxpayers was developed. This system required that sufficient revenues from user fees be generated to pay for the costs of the system, those costs including a no-cost recycling program. A flow control law was authorized by the state government and adopted by the County Legislature to ensure that sufficient solid waste went into the system to generate the required revenues.

Several years ago, the United States Supreme Court deemed a flow control law in Rockland County unconstitutional (*C&A Carbone v. Town of Clarkstown*). This caused the County not to enforce its local law. This resulted in insufficient revenues being generated to support the system as prices had to be maintained at artificially low levels to ensure that solid waste would be disposed of at the public facilities. Net service fees, generated by taxes were required to augment the user fees being earned by the system.

In 2001, a decision by the United States Court of Appeals for the Second Circuit concerning the Oneida Herkimer Solid Waste Management Authority modified the *Carbone* decision by holding that flow control laws supporting public solid waste systems are not automatically unconstitutional, and were, instead subject to a court-defined balancing test known as the *Pike* test, which requires the party attacking the flow control law to prove that adverse effects on interstate commerce outweigh the benefits of the flow control law. The Second Circuit affirmed a lower court ruling that the flow control law in Oneida and Herkimer counties was constitutional and compliant with the *Pike* test. In so doing, the Second Circuit court found that beneficial factors justifying flow control include not only financial matters, but also environmental and liability goals - such as waste reduction, recycling, proper disposal of solid and hazardous waste.

PIKE  
TEST

The Oneida Herkimer case was appealed to the U.S. Supreme Court, which found that flow control laws supporting public facilities were not unconstitutional. *United Haulers v. Oneida Herkimer*.

SUPREME  
COURT

What would the effect be of enforcing the flow control law in Ulster County? Perhaps a better way to put the question is - if the public system didn't exist in Ulster County where would we be today?

One company collects a large amount of the solid waste generated in the County. This company also owns the only disposal facility (a transfer station for general solid waste) in Ulster County - there is a small transfer station in Marlborough (which is permitted to receive C&D waste only) - and also owns landfills in the State and nearby Pennsylvania. Thus, it essentially controls the disposal options for solid waste. If the County's public system did not exist, this company would have the power to charge higher prices to other collectors of solid waste, or to deny their access to the transfer station. This could lead to the demise of competing companies who would face extra

costs for disposal, or perhaps, no practical disposal alternative at all. Furthermore, without the local municipal drop-offs financed and serviced by the Agency, the individual homeowner- small company would be without any alternative to collection of solid waste by the large, private sector company. The potential for costs to rise as competition is reduced is real.

However, because of the County's system, the large company referred to has significant competition from other large solid waste companies, and small waste companies, as well, and Ulster County residents have the option of self-hauling solid waste and recyclables and paying a per bag fee that is much less expensive than the private collection fee. Not only does competition amongst the private sector companies (enhanced by the Agency's transfer stations) mean lower costs for consumers, but the existence of the alternative disposal mechanism at the local municipal drop offs is a factor in keeping collection costs low for both solid waste and regulated recyclables.

It should be noted that the campaign against flow control that was mounted several years ago in Ulster County was supported primarily by private sector companies that stood to gain the most if the public system was to be terminated.

Some facts about the County's flow control law, as amended:

- The law only applies to solid waste originated or generated in the County.
- The law does not apply to solid waste coming into the County.  
(An amendment is needed to clarify the above 2 bullets)
- The law does not apply to recyclable materials.
- The law directs solid waste to publicly owned facilities for disposal – the Agency's Regional Transfer Stations.  
(An amendment is needed to clarify this bullet)
- The law does not control collection of solid waste.

Implementation of the flow control law will result in a level playing field where all solid waste companies can compete fairly to collect the solid waste originated or generated in the County. The benefits of successful implementation are:

- The solid waste collection companies will be ensured of a lawful, environmentally complying disposal location available at a fair price that is charged to all similar haulers.
- County residents will be ensured that the solid waste they generate is processed and disposed of at a fair and consistent price in an environmentally sound manner.

- **County residents will be free to deal with competing private haulers – large and small – for the best collection price, or they will be able to self-haul to the municipal drop-offs and avoid a collection fee entirely.**
- **The County government will no longer have to raise taxes to pay net service fees and the Agency will be in the position to repay, over time, the net service fees previously collected.**
- **The County will continue to exercise control over the Agency's budget and capital borrowing as is presently provided.**
- **The Agency will be able to continue to provide services at a fee sufficient to pay for the cost of those services established under the approved annual budget, which is subject to executive and legislative branch review, comment and, to a limited extent, amendment.**

**Impediments to successful implementation are the efforts by the private sector companies to prevent implementation by resisting the requirement to send solid waste to the public sector facilities and legal action challenging the implementation of flow control. The Agency believes that the local law as amended is constitutional and would be upheld in court if challenged. Enforcement of the flow control law could be accomplished efficiently, since the focus of enforcement would be on only one or two companies. However, both efforts – defense of the law and enforcement of flow control – would be expensive and time-consuming.**

**Therefore, before the County and Agency commence enforcement, the Agency would endeavor to negotiate long-term disposal contracts with the private sector companies at rates more reflective of the Agency's true costs of running the system, as it has done with the local governments in the County, hopefully avoiding legal and enforcement issues. Essential to the success of this effort is an amended, enforceable flow control law backed fully by the Agency and the County government.**

**Stephen J. Wing  
Agency Counsel**

**Ulster, New York  
March 17, 2008**

5 YEAR FORECAST  
WITHOUT FLOW CONTROL

|                             | 2012           | 2013           | 2014           | 2015           | 2016           | 2017           |
|-----------------------------|----------------|----------------|----------------|----------------|----------------|----------------|
| msw tons                    | 142,250        | 140,116        | 138,015        | 135,944        | 133,905        | 131,897        |
| SSR tons                    | 13,500         | 7,500          | 7,500          | 7,500          | 7,500          | 7,500          |
| Fiber tons                  | 6,500          | 6,565          | 6,631          | 6,697          | 6,764          | 6,832          |
| Revenue                     |                |                |                |                |                |                |
| avg tip rate (per ton)      | various        | 87             | 87             | 87             | 87             | 87             |
| msw tip fees                | \$ 12,384,965  | \$ 12,190,092  | \$ 12,007,305  | \$ 11,827,128  | \$ 11,649,735  | \$ 11,475,039  |
| recycling/ssr tip fees      | \$ 20/30       | 20             | 20             | 20             | 20             | 20             |
|                             | \$ 195,000     | \$ 150,000     | \$ 150,000     | \$ 150,000     | \$ 150,000     | \$ 150,000     |
| Sale of recyclables-fiber   | varies         | 70             | 70             | 70             | 70             | 70             |
|                             | \$ 960,700     | \$ 459,550     | \$ 464,146     | \$ 468,787     | \$ 473,475     | \$ 478,210     |
| total revenue               | \$ 13,540,665  | \$ 12,799,642  | \$ 12,621,451  | \$ 12,445,915  | \$ 12,273,210  | \$ 12,103,249  |
| Expense                     |                |                |                |                |                |                |
| T&D expense                 | \$ 8,270,119   | \$ 8,146,786   | \$ 8,073,878   | \$ 7,476,920   | \$ 7,364,775   | \$ 7,254,335   |
| personnel expense           | \$ 2,894,087   | \$ 2,513,653   | \$ 2,693,809   | \$ 2,886,575   | \$ 3,092,836   | \$ 3,313,535   |
| debt service                | \$ 2,849,902   | \$ 2,803,852   | \$ 2,808,746   | \$ 2,353,805   | \$ 2,336,015   | \$ 2,260,317   |
| Landfill Postclosure costs  | \$ 190,000     | \$ 190,000     | \$ 190,000     | \$ 190,000     | \$ 190,000     | \$ 190,000     |
| other expense               | \$ 1,571,861   | \$ 1,610,000   | \$ 1,610,000   | \$ 1,610,000   | \$ 1,610,000   | \$ 1,610,000   |
| total expense               | \$ 15,585,969  | \$ 15,074,291  | \$ 15,186,433  | \$ 14,327,300  | \$ 14,403,626  | \$ 14,438,187  |
| net income (loss)           | \$ (2,045,304) | \$ (2,274,649) | \$ (2,564,983) | \$ (1,881,385) | \$ (2,130,416) | \$ (2,334,938) |
| Net Service Fee             | \$ 1,595,304   | \$ 2,274,649   | \$ 2,564,983   | \$ 1,881,385   | \$ 2,130,416   | \$ 2,334,938   |
| Agency Reserve Contribution | \$ (450,000)   | \$ -           | \$ -           | \$ -           | \$ -           | \$ -           |
| Aggregate Reserve Balance   | \$ -           | \$ -           | \$ -           | \$ -           | \$ -           | \$ -           |

6/11/12

5 YEAR FORECAST  
WITH FLOW CONTROL

|                                 | 2012           | 2013          | 2014          | 2015          | 2016          | 2017          |
|---------------------------------|----------------|---------------|---------------|---------------|---------------|---------------|
| msw tons                        | 142,250        | 156,475       | 153,346       | 150,279       | 147,273       | 144,328       |
| SSR tons                        | 13,500         | 7,500         | 7,500         | 7,500         | 7,500         | 7,500         |
| Fiber tons                      | 6,500          | 6,565         | 6,631         | 6,697         | 6,764         | 6,832         |
| Revenue                         |                |               |               |               |               |               |
| msw tip fees                    | various        | 95            | 98            | 97            | 98            | 100           |
|                                 | \$ 12,384,965  | \$ 14,865,125 | \$ 15,027,859 | \$ 14,577,023 | \$ 14,432,756 | \$ 14,432,756 |
| recycling/ssr tip fees          | 20/30          | 20            | 20            | 20            | 20            | 20            |
|                                 | \$ 195,000     | \$ 150,000    | \$ 150,000    | \$ 150,000    | \$ 150,000    | \$ 150,000    |
| Sale of recyclables             | varies         | 70            | 70            | 70            | 70            | 70            |
|                                 | \$ 960,700     | \$ 459,550    | \$ 464,146    | \$ 468,787    | \$ 473,475    | \$ 478,210    |
| total revenue                   | \$ 13,540,665  | \$ 15,474,675 | \$ 15,642,005 | \$ 15,195,810 | \$ 15,056,231 | \$ 15,060,965 |
| Expense                         |                |               |               |               |               |               |
| T&D expense                     | \$ 8,270,119   | \$ 8,903,788  | \$ 8,500,000  | \$ 8,065,345  | \$ 7,800,015  | \$ 7,638,040  |
| personnel expense               | \$ 2,894,087   | \$ 2,513,653  | \$ 2,693,809  | \$ 2,886,575  | \$ 3,092,836  | \$ 3,313,535  |
| debt service                    | \$ 2,849,902   | \$ 2,803,852  | \$ 2,808,746  | \$ 2,353,805  | \$ 2,336,015  | \$ 2,260,317  |
| other expense                   | \$ 1,571,861   | \$ 1,800,000  | \$ 1,800,000  | \$ 1,800,000  | \$ 1,800,000  | \$ 1,800,000  |
| total expense                   | \$ 15,585,969  | \$ 16,021,293 | \$ 15,802,555 | \$ 15,105,725 | \$ 15,028,866 | \$ 15,011,892 |
| net income (loss)               | \$ (2,045,304) | \$ (546,618)  | \$ (160,551)  | \$ 90,085     | \$ 27,364     | \$ 49,074     |
| Net Service Fee                 | \$ 1,595,304   | \$ 546,618    | \$ 160,551    | \$ -          | \$ -          | \$ -          |
| Contribution To Agency Reserves | \$ (450,000)   | \$ -          | \$ -          | \$ -          | \$ -          | \$ -          |
| Aggregate Reserve Balance       | \$ -           | \$ -          | \$ -          | \$ -          | \$ -          | \$ -          |

18

# Study of the Ulster County Resource Recovery Agency

- Dated: February 22, 2011
- Authored: Cashin/Cahill  
Joint Venture

**STUDY**  
of the  
**ULSTER COUNTY**  
**RESOURCE RECOVERY AGENCY**

for  
**COUNTY OF ULSTER**  
**NEW YORK**

**RECEIVED**

FEB 22 2011

ULSTER COUNTY LEGISLATURE



Submitted to:

**Ulster County Legislature**

Kingston, New York

Submitted by:

**Cashin/Cahill Joint Venture**

1200 Veterans Memorial Highway, Hauppauge, NY 11788

April 1999

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## 1.0 INTRODUCTION

The County of Ulster commissioned this study to obtain analysis and recommendations on the current operations of the Ulster County Resource Recovery Agency. This requested analysis examines the full scope of Agency operations, including its assets, liabilities, organization and management, plans, projections and prospects. In preparing this report, we have spoken to Agency and County officials, private citizens and state officials, and reviewed Agency's budgets, contracts, debt instruments, planning studies, and history. We have attempted to gain a sense of the public concerns over waste management in Ulster generally and the Agency in particular. We have also considered the effects of evolving State and national trends in waste management on the Agency, particularly in terms of management strategy and finance.

### 1.1 Background

The Agency is a public authority organized in 1986 by the New York State Legislature, at the request of Ulster County, for the specific purpose of providing comprehensive solid waste management services to the people of Ulster County. At the time of the Agency's creation, waste generated in Ulster County was disposed of in small town-operated landfills which were not in compliance with new environmental laws and had limited remaining capacity. Ulster did not have a comprehensive waste reduction or recycling program, and like other counties across the State, was presented with new State requirements calling for comprehensive planning and management at the county level.

Under State law, the responsibility for implementation of the State Solid Waste Management Plan lies with local government, pursuant to Environmental Conservation Law § 27-0107 and 6 NYCRR Part 360. In Ulster, the Agency was given responsibility for development of a County plan, which was accepted by the County and ultimately approved by the New York State Department of Environmental Conservation (NYSDEC) in 1993. Under that Plan, the Agency and the County adopted a comprehensive waste strategy, incorporating the management hierarchy of reduction, reuse, and recycling, followed by landfilling, as the preferred methods of disposal.

In addition, the Plan called for the Agency to assist the towns in the closure of their old landfills, and to improve the drop-off sites operated by the towns to accommodate waste and recyclables delivered by local residents. Non-recyclable waste was to be disposed of, on an interim basis, at three consolidation landfills, and then at a new county landfill to be constructed through issuance of Agency bonds.

All of the Agency's activities were to be financed by tipping fee revenues collected from public and private users of its facilities.

A Service Agreement was executed with the County, and individual waste disposal agreements were concluded with each of the towns and the City of Kingston. Each of these agreements contemplated that all waste generated in the County would be delivered to Agency operated facilities for disposal. In 1993, the Agency began implementation of the Plan with the issuance of \$28.5 million in debt. With the bond funds, the Agency repaid the County \$6.9 million for prior system development costs; advanced \$6.5 million to the towns for landfill closure expenses; spent \$900,000 for upgrades to municipal drop-off centers; \$1.4 million to upgrade the consolidation landfills; \$2.2 million for the construction of the satellite aggregation center (SAC) for the recycling program; \$1.5 million for new equipment; and \$2.8 million for the process of siting and permitting a new County landfill.

The Agency was successful in transforming Ulster's solid waste management program from an uncoordinated system of local disposal facilities to an integrated County system which had vastly improved recycling efforts and brought sixteen local unlined landfills to closure. For three years, (1994-1996) the Agency also provided complete waste disposal for the region, accepting approximately 120,000 tons of non-recyclable waste per year at the consolidation landfills.

After 1996, however, the Agency faced the prospect of increasing waste disposal costs since the consolidation landfills were required to be closed. Phase III of the Solid Waste Management plan had called for construction of a new County landfill to replace them. This part of the plan was ultimately discontinued after substantial opposition arose to the sites which emerged from the Agency's planning process. Instead, the Agency began exporting waste to landfills in Sullivan County, and later in western New York and Pennsylvania.

Closure of the consolidation landfills and reliance on out-of-county disposal increased the Agency's annual operating costs by approximately \$3.6 million per year. Closure also required the issuance of approximately \$11 million in new debt to finance the capping and physical closure of those sites. These new expenses forced the Agency to increase tipping fees, which in turn contributed to a decline in the tonnage delivered by private haulers. The private waste collection industry had established transfer capability in the County during this period, and as Agency fees increased, private transfer stations began accepting more and more local waste for private shipment to landfills outside of the County.

Since 1996, approximately one third of the County's non-recyclable waste stream, or 40,000 tons, has left the Agency's system. Tipping fee revenues for this waste were lost to the Agency, and ultimately the County was required to subsidize the Agency through payment of the Net Service Fee under the Service Agreement. This subsidy has been budgeted as a \$3.8 million charge against the County general fund for 1999.

The Net Service Fee was not anticipated to be a major source of Agency revenue, at the time the Solid Waste Management Plan was drafted and the initial Agency bond issue was sold. The fiscal health of the Agency was to have been ensured by operation of local law, through the enforcement of flow control legislation adopted by the County. Flow control laws were designed to require the use of Agency facilities by all private haulers, and the resulting revenues were intended to pay for all Agency services, including the costs of landfill closure and the maintenance of the recycling program during times when recycling revenues would be low. The Service Agreement established the Net Service Fee payment as the final assurance to bondholders that the County would enact and enforce these laws, and that the Agency would meet its obligations.

In 1994, however, the United States Supreme Court issued its decision in *C&A Carbone v. Town of Clarkstown* which struck down flow control legislation similar to the County's. This decision effectively eliminated the Agency's waste control tools and placed the public waste disposal system into direct competition with private sector landfills and hauling companies. This is a competition which the Agency, given its debt and on-going environmental responsibilities, cannot expect to win.

## 2.0 EXECUTIVE SUMMARY

The Ulster County Resource Recovery Agency operates a comprehensive municipal waste management system which provides services, and incurs costs, which none of its private sector waste competitors would provide or incur. As a public corporation, the Agency performs some functions which only government would perform. It is, for example, the environmental steward responsible for all of the County's old disposal facilities, the recycling market of last resort, and the entity responsible for solid waste planning in the county. In addition to these functions, the Agency also provides the same kinds of waste transport and disposal services as its private sector competition, but its total costs of operation are necessarily higher.

The governmental functions performed by the Agency are not easily eliminated or capable of being dispersed to other levels of government. Many of these functions, for example landfill closure, are obligations which have already been performed and paid for, and for which the Agency now pays debt service. If these functions are to stay with the Agency, and we conclude, as a practical matter, that they should, the Agency's revenue structure must be reformed.

At present, the Agency cannot secure sufficient revenue to cover the cost of its operations from tipping fees and recycling revenues. Market conditions require the Agency's tipping fee to be set artificially low in order to continue to attract waste. The shortfall between the revenue received from tipping fees and sale of recyclable materials and the Agency's actual expenses is made up by the County through payment of the Net Service Fee charge under the Service Agreement.

If no action is taken by the County and the Agency to reform the financial structure which brings revenue to the Agency, Net Service Fee payments by the County to subsidize Agency operations will continue indefinitely. The Net Service Fee is currently charged at the end of a fiscal year after the Agency has determined how much of a revenue shortfall has been incurred in the previous twelve months, and implies that the Agency could draw upon an operating reserve, which it does not have, to pay bills as they arise. The Net Service Fee was not intended to be a permanent operating subsidy, and will not be effective as a means of providing substantial revenues in a timely way if the Agency were to rely upon it for the long term.

In addition, the Net Service Fee is currently drawn from the County's general fund revenues. Use of the general fund to subsidize the Agency conflicts with the County's original intent to fund waste management through a dedicated revenue source. It is likely that continued use of the general fund to subsidize the waste management program will lead to conflicts between solid waste and other government programs for scarce resources. General fund subsidization is also the least equitable means of financing solid waste programs, when compared to user or benefit financing. We believe this revenue structure should be changed.

We also find that certain Agency programs and expenditures could be focused and reduced without changing the mission of the Agency, as envisioned by the drafters of the Solid Waste Management Plan. Our specific recommendations are as follows:

## **2.1 Dissolution**

The Agency should not be dissolved. Dissolution is feasible and could be accomplished by the establishment of a fund sufficient to pay the existing debt of the Agency, together with an act of the State legislature. On dissolution, the County would automatically succeed to title to all Agency property. However, the County would have to issue its own new debt to pay the Agency's obligations. It would liquidate the Agency's physical assets, and draw upon general fund revenues to pay the new debt service. Overall, the County would not save money, and would have to assume the responsibility of, at least some, current Agency functions. In particular, the County would probably have to take direct responsibility for closed landfill monitoring, and play a direct role in recycling and household hazardous waste management.

Moreover, the Agency cannot operate beyond the control of the County. The County has substantial oversight powers under the Service Agreement to direct Agency policies and control Agency expenditures. The County Legislature has direct power of appointment over the Agency Board of Directors and therefore indirect control of Agency management. Agency management currently reports to a committee of the County Legislature on a monthly basis, a practice which we recommend be continued. Through the use of these powers, the County is in a position to institute any changes to the solid waste program which it would otherwise be prepared to institute if the Agency were dissolved. Therefore, we see little to gain from dissolution.

## **2.2 Financial Reform**

The County and the Agency should reform the financial structure supporting the Agency by direct charges to the users and beneficiaries of the Agency's services. Continued reliance upon a gate fee collected partly from municipalities and partly from private haulers will not provide financial stability over the short or the long term. The County should formally assume the responsibility to provide public waste disposal service to the citizens of the County, and amend the Service Agreement with the Agency to provide payment for this service. The County should institute a two tiered Special Benefit Assessment consisting of a) an ad valorem charge on all taxable real property in the County for specific "general benefit" services provided by the Agency; and b) a user fee on all improved properties which generate waste, including tax exempt property, for the Agency's waste disposal and recycling services.

### 2.2.1 The Ad Valorem Charge to All Taxable Property

“General benefit” services performed by the Agency include its past planning activities, landfill closures, infrastructure construction, and other expenditures of bond proceeds, together with annual expenditures for landfill monitoring and household hazardous waste management. These services will continue to cost the Agency approximately \$3.8 million per year, but can be fairly charged to all taxable property in the County, including vacant and unimproved land. From an assessment perspective, all such land can be said to benefit from the existence of solid waste infrastructure, county-wide planning, environmental management of closed landfill facilities and ongoing containment of landfill leachate and groundwater monitoring. An ad valorem approach will distribute some of the Agency’s costs to the County’s largest landholders and taxpayers, the City and State of New York. These charges should be capped by the County Legislature.

We estimate that an ad valorem charge designed to raise \$3.8 million per year would mean an assessment of \$0.45 per \$1,000 of Equalized Value for properties in the county. For a residence in the County valued at \$100,000, this would be a charge of approximately \$45 per year. However, the Special Benefit Assessment would allow the County Legislature to eliminate the current \$3.8 million Net Service Fee from the budget and potentially maintain the real property tax levy at the same level.

### 2.2.2 The User Fee Charged to Properties Which Generate Waste

The second component of the Special Benefit Assessment should be a User Fee charged only to improved, waste-generating properties, based upon the amount of non-recyclable solid waste each such property generates. The user fee should be designed to raise \$6.8 million to cover the Agency’s remaining waste transport, disposal, recycling and administrative activities, including the estimated cost for disposal of an additional 40,000 tons of waste which can be expected to return to the system. The User Fee would be based upon a per ton charge of \$59.00 per ton, assuming a total waste flow of 120,000 tons per year.

### 2.2.3 Residential User Fee

For residential properties, we recommend that a waste generation rate of 1.1 tons per household per year be employed. This rate would presume that residential properties generate 50% of the total waste stream in Ulster, or some 60,000 tons per year. Applying this generation rate and a \$59/ton charge to the County’s 55,000 residential properties yields an annual user fee charge of \$65 per household, raising \$3.57 million in total revenue. The combined annual charge for all Agency activities, including an average \$45

ad valorem assessment, would be \$110 per year. This charge would represent approximately 42% of current combined collection and disposal charges for private waste service (at \$22/month or \$264 per year).

#### 2.2.4 Non-Residential User Fee

For commercial, recreational, industrial and institutional properties, we recommend that a waste generation rate be calculated using the Agency's own tonnage and yardage figures maintained for its collection operations. These figures are available and can be used to compute a reliable estimate of the average weight of a cubic yard of uncompacted waste. We have used a conversion figure of 150 pounds per yard to estimate the potential economic impact on small, medium and large waste generators. With a per ton charge of \$59 as a base, one cubic yard of waste weighing 150 pounds would cost \$4.40 to dispose of with the Agency.

We recommend that all non-residential improved properties, including tax exempt properties, be charged for a base service of one cubic yard (\$4.40) per week, or \$229 per year. Properties which generate more waste on a weekly basis would be charged at their actual rates of disposal. This information should be gathered from the haulers who provide container service as a condition of occupation permits which should be required for all persons engaging in the solid waste collection business, and should be verified through field surveys conducted by Agency or County personnel.

We estimate that a \$4.40 per yard user fee assessed to non-residential properties would raise over \$3.25 million in revenue, assuming small 1 yard generators account for 70% of the non-residential parcels, medium (up to 4 yd./week) generators 20%, and large (up to 8 yd/week) generators 10%. Total user fee revenues should be in excess of \$6.8 million per year, and when combined with the ad valorem component of the Special Benefit Assessment, the Agency should see revenues of \$10.6 million per year.

#### 2.2.5 Zero Tipping Fee for Ulster County Waste

Upon implementation of the user fee, the Agency should eliminate the gate fee at its facilities for waste generated in Ulster County. Revenues for MSW and recycling services provided to Ulster residents and businesses would be generated entirely by the Special Benefit Assessment. The County would become the Agency's primary customer. All haulers licensed to work in the County would tip waste with the Agency at no charge, as would all of the towns and the City of Kingston. The Agency would continue to charge a gate fee for sludge and C&D services, and for any waste originating outside of Ulster County. The Agency would continue to process and market recyclables and receive revenue from material sales.

In the first year, both components of the Special Benefit Assessment should be collected through the real property tax bill. This should be done both to ensure certainty in collection and to allow the public to acquaint itself with a simplified system. In the second year the Agency can refine the system to provide direct billing for non-residential property and add weight classifications with different pounds per yard conversion ratios. These refinements should be deferred in order to allow the no-fee disposal system to establish itself with the haulers and their customers. Hauler prices to both residential and commercial customers should decline to reflect the elimination of disposal charges, and a period of adjustment should be expected as haulers and customers work out acceptable prices for collection-only service. By the second year, collection costs should be established in the marketplace, and the need to refine or adjust user fee charges will be easier to address.

### **2.3 Expanded Occupational Permit System**

To safeguard the integrity of the no-fee disposal system, the County's Solid Waste Law should be amended to require permits for all persons engaging in the waste collection business in Ulster. The permit should require disclosure of customer information and route plans from haulers, as well as recycling information. The law should provide substantial penalties for delivery of out-of-county waste, including loss of license. The object of the enforcement scheme should be to attract the cooperation of the private hauling industry by offering free disposal, but to discourage and deter abuse of the privilege through importation of out-of-county waste. Haulers who have practical difficulty in arranging routes entirely within Ulster can be accommodated if they disclose the location of out-of-county stops and agree to pay a disposal fee for that waste.

One consequence of no-fee disposal in the hauling industry should be a leveling of the playing field between small and large haulers. There is some reason for concern that competition among private haulers is declining due to an accelerated rate of merger and acquisition. There appear to be fewer haulers working in the County than there were only a few months ago. Small haulers are sometimes induced to leave the business because they lack transfer capability and access to distant landfills, and therefore cannot offer competitive rates for combined collection/disposal service. The availability of no fee disposal in Ulster should re-focus the collection business on service and efficiency. This in turn may attract new firms to the area, increase competition, and serve to keep collection rates low.

For this reason, we do not recommend the institution or expansion of public collection services. If competition does not increase with no-fee disposal, or if rates do not reflect the elimination of disposal costs from private hauling bills, the possibility of public collection should be examined. In the meantime, we do not see

adequate justification for interference with private service relationships beyond the provision of disposal services.

#### **2.4 Phase Out Agency Collection Service**

As no-fee disposal restores competition to private sector collection service, we recommend that the Agency's own collection activities should be phased out. The Agency's collection unit has been successful in expanding its customer list over the past three years and in restoring some waste to the system. It may also have been effective in discouraging price increases by private competitors. However, the service was not organized to provide the lowest overall costs to the largest number of customers, but to regain tonnage for the system. While tonnage collected has increased, we do not believe that the service would ultimately be successful in capturing a large percentage of the private market. If the institution of a user fee restores the flow of waste, the primary purpose of the collection operation will have been fulfilled. If public collection still seems to be necessary due to excessive private sector pricing or poor or inefficient service, other options for collection should be explored. These should seek to provide consolidated routes and broad based service from the outset.

#### **2.5 Bid Out Single Long Term Disposal Contract**

The Agency should reform its disposal contracting practices by bidding out a five year landfill disposal contract to a single contractor guaranteeing annual delivery of a minimum of 80,000 tons of waste. At present the Agency has agreements with three landfills at favorable prices. However, these prices are not secure against increases. We believe that market prices will rise in the near future and that the Agency's contracts may be in jeopardy of cancellation or modification by the facility operators. The Agency has just experienced this with its sludge disposal site. Bidding a substantial block of waste for a five year term should procure the best price in the marketplace. Execution of a contract for five years will provide a measure of stability for budgetary and planning purposes. This approach should not preclude a re-opening of discussions with Sullivan County for an intermunicipal agreement. These discussions could be held prior to publishing a bid.

#### **2.6 Privatize Long Haul Transport**

The Agency should prepare to concurrently bid and award one or more long term transportation contracts for long haul to the landfill identified in the disposal bid. This bid should incorporate the use of the Agency's trailers. If the bid prices are equal to or lower than the Agency's own long haul costs, the Agency should cease long haul operations, re-assign personnel and dispose of surplus equipment.

## 2.7 Increase Recycling Expenditures

Current levels of expenditure on recycling education and promotion are quite low. This is a product of the continuing financial pressure on the Agency due to loss of tonnage and revenue. Recycling activities should be enhanced, and greater effort expended to track private sector recycling and enforce compliance with the County's source separation law. Amendment of the solid waste law to establish an occupational permit requirement can also add conditions requiring disclosure of private recycling program information. The Agency should be aware of the markets available to private sector recyclers and should be able to inform the public of the recycling options offered by licensed haulers.

### **3.0 ORGANIZATION, STRUCTURE AND ACCOUNTABILITY OF THE AGENCY: DISSOLUTION OPTION**

#### **3.1 Organization and Purpose**

The Ulster County Resource Recovery Agency was created under Public Authorities Law Title 13-G, effective in May 1987. The Agency was intended to function as a public benefit corporation with one purpose: the management of solid waste generated by the residents and businesses of Ulster County. At the time of its creation, the State Legislature anticipated that successful solid waste management on the local level would require an entity capable of long term planning on a County level, and an ability to make substantial capital investment in the construction of new waste management infrastructure and the closure of pre-existing, environmentally substandard landfills. Creation of a public benefit corporation to take on this responsibility allowed the County and its constituent Towns to divest themselves of some of the fiscal and organizational responsibilities of waste management. As with other such authorities, the primary structural benefit of the Agency was recognized to be its independent bonding power for capital improvements, secured by its ability to generate a stable revenue flow through imposition of fees for services. In short, the Agency, rather than the County or the Towns, was to be the entity which incurred debt for waste facilities. In turn, the Agency was expected to exclusively receive the tipping fees for all waste generated within Ulster County.

The Agency is governed by a five person board of directors, serving staggered three year terms of office. While the Agency is corporately independent of the County, it remains accountable to the County in a variety of ways. Agency board members are appointed to their positions by the Chairman of the Ulster County Legislature, including one member nominated to the chairman by the minority leader of the legislature, and all members are subject to confirmation by the legislature.

The Agency has the power to raise revenue by charging fees for services, but it does not have the power to levy taxes or assessments against real property.

#### **3.2 County Controls Over Agency Policy**

The Agency and the County are closely bound to each other by the provisions of the Solid Waste Service Agreement, which obligates the Agency to operate the solid waste management system, and the County to both deliver waste and pay a "Net Service Fee" if the Agency for any reason cannot meet its financial obligations. Under the Service Agreement the County has additional powers to cap the Agency's capital expenditures, review and suggest modifications to the annual Agency budget, inspect Agency facilities and operations, to demand an accounting of Agency expenditures, and to limit the Agency's activities to those contemplated by the solid waste management plan. At present, the County and the Agency have established a

working relationship whereby the Agency presents a monthly status report to the Legislature's Committee on Solid Waste.

In general, the County retains effective controls over both Agency policy-making and annual expenditures. In comparison with the relationships of other public authorities and their "host" jurisdictions, the County's degree of control over the Agency can be said to fall in the mid-range between more independent authorities operating across multiple County lines (e.g., MOSA), and authorities whose governing bodies are by statute identical with the governing body of the host jurisdiction (e.g., Islip Resource Recovery Agency). Put another way, the County has less day-to-day control over the activities and finances of the Agency than it would have over a County Department performing the same functions, but its statutory and contractual powers provide effective long term control over the Agency's activities.

### 3.3 Agency History

#### 3.3.1 1987-1993

The first years of the Agency's existence were devoted to development of a Solid Waste Management Plan for the County pursuant to Environmental Conservation Law (ECL) 27-0107 and a January 1988 Agreement with the County. That Plan was completed by the Agency and approved by the County Legislature, with final approval from the NYSDEC in April 1993.

Under Phase I of the Plan, the Agency, the County and the towns laid the groundwork for a comprehensive waste management system. The Agency entered into a series of agreements with the towns and the County to define their respective responsibilities. The County passed waste flow control laws in 1991 to help ensure that the Agency would receive sufficient waste and revenue at its facilities to cover the cost of new debt and operations expenses. The towns agreed to close old landfills and continue operation of local drop-off centers with financial assistance from the Agency. During this period, the Agency's activities were largely funded through cash advances from the County, to be repaid when the Agency achieved financial self-sufficiency.

#### 3.3.2 1993-1997

Phase II of the Plan called for a number of intermediate steps to put the system into operation and conclude siting studies and other work in preparation for the construction of a new County landfill. In 1993, \$28,500,000 in system revenue bonds were issued by the Agency for expenditures necessary to implement the various components of the plan. Among the major capital expenditures made from the bond proceeds, the Agency paid \$6.9 million to the County for reimbursement of prior system development costs; \$6.5 million to the towns for landfill closure expenses;

\$900,000 to the towns for upgrades to municipal drop-off centers; \$1.4 million to upgrade certain consolidation landfills which were to remain open after closure of most town sites; \$2.2 million for the construction of the satellite aggregation center (SAC) for the recycling program; \$1.5 million for new equipment; and \$2.8 million for the process of siting and permitting a new County-wide landfill.

After 1993, the Agency proceeded to close, or assist in closing, thirteen unlined town landfills, and to assume responsibility for County-wide waste disposal at three interim "consolidation" landfills at New Paltz, Ulster and Lloyd. The consolidation landfills were allowed to remain open for a limited period of time, despite their age and lack of liners, under consent orders with the NYSDEC. These facilities did provide economical waste disposal capacity for the Agency through 1996, but each of these has since been closed at the Agency's expense. An additional \$11 million in Agency bonds and notes were issued through the Environmental Facilities Corporation to finance the closure of these facilities.

During this period the Agency, in conjunction with the Towns, established an effective County recycling program which diverts over 7,000 tons per year from landfill disposal, and which generates over \$400,000 per year in revenue. This program appears to hold widespread public support and should be considered one of the major successes in the implementation of the Plan.

A strategically significant development for both the Agency and the County in the 1993-1997 period was the decision to abandon efforts to site and build a new Agency landfill within the County. A new landfill to serve the entire non-recyclable waste stream of the County had been contemplated since 1988 and had been identified as the centerpiece of Phase III of the Solid Waste Management Plan. However, strong opposition to this element of the plan arose, and after several years of study and debate, the County legislature and the Agency elected to terminate siting efforts and rely, at least for the immediate future, on the waste export market for landfill disposal capacity.

The decision to abandon efforts to site and build a new County landfill was supported by market conditions. Since the early 1990's the volume of waste transported for disposal from the northeast section of the country to the mid-west and south had increased exponentially, and the cost of disposal had dropped substantially from highs of over \$100 per ton in the late 1980's to the \$40-\$50 range, available to the Agency at present. This trend was due to stability in transportation prices, accompanied by sharp decreases in tipping fees, as the waste industry entered a period of fierce competition with a glut of landfill space in the mid-1990's. The 1993 feasibility study for the new landfill projected \$65 per ton in export costs for 1999, a figure which is approximately 25% higher than current costs.

### 3.3.3 1997-1999

By 1996, the interim consolidation landfills had been closed and the Agency began exporting waste to landfills in Sullivan County, western New York and Pennsylvania. Waste export costs became the largest single element in the Agency's annual budget, and total Agency expenditures increased from approximately \$3.8 million in 1995 to \$5.0 million in 1996 to \$8.7 million in 1997. The cost of waste disposal to the Agency in 1999 is expected to be \$3.34 million for 79,000 tons, or approximately \$45-\$47 per ton inclusive of transportation. The Agency is budgeting \$9,768,896 for all purposes in 1999, with \$2.78 million allocated for debt service, \$3.34 million for waste export, and \$3.64 million for all other Agency operations.

The most significant change in the Agency's financial picture since 1997 has been the decrease in MSW tonnage received. 112,000 tons of MSW were handled by the Agency in 1997, 84,000 in 1998, and 79,000 tons are projected in 1999. In 1994, the year of the U.S. Supreme Court's decision in the Carbone flow control case, the Agency handled 128,000 tons. Clough, Harbor & Associates, consultants to the Agency, estimated a total waste generation figure for Ulster County of 161,000 tons in its 1993 feasibility study, and a "Total Waste Landfilled" figure declining from 143,000 tons in 1994 to 108,000 tons in 2014 as the County's waste reduction and recycling programs became increasingly effective.

It seems clear that up to 40,000 tons of MSW per year, or approximately 33% of the total County waste stream, is being disposed of outside of the Agency's system, primarily through private sector collection and disposal. The financial effect on Agency operations due to this development has been that disposal fee revenues have declined, even though tipping fees themselves have been raised. The result has been a Net Service Fee charge to the County from the Agency of \$1.6 million for 1998 and \$3.8 million for 1999.

### 3.4 **Dissolution Alternative**

We have examined the potential of dissolving the Agency and the distribution of responsibility for solid waste management in the County if this were done. There are several steps which would be required in order to dissolve the Agency, the most significant of which would be to defease the Agency's outstanding bonds. Public Authorities Law § 2050-c (4)(b) provides that the Agency may only be terminated by operation of law, and only after provision has been made for the payment of the Agency's obligations. In the event of termination, title to all of the Agency's property would automatically vest in the County. We have concluded that it would be possible to dissolve the Agency, but that the County would not save money, or create any new means of solving the current problems in solid waste management, by this action.

Fundamentally, the Agency is a legal structure through which the County may segregate solid waste management from other government functions. As discussed above, the County retains significant controls over the policies adopted by the Agency through its control of the composition of the Agency board, and indirectly, over the composition of Agency management. To the extent that the County Legislature may, from time to time, become dissatisfied with the policies or management of the Agency, it has the power to effect change without eliminating the Agency entirely.

The Agency's status as a corporate body allows it to issue debt and enter into contracts for the management of solid waste, without that debt being charged as the direct obligation of the County. As such it is a useful tool for the construction of new facilities and the administration of specialized programs. It has absorbed several functions which were formerly the responsibility of the County or the towns, and some of these functions, particularly the management of closed landfills, would be re-acquired by the County or the towns in the event of dissolution.

Dissolution would raise many questions as to the continuation or distribution of waste management functions to other bodies in the Agency's absence. The first of these is whether any public body should continue to be responsible for the operation of a waste management system in Ulster, or whether that function should be left exclusively to the private sector.

If the determination is made that no public involvement in waste management is desired, the Agency could scale down operations and begin liquidation of its assets. The value of land, facilities, equipment and other fixed assets of the Agency was carried as \$8,120,296 as of Dec. 31, 1997. Liquidation of these assets would bring a lesser sum, and the time in which these assets could be sold, particularly the transfer stations and heavy equipment, is uncertain. Funds received from these sales however, could be employed to reduce existing debt.

The Agency carries \$35,507,616 in debt (as of March 1999). Of this amount \$24,645,000 remains from revenue bonds issued in 1993. The trust indenture for those bonds provides that they may be defeased if sufficient funds are deposited with the Trustee to pay the principal and interest due the bondholders. In essence, the County would have to raise, probably by issuing its own new debt, enough money to pay the debt service on the existing bonds, and then pay off its own bonds over time. A similar procedure could be employed for the payment of the remaining \$11 million in debt obligations which were undertaken through the State Water Pollution Control Revolving Fund and the Environmental Facilities Corporation. The Agency will pay between \$3.0 and \$3.2 million in debt service for its bonded obligations over the next 16 years. The cost to the County in issuing new debt to pay off the Agency's obligations could be close to, but not less than, this figure.

Dissolution of the Agency would automatically transfer responsibility for the closed consolidation landfills back to the County. Responsibility for disposal of waste collected at the town drop-off centers could be shifted back to the towns, in which case multiple contracts for transport and disposal would have to be procured, with less efficiency than the Agency could achieve. Otherwise the County could assume the Agency's current role with respect to that waste with similar costs and advantages. Similarly, responsibility for the continuation of the recycling program would devolve back on the towns or the County in the absence of the Agency.

In short, some entity, in all likelihood the County, would succeed to the responsibilities now handled by the Agency in the event of dissolution. We see no benefit in going through the exercise of dissolution if the County will ultimately have to create a solid waste and recycling department to fill the Agency's current role.

## 4.0 REVIEW AND ANALYSIS OF THE ASSETS AND LIABILITIES OF THE AGENCY

### 4.1 Municipal Solid Waste Facilities

The Agency has the responsibility for three, closed, consolidated municipal solid waste landfills, located at Ulster, New Paltz and Lloyd. This responsibility entails the maintenance of the sites and the landfill capping system, erosion control, venting and flaring the landfill gas, routine monitoring of the groundwater and the pumping, temporary storage, transfer and disposal of the leachate/contaminated groundwater.

The 1999 Agency budget for these operations is \$575,000. Environmental liability insurance for the sites costs \$170,000. These are long-term costs for sites that do not generate income, and have no potential for a sale for an alternate use.

Some of the expenses could be reduced by petitioning the NYSDEC for relief on both the frequency and extent of the required groundwater monitoring. If the historical monitoring data is consistent with a capped landfill, there could be a waiver granted for release from the winter quarter sampling requirements. Also, depending on the quality of the water in the monitoring wells, the Agency could request a decrease in the number of constituents analyzed per sample.

The Agency could monitor the quality of the leachate/groundwater extracted by the leachate containment systems at each of the sites. If the data shows minimal concentrations of leachate indicators due to the effect of the landfill caps or because of groundwater dilution, it might be possible to reduce the quantity of leachate removed for treatment by valving the retrieval wells, installing variable rate pumps or retracting the retrieval wells to a shallower depth.

The Ulster Consolidated Landfill has a special district tax assessment in the amount of \$7000 reportedly for the construction of a new, site contiguous highway. The highway adds no value to a site that has no alternate uses. Therefore, the Agency should endeavor to have the tax removed from the site. We understand this action has begun and recommend it be continued to a satisfactory end.

### 4.2 Transfer Stations

The Agency operates two, MSW transfer stations, located in Ulster and New Paltz. The facilities have a respective permitted capacity of 360 tons per day and 250 tons per day. The stations are situated on large tracts of land and are, consequently, well buffered. The stations are well designed and, except for the remaining contractor punchlist items at Ulster, are in good condition and located near population centers.

The transfer stations receive the solid waste generated from the town drop-off centers, some area private waste haulers, waste from contractors and sludge from wastewater treatment plants. The incoming waste is weighed, dumped in the station

and loaded by Agency personnel into transfer trailers, either Agency or privately owned, for transportation to the out-of-County disposal sites.

These facilities are not used to their maximum capacity and do have the ability to receive and transfer the 120,000 tons per year generated within the County.

At the Ulster site, the Agency does some minimal volume reduction of construction and demolition waste. This involves the removal of wood, by hand, from the waste and shredding the material in a tub grinder. The Agency also proposes to construct outside storage bunkers for the consolidation of small loads of recovered glass and metal cans into larger volumes for transportation of the materials in large capacity trucks for transportation to regional processing facilities. This location is proposed as the site for the mixed organic waste composting project

We recommend a possible reduction in hours of operation to reduce personnel, fuel and utility costs. The volume reduction of the construction and demolition waste at Ulster should continue and the temporary storage bunkers should be constructed to reduce haul costs.

#### **4.3 Transportation and Long Haul Operations**

The Agency owns ten (10) tractor trucks, twelve (12) waste transfer trailers and one tank trailer. This equipment is for the transportation of solid waste long distances to out-of-County disposal sites. The observed equipment was all in good condition and relatively new.

Most municipal entities faced with trucking waste beyond their borders have opted, for economic reasons, to use private drivers and equipment. Generally, the private hauler has lower overhead costs and can be more flexible with operator hours and scheduling. The Agency recognizes this through its use of short term contracts with three transportation companies and its continuing reduction in its long haul driver staff.

It is recommended the Agency issue a bid proposal for a five year contract for all the out-of-County hauling operations. The bid specification should seek costs from private firms supplying their own equipment and alternate pricing for the leasing of Agency equipment to the contractor. This was done successfully by Westchester County. This would allow the Agency to retain ownership of its equipment if, at some point in the future, private costs exceed Agency costs or if the contract is terminated for any other reason. It should also increase the number of contract bidders and provide low haul costs.

If the bid is successful, the Agency should consider the sale of any unused tractor / trailers. There should also be a further reduction in the number of Agency long haul drivers. The leachate transfer operations should be retained by the Agency.

#### 4.4 Construction and Demolition Debris Processing

A construction and demolition debris processing facility separates wood, metal, concrete, cardboard, brick and non-processibles from the waste. The wood, concrete and brick are reduced in volume and sold as construction or landscape materials. The metal and cardboard are recycled. The remainder of the material is reduced in volume and sent to disposal facilities.

The Agency projects 2,000 tons of construction and demolition material to be received at its transfer stations. This volume is too small for an investment in labor and equipment to operate a full scale sorting and processing facility. As noted previously, the Agency does hand sorting of wood and metal at the Ulster transfer station. It is recommended that this level of processing be maintained.

#### 4.5 Sludge Hauling and Disposal

The Agency accepts dried sludge from twelve (12) area wastewater treatment plants. The Agency transports the sludge, via a private hauler, to a landfill.

The former site was the High Acres landfill in western New York, until Waste Management, Inc., the site owner, recently raised disposal fees by approximately twenty dollars (\$20.00) per ton. The Agency responded by changing disposal sites.

This action by Waste Management, Inc. a large national waste firm, shows the future volatility of the landfill marketplace and the need for the Authority to have secure, long-term hauling and disposal contracts.

The sludge operation is a positive economic function for the Agency and is satisfactory to the user treatment plants, and therefore, the Agency should continue accepting the material for disposal.

#### 4.6 Recycling Operations: Satellite Aggregation Center

The residents of the county have a good recycling ethic as demonstrated by the quality of the source separated materials received at the Agency-operated Satellite Aggregation Center (SAC). The SAC receives newspaper, the City of Kingston mixed paper, corrugated cardboard and plastic containers.

The paper products go directly to a baler, then to market. The plastics are hand separated into various categories of resin, baled, except for the redeernables, and transferred to market. The income received from this activity reflects the good quality of the source separated materials.

The Agency also handles metal (aluminum and tin) and glass recyclables. These materials are transported directly from the drop-off locations to local markets.

The income from the marketing of the recovered materials supports the sorting operation, but, does not cover the cost of transportation of the recyclables from the town drop-off locations to the SAC. The economics would improve if the SAC facility was in an Agency or County owned building, thus there would be no cost for rent or taxes.

The Agency and the County should plan to relocate the SAC to the Ulster Transfer Station and expand the sorting operations to include tin and aluminum cans which can be done mechanically. The sorting capability should also be expanded to accept the recyclables collected by the private haulers.

#### **4.7 Town Recycling Operations**

The Town drop-off locations provide good quality recyclables through the source separation process and monitoring by the Town personnel. The Agency, under the Town Agreements, does not charge the Towns for transportation nor processing of recyclable materials. In general there is a buyers market in the recycling trade with limited regional markets, so generally, the materials standards are high and the prices low. Economic support is needed to maintain the good recycling rates.

#### **4.8 Commodity Contracts**

Most of the processing facilities downstate have commodity contracts with their markets, based on bidding or negotiation. Pricing paid for materials is at a set rate or tied to a published market price for a fixed term. The Agency has no term commodity contracts based on its positive experience over the past several years. It is recommended that contracts be obtained with the major markets for the protection of both sides during fluctuations in world and national markets.

#### **4.9 Collection Operations**

The Agency has acquired eight (8) roll-off trucks, three (3) packer trucks, and many variable capacity refuse containers to provide waste collection and disposal service to commercial buildings. Staffing assigned to the collection operation is one Operations Manager, one Dispatcher, seven (7) Driver/Operators and several part-time Driver/ Operators. This operation also does the hauling of the roll-off containers from the town drop-off locations. According to Agency records , approximately 4,000 tons of waste was collected via this method in 1998. The Agency estimates 6,000 tons for 1999.

The costs for the operation, taken from the Agency's budget sheets, are \$139,000 for fuel and maintenance, \$336,980 for personnel and fringe benefits, and an estimated \$20,000 for insurance. This estimate does not include debt service on the equipment, costs of upper management or the marketing efforts. The total of these costs are

\$495,980. If the estimated costs of serving the town drop-off locations are removed, the cost is then \$310,000.

We believe that the Agency's collection operation can be phased out with the introduction of a zero-tip fee revenue system. Discussion of the merits of a public collection system is contained in Section 5.3.

#### **4.10 Personnel**

As with any operating entity, personnel costs are a major expense. For the Agency, personnel salaries and benefits are 24% of the operating budget.

Personnel staffing at the administrative level is eleven (11) with three (3) vacant positions. Administrative titles range from the Executive Director to management coordination for the field operations. We estimate the cost for the administrative personnel to be \$331,728 and, with benefits, the amount is approximately \$481,000. This cost is high, relative to the scope of operations for the Agency. The Agency should eliminate one position in Administration.

However, if the County implements the User Fee system the existing compliance staffing should be increased by filling two vacant positions. The compliance personnel would monitor hauler operations, being alert to the possible transfer of waste into the county by haulers and maintain the records of container units at commercial locations.

Other staff reductions could include one laborer at the SAC operations and a substantial reduction in the number of long haul and local drivers retaining sufficient to service the Town drop-off centers and the leachate hauling operation.

If the truck fleet is decreased, a field manager, mechanic and a dispatcher could also be released.

#### **4.11 Administrative**

The administrative elements of the Agency budget include office expense and operations, recycling operations, Board operations, insurance, legal costs and contract services, such as, auditors, financial advisor, trust administrator and payroll.

The Agency has indicated the owner of the property and building housing the current offices of the Agency will soon cancel the monthly lease. The Agency has responded by planning for an office, possibly modular, to be constructed at the Agency site at the Ulster Transfer Station. This appears to be good planning if the size and cost of the building are controlled. The Agency will save approximately \$66,000 annually in rent and taxes. There will always be a need for office space for waste management administration even if done by another entity.

Recycling education is a line item in the budget in the amount of \$5,000. This appears to be inadequate for a County the size of Ulster. The message of recycling requires constant reinforcement through education efforts directed at residents of all ages. We recommend the Agency prepare a Recycling Education Program with the related costs to include public service announcements, special events, such as Earth Day, and media stories explaining the marketing and reuse of the materials. This program should include a waste prevention/minimization component. There should be an increase of the Recycling Education line item to at least \$10,000. Some of these expenditures will be recovered through the increase in recycling volumes and the reduction in the disposal of waste.

A major part of the Administrative budget is insurance costs. With the recommended reduction in local and long-distance hauling, this cost should decline because of less needed automobile liability coverage. The Agency should review the terms and conditions of the environmental liability coverage to determine the actual risks for unlined landfills and, considering the hydrogeologic setting, whether the policy adequately protects the Agency relative to the cost of the policy.

With the possible eliminations of the long haul operations, there should be a decrease in the funds needed for travel and meal allowances. This reduction is estimated at \$5,000.

#### **4.12 Household Hazardous Waste Program**

The Agency has a receiving facility for Household Hazardous Waste (HHW) adjacent to the Satellite Aggregation center. On one occasion per year the facility is opened to receive hazardous materials, such as pesticides, herbicides, lead-based paints, chemical, etc. The materials are accepted by representatives of a hazardous waste handling firm, identified and packaged according to waste type. The drums are then transported to the property hazardous waste disposal facilities. The Household Hazardous Waste programs are probably one of the most expensive per ton waste handling and disposal operations.

The Agency has \$11,500 budgeted for the operation. The NYSDEC, through an operating grant, reimburses the Agency for half of the costs.

The program should be continued because it alerts the residents to the chemicals potentially in their normal waste stream and the need to handle them properly.

#### **4.13 Planned Compost Facility**

The Agency, as part of its commitment to recycling and reduction of waste sent to landfills, planned an organic waste composting operation at the Ulster Transfer Station site. The waste for the operation would be leaves, grass and organic waste generated by restaurants and food markets. The compost facility is proposed to be

a covered, concrete slab. The organic materials would be windrowed on the slab and turned routinely to enhance decomposition to a suitable material. The end compost product would be sold as mulch or a soil amendment or distributed to the County residents.

The Agency has not funded this project for the year 1999.

There are several problems associated with this type of operation. The prime problem is obtaining a clean source of organic material without the expense of special collection or processing the incoming waste to remove non-organics. There will be a certain odor factor, even if the windrows are well turned. The end product will need screening to meet the requirements of purchasers. Neither residents nor commercial end users will accept the material if there are recognizable fractions of waste therein.

Presumably, the Agency would operate a relatively large facility which may require a NYSDEC permit which would increase development costs.

We recommend the project not be implemented until the Agency funding issues are resolved. The Agency could request the towns to expand their yard waste recovery efforts and do low level composting at the town drop-off sites.

#### **4.14 Private Haulers**

The Solid Waste Management Plan lists twenty-five (25) private waste haulers operating within the County in 1993. Since that time, it is believed that the number of private haulers has been substantially reduced by the acquisition of the small to medium size firms by large, national waste companies. There is some concern that competition may be declining among private haulers. The Agency's permit system does not currently require a hauler to acquire a license to work in the County, but only to use Agency facilities. As a result some haulers may work in the County without licenses if they do not do business with the Agency. The permit system should be reformed to be applicable to all haulers doing business in the County. The problem of competitive pricing should then be examined through study of hauler service areas and practices.

#### **4.15 Private Transfer Stations**

There are two private solid waste transfer stations operating within the County. One is in the Ulster area and the other is in New Paltz. The New Paltz facility accepts mainly construction and demolition waste. These facilities are permitted by the NYSDEC. The waste delivered to these stations, by private haulers serving residential and commercial locations, is transferred to non-Agency facilities, out of the County.

These facilities can charge less than the Agency tip fee because of lower overhead, no system costs, such as recycling education, household hazardous waste programs, and closed landfills, and possibly better tip fees at the landfill owned by the umbrella corporation.

The extent of recycling activities at these facilities is unknown. The transfer stations presumably do minimal recycling efforts which is contrary to the goals of the County and the NYSDEC. Through a reformed permit system as recommended, these facilities could be made to disclose their materials recovery efforts.

#### **4.16 Private Sector Recycling Operations**

We have not learned of any private sector recycling operations in the County. There are markets within the County and the region for specific recovered products, but there are no firms that accept mixed materials for processing.

#### **4.17 Recommendations on Agency Operations**

- The Agency has provided direct grants to the towns to close and cap their small landfills. Some of this funding could not be reimbursed through the State grant program because the Agency did not own the sites, a prerequisite for the receipt of the funds. State funds were received for the closure of the three Consolidated Landfills since the ownership had been transferred to the County. The NYSDEC has indicated the Agency could receive reimbursement funding for the town landfill grants with special State legislation which would waive the Agency ownership requirement for those specific sites. The NYSDEC has the funds available and would pay the Agency since the closure has been accomplished. This amount could be approximately \$250,000. The County and Agency should pursue reimbursement with the NYSDEC and local legislatures.
- The waste collection efforts by the Agency while a limited, positive economic endeavor now, are marginally valuable and subject to serious competition from the private haulers. There are alternate ways for the Agency to survive economically and reduce the expenses of the collection efforts. The collection activities should be phased out if the County adopts the alternate funding methods.
- The long haul operations should be done by private contractors, possibly using the Agency owned trailers on a lease basis. This would enable more competitive bidding since a hauler won't need to own or purchase transfer trailers to bid.
- There are some administrative changes recommended for the Agency, such as, reduction of the administrative staff by one position, relocation of the

Agency office to the Ulster Transfer Station site, possible relocation of the SAC and HHW operations to the Ulster Transfer site, reduction of the staff at the SAC by one laborer position and a review of the coverage of the Environmental Impairment insurance coverage.

- The Host Community Benefits should be reassessed considering the economic difficulties of the Agency. The per ton benefit to Town of Ulster, applied during the landfill operation period, should be discussed with the Town.
- Efforts should be made to reduce the monitoring requirements at the three CLF and to reduce the volume of leachate removed from the sites.
- Discussion with representatives of Sullivan county regarding a 5 year disposal contract with no ownership agreement and a guaranteed 80,000 tons per year if the User Fee is implemented.
- Adopt a hauler occupational permit law.
- Initiate enforcement of the County Recycling Law for the private haulers and their transfer facilities.

#### **4.18 Proposed Annual Budget for the Agency**

An Annual Budget is herewith presented, predicated on the implementation of the recommendations in this report.

The changes in the budget are a result of the following program changes:

- Implementation of the Ad Valorem Benefit Assessment and the User Fee system.
- Reduction in Agency staffing including positions in Administration, long-haul operations and the collection system
- the cost of the Transfer Station operations increased due to additional tonnage throughput.
- Reduction of Administrative costs due to a decrease in insurance premiums and the relocation of Agency offices to the Ulster site.
- Reduction of transportation and vehicle expense costs due to decrease in trucking operations.
- An increase in agency managed tonnage, but at lower per ton haul and disposal costs due to long-term contracts.
- Reduction in Consolidated Landfill costs based on a NYSDEC approval on a reduced monitoring program.
- An increase in the Compliance budget line to fund NYSDEC issues and to fund aspects of the User Fee system.

|                     |    |                                    |        |
|---------------------|----|------------------------------------|--------|
| <u>Assumptions:</u> | 1) | Agency 1999 budget used as a base. |        |
|                     | 2) | Solid Waste (MSW) Tons             |        |
|                     |    | Commercial                         | 96,000 |
|                     |    | Towns                              | 14,000 |
|                     |    | Kingston                           | 10,000 |
|                     |    | Const./Demo                        | 2,000  |
|                     |    | Sludge                             | 4,700  |

|                  |                       |              |                |
|------------------|-----------------------|--------------|----------------|
| <u>Revenues:</u> | Sludge Disposal Fees  | \$352,000    |                |
|                  | Const./Demo Fees      | 120,000      | 2000T @ \$60/T |
|                  | Sale of Recyclables   | 350,000      |                |
|                  | Business Regist. Fees | 10,000       |                |
|                  | Int. SW Reserve Fund  | 100,000      |                |
|                  | Household Haz. Grant  | <u>5,500</u> |                |
|                  | TOTAL                 | \$937,500    |                |

Beneficial Assessment Fund

TOTAL FUND \$ 3,800,000

User Fees

Residential \$ 3,570,970  
 Non-Residential 3,265,517  
 TOTAL \$ 6,836,487

Total Revenue

Revenues \$ 937,500  
 Beneficial Fund 3,800,000  
 User Fees 6,836,487  
 TOTAL \$11,573,987

Operating Expenses

Personnel \$ 1,002,108  
 Administrative 537,725  
 SAC Operations 177,469  
 Transfer Station Operations 145,000  
 Household Hazardous Waste 11,500  
 Const./Demo.-Transfer/Dispos 84,000  
 Transportation 40,000

|                             |                    |
|-----------------------------|--------------------|
| Vehicle Equipment           | 80,000             |
| MSW Transfer Haul           | 2,040,000          |
| MSW Disposal                | 3,000,000          |
| Sludge -Transfer & Disposal | 249,100            |
| Consolidated Landfills      | 568,000            |
| NYSDEC Compliance           | 10,000             |
| Host Community Benefits     | 113,625            |
| Contingency                 | <u>15,000</u>      |
| TOTAL                       | \$ 8,073,527       |
| Debt Service                | + <u>2,995,970</u> |
| TOTAL                       | \$ 11,069,497      |

Summary

|                |                   |
|----------------|-------------------|
| Total Revenues | \$11,573,987      |
| Total Expenses | <u>11,069,497</u> |
| Fund Balance   | \$ 501,020        |

Notes on Budget Line Items

|               |  |
|---------------|--|
| 1) Personnel: | Proposed staff reductions and salaries |
|               | 1 Administrative \$ 41,500             |
|               | 1 Mechanic 26,900                      |
|               | 2 Laborers 44,200                      |
|               | 7 Drivers (A) 188,300                  |
|               | 4 Drivers (B) 101,200                  |
|               | 2 Managers 70,000                      |
|               | 1 Dispatcher <u>25,376</u>             |
|               | TOTAL \$497,486                        |
|               | Add 2 Compliance <u>41,400</u>         |
|               | TOTAL \$450,086                        |
|               | Overhead Factor 1.476                  |
|               | TOTAL \$664,327                        |

Current Agency Line Item amount less reductions = \$1,666,108 - 664,327 =  
\$1,002,108

|    |                 |                        |           |
|----|-----------------|------------------------|-----------|
| 2) | Administration: | Proposed reductions:   |           |
|    |                 | Building Lease & Taxes | \$ 76,275 |
|    |                 | Meal Allowance         | 6,000     |
|    |                 | Insurance              | 10,000    |
|    |                 | Contract Services      | 10,000    |
|    |                 | TOTAL                  | \$102,275 |

Current Line Item amount less reductions = \$640,000-102,727 = \$537,275

3) SAC Operations: No recommended reductions. Agency should consider relocation of facilities to Ulster Transfer site to save lease payments.

4) Transfer Station Operations: Under the plan additional waste would pass through the Stations, therefore, the line item is increased from \$132,726 to \$145,000.

5) Household Hazardous Waste Operations. No recommended changes in line item amount.

6) Const./Demo.: Line item assumes continued receipt of 2,000 Tons at \$60/T with processing, transfer and disposal at cost of \$42/T  
2,000 T @ \$42/T = \$84,000

|    |                            |                          |              |
|----|----------------------------|--------------------------|--------------|
| 7) | Transportation Operations: | Proposed reductions:     |              |
|    |                            | Fuel for roll-off trucks | \$ 24,000    |
|    |                            | Tractor trailers         | \$ 65,000    |
|    |                            | Commercial collection    | 10,000       |
|    |                            | Tolls and meals          | 25,000       |
|    |                            | Dispatch                 | <u>6,000</u> |
|    |                            | TOTAL                    | \$200,000    |

Current Line item amount less reductions = \$240,000 - 200,000 = \$40,000

8) Vehicle and Equipment Maintenance and Repair: Proposed reductions

|  |                                |              |
|--|--------------------------------|--------------|
|  | Roll-off trucks and containers | \$ 24,000    |
|  | Tractors and trailers          | 180,000      |
|  | Commercial collection vehicles | 15,000       |
|  | Tires                          | 45,000       |
|  | Materials and supplies         | 40,000       |
|  | Contract services              | <u>5,000</u> |
|  | TOTAL                          | \$ 195,000   |

Current Line Item amount less reductions = \$275,000-195,000 = \$80,000

- 9) MSW Transfer Haul  
120,000 Tons @ \$17.00/Ton = \$2,040,000
- 10) MSW Disposal  
120,000 Tons @ \$25.00/Ton = \$3,000,000
- 11) Sludge Transfer and Disposal  
No recommended changes in this line item
- 12) Consolidated Landfills  
Assuming the granting of a monitoring variance by NYSDEC, reduce the monitoring costs by \$7,000 to \$568,000
- 13) Compliance  
This line item was increased to cover NYSDEC compliance issues and the possibility of a part time NYSDEC monitor if the tonnage through the Transfer Stations increases to 120,000 Tons. Recommend increasing the line item from \$2,000 to \$10,000.
- 14) Hose Community Fees  
No recommended changes in this line item, however, it is recommended the Agency make efforts to reduce this expense, especially the per ton charge paid to Ulster which was in place for landfill operations.
- 15) Contingency  
A \$5,000 reduction in this line item is recommended to \$15,000.

## 5.0 FUTURE OUTLOOK: PROJECTIONS AND PROBLEMS

### 5.1 The Agency's Position in the Interstate Disposal Marketplace

The decision by the County and the Agency not to pursue the siting and construction of a new County-wide landfill was a strategic decision to avoid the expense and uncertainty inherent in the pursuit of such a controversial undertaking. Construction of the first seven acre cell of a new landfill would have entailed at least \$8.7 million of new Agency debt, adding approximately \$1.3 million per year in debt service plus the cost of facility operations.<sup>1</sup> At the time the decision to abandon the project was made, it was clear that work would have proceeded only in conjunction with continued opposition and legal challenge, with substantial uncertainties as to the projected completion times and final project costs. Further, the alternative of reliance on the interstate waste disposal market appeared more attractive than originally foreseen, as overall disposal prices had declined and a glut of landfill capacity was open to the market.

At the present time the Agency and the County face changing market conditions. In our view, recent industry trends toward consolidation of the major service providers, e.g., the Waste Management - USA Waste merger, the proposed Allied - BFI merger, and the acquisition of innumerable small haulers and local landfills by larger competitors, will result in a significant, and perhaps sharp, increase in average tipping fees in the near future. As of March 1, 1999, Waste Management Inc announced an average 40% increase in tipping fees at its Virginia, Ohio, and Pennsylvania landfills. The Agency's prices for sludge disposal have already been affected by this increase. Wall Street analysts, observing from the point of view of shareholders, viewed Waste Management's action with approval. We believe that the continued strength of the economy will maintain waste volumes now in the market, and that the infusion of more than 13,000 tons per day of New York City waste into the interstate marketplace, increased shareholder demand for higher profit in publicly traded waste companies, and new capacity limitations on landfills in waste importing state such as Virginia and Pennsylvania, will all support an increase in overall disposal prices.

These price increases will be felt by the residents and businesses of the County whether their disposal service is provided by the private sector or by the Agency or the County itself. The challenge presented is how to control and minimize their impact.

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<sup>1</sup>Clough Harbor & Associates. Feasibility Report 1993.

## 5.2 New Facility Construction

Reliance on the marketplace for out-of-County waste disposal capacity is a strategic choice and a fundamental policy decision which affects all aspects of the solid waste program. We have approached this study with a view toward making recommendations which benefit the County and the Agency within the context of that policy.

At present, the major challenge presented to the County and the Agency is financial. If this problem can be solved and a stable flow of revenue secured, possible construction of new facilities could be considered. However, new facility construction should be viewed from the outset as a major change in policy. Implementation of that policy will require thorough planning, significant new expense, and public controversy. The planning and study required to support an informed decision regarding construction of a new landfill, waste-to-energy plant, compost facility or other disposal option is well beyond the scope of this report.

We can say that the current costs associated with new disposal facilities, built to comply with applicable regulatory standards, are high. Construction costs generally demand economies of scale which may require a waste stream larger than that generated by Ulster County alone to yield tipping fees below the \$50/ton level. We do not believe that multiple small scale landfills distributed across the County would be economically feasible. Even with a dedicated and dependable revenue flow, it is not clear that new construction of a single large landfill would be a cheaper alternative for the County than continued long haul disposal. However, the option of public or private in-County disposal may become more attractive in the future as market prices rise.

## 5.3 The Agency's Position in the Local Collection Marketplace

In 1996, the Agency determined to exercise the power granted to it under Public Authorities Law § 2050-e(5), to collect, as well as dispose of solid waste generated within the County. This initiative was undertaken to combat the growing trend of private haulers to take local waste elsewhere for disposal, as private haulers took advantage of market tipping fees which were substantially lower than those charged by the Agency to finance the comprehensive system. Despite the lower tipping fees available to the private haulers, the Agency felt that a public collection service could successfully compete for local business on the basis of overall price.

The Agency began offering both rear-end packer truck service and roll-off rental and transportation service to non-residential customers on a small scale in 1996. The collection service has grown from 2 customers in 1996 to 31 in 1997, 49 in 1998 and 46 in the first two months of 1999. Tonnage of MSW collected grew from 615 tons in 1996 to 3965 tons in 1998. Recyclables collected grew from 77 tons in 1996 to 189 tons in 1998.

Total revenues from the combined collection and disposal service amounted to over \$380,000 in 1998. The collection service is self-supporting and appears to be filling a need within the County as the Agency's combined fees for service are competitive with those offered by the private sector. The scale of the operation remains relatively small however, generating approximately 5% of the MSW handled by the Agency, and handling 3% of the waste generated in the County each year.

Despite its small size, the Agency's collection service may be playing a positive role in waste service pricing in the County. Competition among collection and hauling firms in the County has been declining over the past two to three years, as mergers and acquisitions of small firms by larger ones have been on the rise. The larger haulers are subsidiaries of vertically integrated full service waste firms, owning and operating their own landfills. These firms have a substantial competitive advantage over small "mom and pop" haulers, who do not have the ability to secure the most favorable tipping rates at distant landfills for lack of waste volume and transfer capability.

The Agency is more competitive in this regard than the typical small private haulers, since it does operate its own transfer station, has transport capability, and can bargain with substantial volumes of waste. The Agency's ability to keep its disposal costs relatively low allows it to price combined collection and disposal service at levels at or below those charged by the large private firms. It is impossible to determine how much an effect the existence of the Agency's collection operation has on private sector pricing, but it is reasonable to assume that if the Agency were not engaged in the collection business, competition for the large firms would be lessened and their pricing for waste service could increase.

Public collection services have traditionally been instituted to provide economic efficiencies and the lowest overall costs to the public through route consolidation, using either municipal workers or private firms under public contracts. In recent years, public collection has also been instituted as a means of re-establishing flow control for municipal systems with heavy debt and declining revenue streams. In the Agency's case, collection service was instituted primarily as a means to recapture some of the waste stream, but its success indicates that private competition in the collection business is not as strong as it might be.

On the other hand, despite the salutary effect the Agency's competition may be having on private sector pricing, it is unlikely that the Agency will succeed in capturing a large fraction of the collection market from the larger companies. The Agency's pricing is generally fixed at rates lower, but not substantially lower, than private rates. Should a price war break out between the private sector and the Agency over collection service, the resources of the larger companies may prove to be substantial, and they should be expected to compete very hard to keep the market share they now enjoy.

In our view, competition and low prices for collection service can be maintained through implementation of a zero-tip fee revenue system. If competition continues to decline and prices escalate anyway, public collection should be considered on a broad basis.

## 6.0 REVENUE GENERATION AND FLOW CONTROL

### 6.1 The Agency's Tipping Fee Cannot Compete Without Subsidization

Revenue for the construction, operation and maintenance of the Ulster County waste management system was envisioned by the drafters of the Agency's authorizing legislation to come, in the first instance, from fees for services. The Agency was given the power to charge tipping fees for the disposal of waste, and the County was concurrently given the power to direct that all of the waste generated in the County be delivered to a facility designated by the Agency. This basic arrangement was incorporated into the Service Agreement between the County and the Agency, and in the bond agreements executed by the Agency in borrowing money to construct the various components of the system in 1993.

Sources of revenue for the Agency's operations were envisioned to come partly from the public sector and partly from the private sector. The towns and the City of Kingston agreed to deliver all of the waste received at their respective drop-off centers or through municipal collection services. These public sources of waste have largely met their commitments to the Agency. However, in each town and the City of Kingston, private haulers service many properties, and these haulers were expected to deliver waste under force of law.

In 1992 the County enacted the Solid Waste Management Law and the Mandatory Source Separation and Recycling Law to implement "flow control" of the waste generated within the County. These laws were intended to provide a legal foundation for the Agency's ability to secure sufficient waste and revenue to cover its expenses.

Both waste and revenue, in more than sufficient amounts, came to the Agency through 1996 as a result of economic factors. During this period the Agency was operating the consolidation landfills and charging a tipping fee for disposal in the \$50-\$55 per ton range. This price was attractive to local haulers who delivered over 90,000 tons to Agency facilities. The remainder of the Agency's waste came from the towns and the city of Kingston under contractual arrangement.

With the closure of the consolidation landfills and the advent of waste export however, Agency expenses increased by over \$3.6 million per year. These disposal costs were added to the Agency's continuing expenses for debt service and maintenance charges for the closed landfills (\$3.2 million dollars) and its operating costs and town assistance payments (\$2.9 million). The Agency's tipping fee was increased from the \$55-\$60 range in 1995 to the \$60-\$70 range in 1997 and 1998.

These fees were set at the upper limit of what Agency management believed the market would bear, and were able to secure approximately 47,000 tons of private sector waste. At this level however, the fees generated were not enough to cover Agency costs and a Net Service Fee charge was submitted to the County for the first time in 1998.

Since 1996, approximately 40,000 tons of waste have left the system. At the present time there is substantial concern that the Agency's subsidized fee of \$60 per ton for private haulers may not be effective in securing the reduced tonnage budgeted for 1999. Recent acquisitions of several local haulers by vertically integrated waste companies with transfer capability and access to parent company landfills has reduced the number of independent haulers in the region. The remaining firms, under corporate control from other regions, may elect to haul waste out of the Agency system to patronize their own landfill systems. In that event, the Agency may be faced with an even more severe shortage of waste and revenue, leading to larger Net Service Fee charges to the County.

The outlook for future patronage of the Agency system by the private sector is not good. Without continued subsidization by the County, Agency tipping fees would exceed \$120 per ton for an 80,000 ton per year waste stream. Even at a subsidized rate of \$60, the Agency cannot be assured of a steady waste and revenue flow where market rates available to private haulers continue to change.

This loss of waste and revenue from the private haulers places an unfair burden on the waste generators who remain in the system, and on County taxpayers who must pay the Net Service Fee charge each year. When private sector waste haulers take their customers' waste out of the system, the disposal component (\$3.6 million) of the Agency's expense budget is reduced, but the remaining costs of having a system in place (\$6.1 million) are not. Revenue to cover those costs can come from only two places. Either tipping fees must be increased to offset the lower tonnage, or taxes must be increased by the County to pay the difference as the Net Service Fee. Both sources of revenue come from the citizens of the County, either as waste generators or as taxpayers. Ironically, those customers of private haulers who do not utilize the public disposal system pay twice for waste service: once to their hauler for the service they actually receive, and again to the tax collector to pay for the service which is available but not used.

This is the state of affairs which flow control laws were designed to prevent. Integrated public waste systems incorporating closure responsibility for old facilities, waste reduction and recycling programs, and new infrastructure were never intended to go into dollar for dollar competition with the private sector. At the point when waste flows to the public system became threatened, flow control legislation was intended to step in and restore the fiscal health of the system. When Ulster County needed its flow control laws, however, they were no longer enforceable.

## 6.2 The Carbone Case

In 1994, the United States Supreme Court examined the waste disposal and revenue system created by the Town of Clarkstown, in Rockland County New York. Clarkstown had closed its old landfill pursuant to State law, and faced the problem of ensuring that some waste disposal system would exist for the residents of the

town. Rather than build its own facility, Clarkstown procured a private contractor to build and operate a transfer station within the town, which the town could ultimately purchase after a period of time for one dollar. To ensure the success of the venture, the town passed an ordinance which required all waste generated or brought within the town to be delivered to that transfer station. The language of that ordinance was similar to scores of other such "flow control" ordinances enacted by municipalities across the state.

The ordinance was challenged by another transfer station operator who was established within the town, and who was handling not only Clarkstown waste, but waste which originated outside the town, and which was destined for disposal outside of the State of New York. In a decision which the Court itself described as "just another in a long series of decisions applying established constitutional principles," the Court struck down the Clarkstown ordinance, and with it, the established notion that local governments could legislatively direct the flow of waste to particular local facilities.

The Clarkstown ordinance was held to violate what is known as the "dormant" aspect of the commerce clause of the U.S. Constitution, which reserves to Congress alone the power to regulate interstate commerce, and restricts the powers of states and local governments to regulate private enterprise when that regulation affects interstate commerce. The Court found that Clarkstown's ordinance discriminated against interstate commerce by favoring the local transfer station at the expense of out-of-state providers of waste disposal services, who were denied access to the local waste market. In the immediate aftermath of *C&A Carbone v. Town of Clarkstown*, dozens of similar laws across the nation were struck down, and many more were left unenforced.

### 6.3 Exceptions to Carbone in New York and Connecticut

However, as the holding in the *Carbone* case was examined by federal appellate courts in different contexts, certain exceptions began to emerge for municipalities in need of waste and revenue. The United States Court of Appeals for the Second Circuit, which has jurisdiction throughout the State of New York, has interpreted the *Carbone* ruling to uphold public waste service and revenue structures in certain instances. In *SSC Corp v. Smithtown*, 66 F.3d 502 (E.D.N.Y. 1995) the Court upheld the right of a municipality to direct the disposal of waste collected by a private firm under contract to the municipality. Smithtown had established a special district to provide collection and disposal service to residential properties and hired a private firm to provide the service. The Court found Smithtown to be a "market participant" rather than a "market regulator" when it gave direction to its contractor, and therefore beyond the scope of the commerce clause.

In *USA Recycling v. Town of Babylon*, 66 F.3d 1272 (E.D.N.Y.1995) the Court upheld the creation of a special district through which the Town of Babylon directed the flow of waste to its own incinerator. There, while the Court found that Babylon was regulating commerce in creating the district (and not acting simply as a market participant), it was regulating evenhandedly and not favoring any private local entity. This was so despite the fact that Babylon put all local waste haulers out of business, except the town's own contractor. The Court essentially held that the town's action was constitutional because it did put everyone out of business, treating local and out-of-state interests equally. Equally badly, but equally.

In *Sal Tinerello & Sons, Inc. v. Town of Stonington, et al.*, (1998 U.S. App. Lexis 6695) the Court upheld a system instituted by the Town of Stonington Connecticut which provided for public collection and disposal service through contracts modeled on the *Babylon* and *Smithtown* decisions. Stonington assumed municipal responsibility for waste collection and disposal service, divided the town into contract bid areas, and awarded exclusive rights to collect waste in those areas to private firms. A challenge by a local hauler, who objected to the system and refused to bid, was rejected.

The common elements in the three systems found to be constitutional by the Second Circuit were first, an affirmative assumption by the municipality to provide an exclusive public service, and second, a financing arrangement for that service whereby the waste generators (as property owners or occupants) paid the government directly. The Court reasoned that *Carbone* did not preclude local government from providing exclusive waste services to its citizens, because waste services are still a valid and important public interest. In all of these cases however, the government raised the revenue to pay for the service from the people receiving it, not by forcing regulated haulers to pay to use a local facility.

These decisions present some choices to Ulster County. The *Carbone* case removed the "fail safe" legal mechanism under which the Agency could have been assured of continuing revenues from private sector disposal fees. As a result, the County's Net Service Fee obligation will almost certainly be a continuing general fund obligation unless the County and the Agency replace the "gate fee" financing system with another mechanism. The import of the cases decided since *Carbone* is that flow control can be re-established by local government when the hauler is taken out of the revenue loop and funds for the public system are raised directly from the waste generators or the taxpayers.

## 7.0 ULSTER COUNTY'S OPTIONS

### 7.1 Enforcement of the Existing Flow Control Law

Litigation is inherently uncertain and is not recommended as the primary option for the County under the present circumstances. However, there are similarities between Ulster County's system and systems in other municipalities whose flow control statutes have been found constitutional. These similarities and the arguments in favor of a constitutional reading of Ulster County's flow control law merit discussion. One course of action open to the County is enforcement of the existing flow control statutes through a test case. The object of such a case would be to present a new fact pattern to the Second Circuit Court of Appeals and invite that Court to examine its own rulings in light of federal decisions favorable to municipalities in other jurisdictions.

The fact patterns presented in the *Babylon*, *Smithtown* and *Stonington* cases all involved municipal decisions to provide both public collection and public disposal services to their citizens. The Court of Appeals was not called upon to distinguish between waste collection and waste disposal service, and reviewed the regulatory and contractual issues presented as though both services were inextricably intertwined.

Ulster County's waste policy differs in that it seeks to provide an exclusive public disposal system, while leaving a variety of collection practices undisturbed. As in *Babylon*, it could be argued that Ulster has eliminated the private market for disposal services with its flow control law, applying the law to all would-be providers of the service. This regulation of disposal service does not discriminate against interstate commerce, but operates with equal force against all providers, both local and out-of-state.

This argument would be supported by decisions of the Third Circuit Court of Appeals, particularly *Harvey & Harvey v. County of Chester and Tri-County Industries, Inc. v. County of Mercer*, 68 F.3d 788 (1995). In the *Harvey* cases, the Court reviewed the systems of Pennsylvania municipalities which, like Ulster, elected to procure disposal service from the interstate marketplace. Local laws required waste generated within the counties to be delivered to a central location for shipment to landfills procured through public bidding. The Third Circuit fashioned a test to determine the constitutionality of these laws.

To determine whether these flow schemes actually discriminate against interstate commerce, (triggering strict scrutiny analysis) the court must closely examine (1) the designation process; (2) the duration of the designation; and (3) the likelihood of an amendment to add alternate sites, for signs that out-of-state bidders do not in practice enjoy equal access to the local market. (68 F.3d at 801)

In discussing this test, the Court strongly suggested that a procurement policy open to all interstate bidders, which granted a contract not in excess of five years, with an opportunity for re-bidding after that time, could be considered a non-discriminatory exercise of municipal powers. The Court focused on the identity of the interstate interests as out-of-state landfills, their right of access to the local disposal market, and their means of procuring a contract for disposal as the critical constitutional issues. The Court remanded the cases back to the district court for application of this test, but the matters were settled before such an application could be again reviewed at the appellate level.

Ulster County could argue that its system meets this test. The Second Circuit is not bound to accept the Third Circuit's test, but Ulster could present a fact pattern which could induce the court to consider it. Ulster is representative of the many municipalities which rely upon the export market for disposal, but also require local flow control to effectively operate integrated waste management systems. The proposition which Ulster would place before the court is that a municipality can validly regulate disposal services by reserving to itself the exclusive power to provide them, without disturbing collection services. Interstate commerce would be afforded access to the local disposal market through open bidding of short term public contracts. Whether the court would accept such an argument cannot be predicted, but it is noted here because commerce clause jurisprudence affecting solid waste systems continues to evolve.

## **7.2 Flow Control With Public Collection**

The establishment of a County-wide public collection system which incorporates contractual flow control requirements, on any of the models established in Smithtown, Babylon, or Stonington is an option available to Ulster County. Such a service could be set up under the authority of County Law § 226-b, or through creation of one or more special districts, either by the County under County Law Article 5A or by the Towns under Town Law Article 12. Collection could be accomplished by public employees, by private firms under contract, or by the Agency under agreement. The goal of re-establishing flow control on a constitutional basis could be accomplished under any of these structures.

In our view however, the reasons for establishing a public collection system can and should be distinguished from the reasons for establishing a public disposal system. In Ulster's case the factors supporting an exclusive public disposal system are well defined. The County's Solid Waste Management Plan calls for an integrated system of reduction, reuse and recycling strategies which should discourage the landfilling of waste, and which should procure disposal capacity at the lowest cost and in the most environmentally secure facilities available. All of the County's decisions in implementing that system have relied upon the use of a single public corporation to incur the necessary debt and operate a system capable of handling all of the waste generated in the County. The system has in fact been constructed, but is not

operating as designed, due to lack of waste and revenue. These factors all support the re-institution of flow control in some constitutional form.

Factors supporting institution of public collection are not so clear. Many citizens of Ulster patronize town drop-off centers and prefer not to have their waste collected by anyone. Population densities in parts of the County are insufficient to attract private collection service, and would be difficult to serve in a cost effective manner. Commercial establishments require a variety of levels of service and different equipment than that required by residential service. While there is a growing concern that competition in the private collection industry is declining in the region, it is not yet clear that citizens are being over charged or left without real choices in procuring service. Public collection service on a County-wide scale would be necessary to secure County-wide waste flows, but would not, in our view, justify the scope of the undertaking for this reason alone.

The prospect of a local waste collection market without adequate competition is a different problem, and one which was not contemplated by the Plan. If a situation were to develop, under which the choices of consumers of waste services in given areas were restricted, and prices for those services were unchecked by competition, the County would be justified in considering the institution of public collection to lower prices. However, less intrusive steps might be taken beforehand to maintain and enhance competition.

If the Agency could offer disposal prices for all haulers which could not be matched by any private sector firm, one major competitive advantage of the large waste service firms would be eliminated. To the extent that small haulers have elected to sell their businesses or liquidate because they cannot offer their customers competitive disposal rates, an Agency tip fee of \$0 (zero) per ton would level the playing field. Competition in the hauling field would be limited to service advantages and would not hinge upon access to distant landfills at favorable rates. Under these conditions new hauling firms might be attracted to the Ulster County market and effective competition re-established over time.

Our recommendation is that consideration of public collection service on a County-wide level be deferred until other solutions have been tried. Institution of an effective method of economic flow control can address the problems caused by the decline in waste flow to the Agency, and stimulate competition in collection service at the same time. If necessary, public collection could be instituted at the town or village level, where curbside collection is the norm and private pricing is a substantial issue.

### **7.3 Flow Control Without Public Collection**

Economic flow control can be defined as any means which serves to attract the flow of waste because the cost of disposal at the municipal facility is lower than other

alternatives. It does not rely on legal compulsion and does not have constitutional problems with the commerce clause. The Agency attracted waste in the 1993-1996 period because it was effectively practicing economic flow control, not relying on lawsuits against haulers. However, much of the revenue the Agency derived was paid as tipping fees by the haulers, who in turn collected it in billings from their customers.

The Agency, of course, was not formed to benefit the hauling industry, but to provide solid waste services to the public. Nevertheless, the Agency's financing structure recognized the economics of the waste business, and essentially used haulers as middlemen in the basic transaction whereby waste generators purchased disposal service, passing their dollars through the haulers to the Agency. This system broke down when haulers elected to keep the waste and use their customers' fees to purchase disposal service elsewhere.

It is possible, and we believe preferable, to re-establish flow control without disrupting current collection arrangements and continuing the use of town drop-off centers for those residents who prefer not to pay for curbside service. To do this, the County and the Agency must establish a structure which raises the revenue required without reliance on the decision-making of private haulers, and which distributes the burdens of supporting the system in an equitable way. From an equitable point of view, the financing of Agency operations should reflect, as directly as possible, a purchase of services from the Agency by the public. Those segments of the public who derive a greater use or benefit from Agency services should bear a proportionately greater share of the cost of those services

In the following paragraphs, we have grouped potential revenue sources by type, including ad valorem assessments, sales tax revenues, and user fees, discussing their advantages and disadvantages in financing waste services. We then discuss means of assessing the charges *i.e.*, as general government expenses, through the establishment of districts, or through direct billing. Finally, we discuss our recommended method in some detail.

## 7.4 Potential Revenue Sources

### 7.4.1 Ad Valorem General Taxation

Ad valorem taxation is based on the value of the real property in the County, including unoccupied and unimproved parcels which would not ordinarily generate solid waste. This kind of general taxation is traditionally used to provide general government services and has often been used to pay for solid waste services. The County could elect to provide disposal service to all residents and businesses and levy real property taxes to pay for it, whether the County provided the service itself, or contracted with the Agency to do so.

However, properties which carry tax exemptions, such as churches, schools, not-for-profit institutions, and certain government properties would not carry any of the burden of supporting the solid waste program, even though many of these properties generate significant quantities of solid waste. At the same time, undeveloped properties which generate no waste would carry part of the solid waste burden, in proportion to their value. There is little necessary correlation between the value of a particular piece of property and the amount of waste which it may generate. Under an ad valorem system, relatively valuable residential parcels generating small amounts of waste may bear a proportionately greater share of the program cost than a less valuable restaurant or manufacturing property, which generates large quantities of waste.

Use of ad valorem taxation to finance components of the solid waste program which benefit all taxpayers could be appropriate, but use of real property taxes to subsidize actual disposal costs would unfairly benefit large waste generators at the expense of small generators.

#### 7.4.2 Sales Tax Receipts

The sales tax is Ulster County's major source of revenue, accounting for almost twice the annual receipts generated by the real property tax levy. Sales tax receipts go to the general fund and could be used to support a solid waste program offered as a basic governmental service.

Use of sales tax funds would make less money available for other purposes, including revenue sharing with the towns. Sales tax in Ulster County is currently 7.75% and is expected to generate almost \$56 million in revenue for the general fund in 1999. Sales tax revenues can fluctuate from year to year, however, and no assurance can be given that the Legislature would not face painful choices in a budget year in which receipts are lower than expected. An increase in the sales tax for dedicated use for solid waste purposes would require state legislation, and the degree of such an increase (one-quarter percent for each \$2 million in revenue required) might have an adverse effect on the County's economy. Use of sales tax revenue to finance solid waste services is not recommended.

#### 7.4.3 User Fees

User fees are contract-based charges which presume the use or consumption of the service by the person charged. The Agency's tipping fee is a user fee, although it is levied at the gates of Agency facilities when waste is delivered there for disposal. The Agency is not authorized by the Public Authorities Law to charge user fees or other rates to real property, although other public authorities in the State have that power. The County may assess user fees

against real property for County-wide services under County Law § 226-b, or for improvement districts under County Law Article 5-A.

A user fee charged against real property would change the transaction under which waste generators purchase disposal services. The owner of property which generates waste would no longer purchase the service from a hauler (who then makes his own purchase of disposal service from a landfill), but would purchase the service directly from the government. This transaction would replace the fee charged at the Agency's gates. Haulers and towns delivering material would not be charged.

User fees are generally tied to the weight or volume of waste generated at the user's location. Calculation of generation rates can be done in a variety of ways, utilizing historical records, direct survey techniques or formulae based upon property classifications and square footage. Vacant or unimproved properties, which cannot be said to generate waste, would not be subject to user fees, but properties which are otherwise tax exempt but do generate waste, would be. The advantage of a user fee system is that it is more equitable in distributing the relative share of the cost of the waste system among those who generate waste.

## 7.5 Revenue Structures

### 7.5.1 General Fund Subsidization

This method is currently employed by the County to pay Net Service Fee charges to the Agency under the Service Agreement. The Net Service Fee payment allows the Agency to charge a lower tipping fee to private haulers and thereby attract private sector waste and revenue. The 1999 County budget anticipates a payment of \$3.8 million to the Agency, which in turn anticipates revenues of \$2.8 million from 47,000 tons of private sector waste at \$60 per ton. Neither of these figures are certain, however. The Net Service Fee charge may increase if the Agency's anticipated tonnage does not materialize.

The County now appropriates funds to pay the Net Service Fee from general revenues, which are derived primarily from the County's sales tax and from real property taxes. These revenues are not dedicated for the provision of solid waste services, and there is no particular relationship between the source of the revenue raised and the value of the services provided by the Agency. Taxpayers who generate waste and use Agency facilities derive more benefit from the expenditure of general fund tax dollars to pay the Net Service Fee than taxpayers who do not generate waste. The equities of this arrangement were not addressed in the Service Agreement since the Net Service Fee payment was envisioned to be a relatively rare occurrence, and by no means a necessarily large expense.

We find that for the foreseeable future, the Agency will not be in a position to compete with private sector tipping fees for waste collected by local haulers without continued subsidization by the County. Without the 1999 Net Service Fee payment, the Agency's tipping fee would exceed \$120 per ton to continue current operations handling 80,000 tons of waste. Even with the cost saving measures recommended elsewhere in this report, a substantial Net Service Fee payment will be required each year unless the County provides a new dedicated revenue source to support the solid waste program. We believe that continued financing of the Net Service Fee from the general fund will result in regular conflict between the solid waste program and other legislative programs for limited County resources, and that such financing is not advisable. Should the County elect to continue this arrangement however, we recommend that the Service Agreement be amended to provide for more frequent and regular payments to the Agency to ensure that sufficient cash flow is available for the Agency to meet its obligations.

#### 7.5.2 County Refuse Districts

Article 5-A of the County Law empowers the County to establish one or more special districts to provide refuse disposal service to properties within a defined area. Services provided through the district would be paid for through a special benefit assessment, which could be based either on ad valorem charges or user fees. The advantage of a special district would be to provide a dedicated revenue source for the solid waste program, independent of the general fund.

Through a district, the County could provide disposal service for all properties, and would have the ability at a later time to establish collection service if circumstances warrant. The district could be either County-wide, or could encompass some smaller area or areas, if different services, fees or assessment strategies were deemed appropriate in different localities. The County could, for example, establish a district outside the limits of the City of Kingston, or outside the limits of any town which established its own waste collection program, in order to allow the Agency and that municipality to arrange for the provision of disposal services on an independent basis.

The establishment of any district would be subject to a permissive referendum, which could be required upon the submission of a petition containing the signatures of one hundred of the property owners in the district, or 5% of such property owners, whichever is less. Establishment of a district is also subject to the approval of the State Department of Audit and Control, which must determine if the proposed district is in the public interest. The County could provide for the administration of the district through the appointment of an officer, board or body, which could include the Agency itself, to provide the services and fix rates and schedules to be

charged to properties within the district. Fees and charges would remain subject to confirmation by the County.

In our view, the establishment of a County-wide district would provide no significant advantage over the institution of County-wide disposal service under County Law § 226-b, discussed below. The establishment of one or more smaller districts to accommodate special arrangements between the Agency and particular towns or cities would not be advisable. We believe that such an arrangement would be unnecessary, and would prove to be difficult both to establish and administer. The interests of the taxpayers and waste generators of the County can be addressed on a County-wide basis without creation of another legal entity, and while the existing arrangements between the Towns and the Agency may require some modification, changes in the existing agreements should be kept to a minimum.

### 7.5.3 Special Benefit Assessment for County-wide Service

County-wide refuse disposal services may be provided by resolution of the legislature pursuant to County Law §226-b. That provision in turn authorizes the assessment of rates and charges in the same manner as can be imposed for a district under County Law § 266. Using these sections of the law, the County can establish a dedicated revenue source to pay for the benefits of the solid waste program and the cost of providing disposal service to all properties in the County. In lieu of a general ad valorem charge, the County can establish a Special Benefit Assessment for each property, proportionate to the benefit the property receives from the system.

A Special Benefit Assessment is a charge levied upon real properties which are deemed to benefit from a particular service that is provided, and not levied on properties which do not. In addition, a benefit assessment is a separate charge which should be imposed in proportion to the particular benefits conferred. It cannot be used to generate revenue for general governmental purposes and should not raise more revenue than needed to support the particular improvement for which it is enacted. Both improved and unimproved properties may be assessed if value is given to both types of properties.

The charge itself may be based upon the value of the property in the area, to the extent that the value of all property in an area is benefitted by the fact that the service is made available there. Properties which are assessed in this manner and which are otherwise exempt from taxation would likely remain exempt from an ad valorem benefit assessment. The charge may also be based upon the use of the service, with schedules of user fees or charges that are reasonably based and accurately reflect the level of service consumed.

In our view, the use of the County's power to provide County-wide waste disposal service and to assess property owners the costs of providing that service through an identifiable special benefit charge is the best means of re-establishing flow control, and stabilizing the fiscal situation of the Agency and the County. As described below, we recommend a two-tiered charge to the properties of the County, the first of which should assess limited costs to all taxable properties on an ad valorem basis, and the second of which should assess user fees only to improved properties which generate solid waste. We believe this approach will provide the County and the Agency with a reliable flow of revenue and a measure of flexibility to adapt to future changes in the solid waste marketplace.

## 8.0 **RECOMMENDATION: DIRECT PUBLIC SUPPORT OF THE WASTE SYSTEM WITH TWO-TIERED BENEFIT ASSESSMENT**

### 8.1 **A Dedicated Revenue Source is Necessary**

We conclude that the financial support structure originally envisioned for the Ulster County Resource Recovery Agency is no longer workable. The Agency's range of responsibilities include more than a simple waste disposal function. The Agency was organized to provide long term solid waste planning for the County, to organize and maintain a variety of waste reduction and recycling services, and to act as an environmental steward of closed town landfill sites, in addition finding a place for the garbage to go. All of these services carry costs which were contemplated by the drafters of the Agency's authorizing legislation and its subsequent debt instruments.

The County has no dedicated revenue source for payment of the Net Service Fee charges, and can expect to face difficult choices in either raising taxes or cutting other County expenditures to meet these payments in the future. Consequently, we recommend that the County restore a dedicated revenue source by implementing a special benefit assessment for waste disposal services, and provide disposal capacity for all waste generators in the County through amendments to the Service Agreement with the Agency. Tipping fees for waste generated in the County would be paid by the County to the Agency, which would no longer charge a gate fee, except for construction and demolition debris, sludge and materials (if any) which originate outside of the County. Revenue to pay these tipping fees should be collected by the County directly from waste generators and property owners who benefit from the system. These actions should be supplemented by amendments to the Solid Waste law to provide penalties for introduction of non-County waste into the County system, and amendments to the Service Agreement to enhance County-Agency cooperation in the Agency's financial affairs.

The new benefit assessment should consist of two basic charges, the first tied to property values to cover a limited set of Agency services and costs, and the second a user fee system based upon waste generation for specific property classifications. The object of the two-tiered system would be to separate those Agency functions which can be considered "general benefit" activities from its day-to day business of handling and disposing of waste and recyclables. Costs and revenues for the "general benefit" functions, such as closure and monitoring of the old landfills, would be segregated and reduced over time. Costs and revenues for waste disposal and recycling activities would be managed on a use basis, and would allow greater flexibility in future decision making.

### 8.2 **The Agency's "General Benefit" Costs and Services**

At its inception and for several years thereafter, the many of the Agency's primary responsibilities were to perform general governmental functions which otherwise

would have fallen to Ulster County itself or to the constituent towns and cities in the County. These functions included preparation of the Solid Waste Management Plan, financing and other aid to the towns in closing thirteen unlined landfills, preparation and improvements of the consolidation landfills which provided disposal capacity for all County residents through 1996, closure and monitoring of those landfills, construction of the Satellite Aggregation Center, and aid to the towns for improvements to the local drop-off centers. The Agency received over \$6.5 million in funding from the County between 1988 and 1993 when those funds were repaid from proceeds of the Agency's first bond issue.

The remaining expenditures of proceeds from the 1993 bond issue are as follows:

**TABLE 1**

**USES OF 1993 SERIAL BOND PROCEEDS**

|  |                     |
|--|---------------------|
| Payments to Municipalities for Landfill Closure .....                  | \$6,500,000         |
| Payments to County as Reimbursement for System Development Costs ..... | 6,944,358           |
| Payments to Municipalities for Costs of Upgrading Municipal            |                     |
| Residential Drop-Off Centers .....                                     | 965,500             |
| Costs of Upgrading Interim Consolidation Landfills .....               | 1,447,000           |
| Permitting and Siting Countywide Landfill .....                        | 2,800,000           |
| Equipment .....  | 1,581,000           |
| Satellite Aggregation Center .....                                     | 2,200,000           |
| Household Hazardous Waste Facility .....                               | 500,000             |
| Organic Waste Compost Facility .....                                   | 465,000             |
| Debt Reserve, Capitalized Interest, Costs, etc. ....                   | 5,580,976           |
| <b>TOTAL .....</b>   | <b>\$28,983,834</b> |

In subsequent years, the Agency borrowed additional funds from the State Revolving Fund through the Environmental Facilities Corporation to finance the capping and closure of the three consolidation landfills at Ulster, New Paltz and Lloyd. These bond issues are as follows;

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**TABLE 2**

|  |                     |
|--|---------------------|
| Lloyd Landfill Closure (1994) .....                                | \$1,795,000         |
| Consolidation Landfill Closure (1996) (New Paltz and Ulster) ..... | 3,392,700           |
| Ulster Closure Note .....  | 3,055,569           |
| Ulster Closure Phase III .....                                     | 1,828,470           |
| New Paltz Direct Loan .....  | 953,358 advanced    |
| .....  | 180,218 unadvanced  |
| <b>TOTAL .....</b>   | <b>\$11,205,315</b> |

The Agency's capital expenditures from both bond issues served three broad governmental purposes: first, in reimbursing the County for past advances; second, in assuming landfill closure responsibilities which otherwise would have fallen to the towns; and third, in providing infrastructure for a solid waste management system available to all taxpayers, residents and business in the County. These expenditures can be distinguished from the operational expenditures later incurred for the actual transportation and disposal of waste, the collection and marketing of recyclables, and the other functions of the Agency which directly serve those taxpayers who generate waste.

The outstanding debt of the Agency as of March 1999 was \$35,507,616. Debt service payments for 1999 total \$2,780,908. Debt service payments for the next 19 years will range from \$3.0 to \$3.2 million per year through 2013 (see Table 3).

On an operational basis, the Agency annually performs three services which can be considered to benefit all taxpayers of the County, in that they would otherwise be provided as necessary services by the County or the towns. These services and the funds budgeted for their performance in 1999 are as follows:

|   |                   |
|---|-------------------|
| Household Hazardous Waste Program .....                     | \$ 11,500         |
| Closed Consolidation Landfill Monitoring <sup>2</sup> ..... | \$ 575,000        |
| Host Community Benefits .....                               | \$ 113,625        |
| <b>Total .....</b>  | <b>\$ 700,125</b> |

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<sup>2</sup>This figure may be subject to reduction as discussed elsewhere. If savings can be affected the ad valorem charge should be reduced accordingly.

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The Household Hazardous Waste Program serves to remove hazardous substances from the waste stream exported to the landfills elsewhere. It thereby reduces the likelihood that claims for contamination of those facilities could be brought against the Agency or residents of the County as waste generators under relevant environmental statutes. The monitoring obligations for the closed landfills are legal obligations which would fall to some other level of local government if the Agency did not perform them. The Host Community Benefit payments are obligations of the Agency which were negotiated in the planning process for the solid waste program, and which were necessary ingredients in the siting of transfer stations in the towns of Ulster and New Paltz.

Overall, the total annual expenditures of the Agency which can be considered to be beneficial to all taxpayers in the County should amount to approximately \$3,800,000 per year, with some adjustments from year to year.

|  |                  |
|--|------------------|
| Household Hazardous Waste Program        | \$ 11,500        |
| Closed Consolidation Landfill Monitoring | 575,000          |
| Host Comm. Benefits                      | 113,625          |
| Debt Service (approximate)               | <u>3,100,000</u> |
| TOTAL                                    | \$3,800,125      |

### 8.3 Equitable Distribution of Costs

The establishment of a system with the capability of receiving, handling and transporting waste and recyclables is one which can be considered, for assessment purposes, a general benefit to all taxpayers. These costs may be properly distributed to all taxpayers in the County, including owners of taxable, undeveloped property which does not generate waste. We note that there is a significant amount of taxable undeveloped land in Ulster, much of which is owned by the City of New York, as watershed for the city's drinking water system. Indeed, the largest two taxpayers in the County are the City and the State of New York. The taxable land owned by these entities is largely undeveloped and is likely to remain so. However, both of these public bodies are direct beneficiaries of the comprehensive solid waste management system which has been created by the County and the Agency. The existence and maintenance of that system assures the people of the City and the State that there is an effective means of handling solid waste in Ulster, and that potentially adverse effects of past and future waste practices are being safely managed by local authorities. In this way, the value of all land in Ulster, both undeveloped and improved, is enhanced by the fact that local government operates and maintains a public waste disposal system.

However, the solid waste service costs carried by the real property tax base should be limited to those which provide general benefits to all real property. These charges should be separately identified on the real property tax bill as one of two components of the special benefit assessment. The second component of the benefit

assessment should be a user fee which should reflect the costs of waste disposal service actually received by that property. Vacant, non-waste-generating property would not be charged, but all improved parcels, including tax-exempt parcels would be charged according to the amount of waste they can be assumed to generate.

#### 8.4 Ad Valorem Component of the Benefit Assessment

The real property tax levy for Ulster County in 1999 is \$32,302,140. This levy, together with anticipated sales tax receipts of \$55,985,452 constitutes the bulk of the County's 1999 general fund appropriation. From these funds, \$3,800,000 is allocated for Net Service Fee payments. The Net Service Fee payment would be eliminated from the budget with the institution of a \$3.8 million ad valorem benefit assessment.

The special benefit assessment, as a separate charge, would not necessarily effect the existing tax levy, which would remain within the control of the County legislature. For purposes of illustration however, we have examined the effect on the average tax rate in the County under two scenarios. In the first, the special benefit assessment could be levied in addition to the present \$32 million real property tax levy, which would raise the total ad valorem levy for County purposes to \$36,102,140. On the other hand, the County legislature might elect to reduce the real property tax levy by \$3.8 million, reflecting the elimination of the Net Service Fee charge, in which case the total ad valorem levy for County purposes would remain the same.

The following tables (Tables 4A, 4B, 4C) show the effect on tax rates in each of the towns if the County were to a) add the ad valorem benefit assessment to the current real property tax levy; b) deduct the Net Service Fee from the levy before adding the ad valorem benefit assessment; and c) assess the ad valorem benefit charge without reference to the 1999 real property tax levy.

To estimate the effects of this charge on the average taxpayer in Ulster, we divided Equalized Value by the relevant tax levy to obtain the tax rate per \$1000 market value. In all cases, the Equalized Value of all taxable real property in the County is \$8,319,671,014. We have assumed that the market value, before equalization, of an average home in Ulster is \$100,000.

Current tax levy:  $\$32,302,140 \div \text{Equalized Value} = \$3.88$  per \$1000 market value  
Current County tax on average home = \$388.00

Current tax levy + benefit assessment =  $\$36,102,140 \div \text{Equalized Value} = \$4.33$  per \$1000 market value  
Tax on average home = \$433.00 = \$45 increase

Benefit assessment alone =  $\$3,481,033 \div \text{Equalized Value} = \$0.45$  per \$1000 market value  
Charge to average home = \$45 per year

TABLE 4A  
CURRENT TAX RATES

1999 Ulster County Tax Rates

|                                    | Column 1<br>County Taxable<br>Value | + Column 2<br>Clergy<br>Exemption | + Column 3<br>Veterans<br>Exemption | - Column 4<br>Apportionment<br>Value | Divide by Column 5<br>State Equal-<br>ization Rate | = Column 6<br>Equalized<br>Value | Column 7<br>% Share of<br>County Tax | Column 8<br>Share of<br>County Tax | Column 9<br>Other<br>Adjustments | Column 10<br>Net<br>County Charges | Column 11                    | Column 11 Dollar                               |
|------------------------------------|-------------------------------------|-----------------------------------|-------------------------------------|--------------------------------------|--|----------------------------------|--------------------------------------|------------------------------------|----------------------------------|------------------------------------|------------------------------|--|
|                                    |                                     |                                   |                                     |                                      |  |                                  |                                      |                                    |                                  |                                    | Col 10 / Col 1<br>= Tax Rate | Col 10 / Co Difference<br>= Tax Rate from 1998 |
| Amount to be Raised: 32,280,827.00 |                                     |                                   |                                     |                                      |  |                                  |                                      |                                    |                                  |                                    |                              |  |
| TOWN:                              |                                     |                                   |                                     |                                      |  |                                  |                                      |                                    |                                  |                                    |                              |  |
| Denning                            | 28,908,121                          |                                   | 120,163                             | 29,028,284                           | 31.82%   | 91,226,537                       | 1.0965162%                           | 353,730.78                         | 1,362.51                         | 355,093.29                         | 12.283513                    | 12,995,493                                     |
| Isopus                             | 179,067,166                         | 1,500                             | 4,230,621                           | 183,299,287                          | 49.74%   | 368,514,851                      | 4.4294402%                           | 1,428,915.88                       | 5,272.05                         | 1,434,187.93                       | 8.009218                     | 7,933,063                                      |
| Jardiner                           | 317,153,719                         | 3,000                             | 4,884,267                           | 322,040,986                          | 98.64%   | 326,481,129                      | 3.9242072%                           | 1,265,930.17                       | 4,041.42                         | 1,269,971.59                       | 4.004278                     | 3,387,136                                      |
| Lardenburgh                        | 97,916,523                          |                                   | 161,392                             | 98,078,115                           | 107.26%  | 91,439,600                       | 1.0990771%                           | 354,556.94                         | 1,269.85                         | 355,826.79                         | 3.633981                     | 3,621,569                                      |
| Lurley                             | 347,855,808                         | 1,500                             | 11,658,353                          | 359,515,661                          | 106.14%  | 338,718,354                      | 4.0712930%                           | 1,313,380.00                       | 4,884.33                         | 1,318,264.33                       | 3.789686                     | 89,470,455                                     |
| Kingston Town                      | 1,033,482                           |                                   | 41,816                              | 1,075,298                            | 2.50%  | 43,011,920                       | 0.5169906%                           | 166,778.67                         | 567.60                           | 167,346.27                         | 161.924703                   | 151,70571                                      |
| Kingston City                      | 348,091,485                         | 7,500                             | 9,289,446                           | 357,388,431                          | 51.03%   | 700,349,659                      | 8.4179970%                           | 2,715,604.93                       | 10,839.79                        | 2,726,444.72                       | 7.832532                     | 8,569,628                                      |
| -loyd                              | 417,746,725                         | 1,500                             | 8,508,501                           | 426,256,726                          | 98.63%   | 432,177,559                      | 5.1946472%                           | 1,675,767.95                       | 6,266.30                         | 1,682,034.25                       | 4.026445                     | 4,140,705                                      |
| Marbletown                         | 36,275,077                          | 3,000                             | 878,172                             | 37,156,249                           | 10.26%   | 362,146,676                      | 4.3289666%                           | 1,404,223.29                       | 4,323.69                         | 1,408,546.98                       | 38.829607                    | 33,052,346                                     |
| Marlborough                        | 387,376,733                         | 1,500                             | 10,172,749                          | 397,549,982                          | 98.40%   | 404,212,389                      | 4.8585140%                           | 1,567,333.00                       | 5,479.10                         | 1,572,812.10                       | 4.060224                     | 3,908,774                                      |
| New Paltz                          | 480,799,000                         | 6,000                             | 11,124,071                          | 491,929,071                          | 98.36%   | 500,131,223                      | 6.0114303%                           | 1,939,258.19                       | 6,989.76                         | 1,946,247.95                       | 4.047945                     | 4,015,933                                      |
| Olive                              | 6,264,474                           | 2,515                             | 135,094                             | 6,402,083                            | 1.71%  | 374,390,819                      | 4.5000676%                           | 1,451,699.93                       | 5,295.04                         | 1,456,994.97                       | 232.580576                   | 234,37031                                      |
| Pattskill                          | 301,134,785                         |                                   | 6,830,429                           | 307,965,214                          | 98.30%   | 313,291,164                      | 3.7656677%                           | 1,214,786.10                       | 4,474.12                         | 1,219,260.22                       | 4.048885                     | 4,067,361                                      |
| Rochester                          | 119,815,675                         | 1,500                             | 1,512,785                           | 121,329,960                          | 34.30%   | 333,731,662                      | 4.2517506%                           | 1,371,594.08                       | (113,210.49)                     | 1,258,383.59                       | 10.502662                    | 11,381,204                                     |
| Toscandale                         | 214,805,202                         | 4,500                             | 5,722,832                           | 220,532,534                          | 101.42%  | 217,444,818                      | 2.6136228%                           | 843,142.01                         | 3,106.75                         | 846,248.76                         | 3.939610                     | 3,9605   |
| Saugerties                         | 755,814,275                         | 9,000                             | 21,384,247                          | 777,207,522                          | 96.07%   | 809,001,272                      | 9.7239575%                           | 3,136,901.43                       | 11,668.18                        | 3,148,569.61                       | 4.165798                     | 4,209,161                                      |
| Shandaken                          | 134,871,089                         | 3,000                             | 1,445,732                           | 136,319,821                          | 47.28%   | 288,324,495                      | 3.4635373%                           | 1,117,977.87                       | 3,670.64                         | 1,121,648.51                       | 8.316449                     | 8,074,951                                      |
| Shawangunk                         | 150,522,029                         | 3,000                             | 4,100,978                           | 154,626,007                          | 37.01%   | 417,795,209                      | 5.0217756%                           | 1,620,000.40                       | 5,388.31                         | 1,625,388.71                       | 10.799673                    | 10,282,701                                     |
| Ulster                             | 730,475,690                         | 6,000                             | 13,061,184                          | 743,542,874                          | 97.13%   | 765,513,100                      | 9.2012424%                           | 2,968,276.09                       | 11,107.73                        | 2,979,383.82                       | 4.078690                     | 4,137,132                                      |
| Wawarsing                          | 18,123,311                          | 9,000                             | 576,270                             | 18,708,581                           | 3.46%  | 540,710,434                      | 6.4991805%                           | 2,096,604.03                       | 9,551.47                         | 2,106,155.50                       | 116.157335                   | 128,64662                                      |
| Woodstock                          | 579,642,841                         | 3,000                             | 7,978,270                           | 587,624,111                          | 101.13%  | 581,058,154                      | 6.9841482%                           | 2,253,052.27                       | 8,451.88                         | 2,261,504.15                       | 3.901548                     | 15,666,207                                     |
| <b>Total</b>                       | <b>5,653,687,210</b>                | <b>67,015</b>                     | <b>124,017,372</b>                  | <b>5,777,771,797</b>                 |  | <b>8,319,671,014</b>             | <b>100.00%</b>                       | <b>32,259,514.00</b>               |                                  | <b>32,259,514.03</b>               |                              |  |

Note:  
County Budget: 32,280,827.00  
County Reliever: 21,313.00  
County Tax: 32,259,514.00

SOURCE: Ulster County Real Property Tax Service Agency

TABLE 4B

TAX RATES WITH \$3.8 MILLION ADDITIONAL ASSESSMENT

1999 Ulster County Tax Rates

| MUNICIPALITY | Column 1<br>County Taxable<br>Value | + Column 2<br>Clergy<br>Exemption | + Column 3<br>Veterans<br>Exemption | - Column 4<br>Apportionment<br>Value | Divide by Column 5<br>State Equal-<br>ization Rate | = Column 6<br>Equalized<br>Value | Column 7<br>% Share of<br>County Tax | Column 8<br>Share of<br>County Tax | Column 9<br>Other<br>Adjustments | Column 10<br>Net<br>County Charges | Column 11<br>Col 10 / Col 1<br>= Tax Rate | Column 11 Dollar<br>Col 10 / Co Difference<br>= Tax Rate from 1998 |
|--------------|-------------------------------------|-----------------------------------|-------------------------------------|--------------------------------------|--|----------------------------------|--------------------------------------|------------------------------------|----------------------------------|------------------------------------|---|--|
|              |                                     |                                   |                                     |                                      |  |                                  |                                      |                                    |                                  |                                    |   |  |
| Albany       | 28,908,121                          |                                   | 120,163                             | 29,028,284                           | 31.82%   | 91,226,537                       | 1.0965162%                           | 395,632.10                         | 1,362.51                         | 396,994.61                         | 13.732979                                 | 12,995,493   |
| Albany       | 179,067,106                         | 1,500                             | 4,230,621                           | 183,299,287                          | 49.74%   | 368,514,851                      | 4.4294402%                           | 1,598,178.65                       | 5,272.05                         | 1,603,450.70                       | 8.934465                                  | 7,935,063  |
| Albany       | 317,153,719                         | 3,000                             | 4,884,267                           | 322,040,986                          | 98.64%   | 326,481,129                      | 3.9242072%                           | 1,415,886.41                       | 4,041.42                         | 1,419,927.83                       | 4.477097                                  | 3,587,136  |
| Albany       | 97,916,523                          |                                   | 161,592                             | 98,078,115                           | 107.26%  | 91,439,600                       | 1.0990771%                           | 396,556.11                         | 1,269.85                         | 397,825.96                         | 4.062909                                  | 3,621,569  |
| Albany       | 347,855,808                         | 1,500                             | 11,658,353                          | 359,515,661                          | 106.14%  | 338,718,354                      | 4.0712950%                           | 1,468,956.92                       | 4,884.33                         | 1,473,841.25                       | 4.236932                                  | 89,470,455   |
| Albany       | 1,033,482                           |                                   | 41,816                              | 1,075,298                            | 2.50%  | 43,011,920                       | 0.5169906%                           | 186,534.50                         | 567.60                           | 187,102.10                         | 181.040499                                | 151,705,71   |
| Albany       | 348,091,485                         | 7,500                             | 9,289,446                           | 357,388,431                          | 51.03%   | 700,349,659                      | 8.4179970%                           | 3,037,282.95                       | 10,839.79                        | 3,048,122.74                       | 8.756671                                  | 8,569,628  |
| Albany       | 417,746,725                         | 1,500                             | 8,508,501                           | 426,256,726                          | 98.63%   | 432,177,559                      | 5.1946472%                           | 1,874,271.67                       | 6,266.30                         | 1,880,537.97                       | 4.501672                                  | 4,140,705  |
| Albany       | 36,275,077                          | 3,000                             | 878,172                             | 37,156,249                           | 10.26%   | 362,146,676                      | 4.3528966%                           | 1,570,561.09                       | 4,323.69                         | 1,574,884.78                       | 43.415064                                 | 33,032,346   |
| Albany       | 367,370,733                         | 1,500                             | 10,372,749                          | 397,744,982                          | 98.40%   | 404,212,380                      | 4.8585140%                           | 1,752,992.03                       | 5,479.10                         | 1,758,471.13                       | 4.539504                                  | 3,908,774  |
| Albany       | 480,799,000                         | 6,000                             | 11,124,071                          | 491,929,071                          | 98.36%   | 500,131,223                      | 6.0114303%                           | 2,168,973.76                       | 6,989.76                         | 2,175,963.52                       | 4.525724                                  | 4,015,913  |
| Albany       | 6,264,474                           | 2,515                             | 135,094                             | 6,402,083                            | 1.71%  | 374,390,819                      | 4.5000676%                           | 1,623,661.60                       | 5,295.04                         | 1,628,956.64                       | 260.030873                                | 234,370,31   |
| Albany       | 301,134,785                         |                                   | 6,830,429                           | 307,965,214                          | 98.30%   | 313,291,164                      | 3.7656677%                           | 1,338,684.05                       | 4,474.12                         | 1,363,158.17                       | 4.526738                                  | 4,067,361  |
| Albany       | 119,815,675                         | 1,500                             | 1,512,783                           | 121,329,960                          | 34.30%   | 353,731,662                      | 4.2517506%                           | 1,534,066.78                       | (113,210.49)                     | 1,420,856.29                       | 11.858684                                 | 11,313,204   |
| Albany       | 214,805,202                         | 4,500                             | 5,722,832                           | 220,532,534                          | 101.42%  | 217,444,818                      | 2.6136228%                           | 943,016.72                         | 3,106.75                         | 946,123.47                         | 4.404565                                  | 3,9605   |
| Albany       | 755,814,275                         | 9,000                             | 21,384,247                          | 777,207,522                          | 96.07%   | 809,001,272                      | 9.7239575%                           | 3,508,484.28                       | 11,668.18                        | 3,520,152.46                       | 4.657430                                  | 4,209,161  |
| Albany       | 134,871,089                         | 3,000                             | 1,445,732                           | 136,319,821                          | 47.28%   | 288,324,495                      | 3.4655757%                           | 1,250,408.36                       | 3,670.64                         | 1,254,079.00                       | 9.298353                                  | 8,074,951  |
| Albany       | 150,522,029                         | 3,000                             | 4,100,978                           | 154,626,007                          | 37.01%   | 417,795,209                      | 5.0217756%                           | 1,811,898.17                       | 5,588.31                         | 1,817,486.48                       | 12.074555                                 | 10,282,701   |
| Albany       | 730,475,690                         | 6,000                             | 13,061,184                          | 743,542,874                          | 97.13%   | 765,513,100                      | 9.2012424%                           | 3,319,884.37                       | 11,107.73                        | 3,330,992.10                       | 4.560031                                  | 4,137,152  |
| Albany       | 18,123,311                          | 9,000                             | 576,270                             | 18,708,581                           | 3.46%  | 540,710,434                      | 6.4991803%                           | 2,344,958.06                       | 8,551.47                         | 2,353,509.53                       | 129.860903                                | 128,64662  |
| Albany       | 579,642,841                         | 3,000                             | 7,978,270                           | 587,624,111                          | 101.13%  | 581,058,154                      | 6.9841482%                           | 2,519,938.43                       | 8,451.88                         | 2,528,390.31                       | 4.361980                                  | 15,666,207   |
| Albany       | 5,653,687,210                       | 67,015                            | 124,017,572                         | 5,777,771,797                        |  | 8,319,671,014                    | 100.00%                              | 36,080,827.00                      |                                  | 36,080,827.03                      |   |  |

Note  
County Budget: 36,102,140.00  
County Revenues: 21,313.00  
County Tax: 36,080,827.00

SOURCE: Ulster County Real Property Tax Service Agency

TABLE 4C  
TAX RATES FOR \$3.8 MILLION CHARGE ONLY

| 1999 Ulster County Tax Rates        |                                   |                                     |                                      |  |                                  |                                      |                                    |                                  |                                    |  | Column 11 Dollar<br>Col 10 / Col 11<br>= Tax Rate from 1998        |
|-------------------------------------|-----------------------------------|-------------------------------------|--------------------------------------|--|----------------------------------|--------------------------------------|------------------------------------|----------------------------------|------------------------------------|--|--|
| Column 1<br>County Taxable<br>Value | + Column 2<br>Clergy<br>Exemption | + Column 3<br>Veterans<br>Exemption | = Column 4<br>Appropriation<br>Value | Divide by Column 5<br>State Equal-<br>ization Rate | = Column 6<br>Equalized<br>Value | Column 7<br>% Share of<br>County Tax | Column 8<br>Share of<br>County Tax | Column 9<br>Other<br>Adjustments | Column 10<br>Net<br>County Charges | Column 11<br>Col 10 / Col 11<br>= Tax Rate | Column 11 Dollar<br>Col 10 / Co Difference<br>= Tax Rate from 1998 |
| Amount to be Raised: 3,800,000.00   |                                   |                                     |                                      |  |                                  |                                      |                                    |                                  |                                    |  |  |
| OWNERS:                             |                                   |                                     |                                      |  |                                  |                                      |                                    |                                  |                                    |  |  |
| Jenning                             |                                   | 120,163                             | 29,026,284                           | 31.82%   | 91,226,537                       | 1.0965162%                           | 41,433.91                          | 1,362.51                         | 42,796.42                          | 1.480429                                   | 12,995,493   |
| Joseph                              | 1,500                             | 4,230,621                           | 183,299,287                          | 49.74%   | 368,514,851                      | 4.4294402%                           | 167,374.68                         | 5,272.03                         | 172,646.73                         | 0.964145                                   | 7,935,063  |
| Jardiner                            | 3,000                             | 4,884,267                           | 322,040,986                          | 98.64%   | 326,481,129                      | 3.9242072%                           | 148,283.51                         | 4,041.42                         | 152,324.93                         | 0.480287                                   | 3,587,136  |
| Jardineburgh                        |                                   | 161,592                             | 98,078,115                           | 107.26%  | 91,439,600                       | 1.0990771%                           | 41,530.68                          | 1,269.85                         | 42,800.53                          | 0.437112                                   | 3,621,569  |
| Jurley                              | 1,500                             | 11,658,353                          | 359,515,661                          | 106.14%  | 338,718,354                      | 4.0712950%                           | 153,841.50                         | 4,884.33                         | 158,725.83                         | 0.456298                                   | 89,470,455   |
| Jungston Town                       |                                   | 41,816                              | 1,075,298                            | 2.50%  | 43,011,920                       | 0.5169906%                           | 19,435.46                          | 567.60                           | 20,103.06                          | 19.451774                                  | 151,70571  |
| Jungston City                       | 7,500                             | 9,289,446                           | 357,388,431                          | 51.03%   | 700,349,659                      | 8.4179970%                           | 318,089.76                         | 10,839.79                        | 328,929.55                         | 0.944951                                   | 8,569,628  |
| Joyd                                | 1,500                             | 8,508,501                           | 426,256,726                          | 98.63%   | 432,177,559                      | 5.1946472%                           | 196,289.46                         | 6,266.30                         | 202,555.76                         | 0.484877                                   | 4,140,705  |
| Jarbletown                          | 3,000                             | 878,172                             | 37,156,249                           | 10.26%   | 362,146,676                      | 4.3328966%                           | 164,482.34                         | 4,323.69                         | 168,806.03                         | 4.653499                                   | 33,052,346   |
| Jarborough                          | 1,500                             | 10,372,749                          | 397,744,982                          | 98.40%   | 404,212,380                      | 4.855140%                            | 183,588.04                         | 5,479.10                         | 189,067.14                         | 0.488078                                   | 3,908,774  |
| Jew Palz                            | 6,000                             | 11,124,071                          | 491,929,071                          | 98.30%   | 500,131,223                      | 6.0114303%                           | 227,153.13                         | 6,989.76                         | 234,142.89                         | 0.486987                                   | 4,015,933  |
| Jive                                | 2,515                             | 135,094                             | 6,402,083                            | 1.71%  | 374,390,819                      | 4.5000676%                           | 170,043.47                         | 5,295.04                         | 175,338.51                         | 27.989343                                  | 234,37031  |
| Jnetkili                            |                                   | 6,830,429                           | 307,965,214                          | 98.30%   | 313,291,164                      | 3.7656677%                           | 142,292.80                         | 4,474.12                         | 146,766.92                         | 0.487379                                   | 4,067,361  |
| Juchester                           | 1,500                             | 1,512,785                           | 121,329,960                          | 34.30%   | 353,731,662                      | 4.2517506%                           | 160,660.35                         | (113,210.49)                     | 47,449.86                          | 0.396024                                   | 11,383,204   |
| Jusendalc                           | 4,500                             | 5,722,832                           | 220,532,534                          | 101.42%  | 217,444,818                      | 2.6136228%                           | 98,760.62                          | 3,106.75                         | 101,867.37                         | 0.474231                                   | 3,9605   |
| Jaugerics                           | 9,000                             | 21,384,247                          | 777,207,522                          | 96.07%   | 809,001,272                      | 9.7339575%                           | 367,437.92                         | 11,668.18                        | 379,106.10                         | 0.501586                                   | 4,209,161  |
| Jhandaken                           | 3,000                             | 1,445,732                           | 136,319,821                          | 47.28%   | 288,324,495                      | 3.4653757%                           | 130,953.26                         | 3,670.64                         | 134,623.90                         | 0.998167                                   | 8,074,951  |
| Jhawangunk                          | 3,000                             | 4,100,978                           | 154,626,007                          | 37.01%   | 417,795,209                      | 5.0217756%                           | 189,757.18                         | 5,588.31                         | 195,345.49                         | 1.297787                                   | 10,282,701   |
| Jlister                             | 6,000                             | 13,061,184                          | 743,542,874                          | 97.13%   | 765,513,100                      | 9.2012424%                           | 347,686.15                         | 11,107.73                        | 358,793.88                         | 0.491178                                   | 4,137,152  |
| Jvawarsing                          | 9,000                             | 576,270                             | 18,708,581                           | 3.46%  | 540,710,434                      | 6.4991805%                           | 245,583.69                         | 8,551.47                         | 254,135.16                         | 14.022557                                  | 128,64662  |
| Jwoodstock                          | 3,000                             | 7,978,270                           | 587,624,111                          | 101.13%  | 581,058,154                      | 6.9841482%                           | 263,909.10                         | 8,451.88                         | 272,360.98                         | 0.469877                                   | 15,666,207   |
| total                               | 67,015                            | 124,017,572                         | 5,777,771,797                        | 100.00%  | 8,319,671,014                    |                                      | 3,778,687.00                       |                                  | 3,778,687.03                       |  |  |

Note:  
County Budget: 3,800,000.00  
County Reliefs: 21,313.00  
County Tax: 3,778,687.00

SOURCE: Ulster County Real Property Tax Service Agency

In ensuing years, the ad valorem component of the benefit assessment would decline as existing debt is paid off, unless the County and the Agency elect to undertake new general benefit projects. In that event, revenue for both capital and operating costs could be raised through this mechanism. Projects which could be undertaken and financed through the ad valorem component would include new facility construction, necessary work at the closed landfill sites or expansion of the Household Hazardous Waste program. Projects or activities which center on the handling of waste and recyclables should be financed from user fee revenues.

#### 8.5 Agency's "User Benefit" Costs and Services

All other Agency functions should be ascribed to the cost and benefit of the residents and businesses who generate waste in the County. These functions include Agency administration and personnel costs, the cost of operating and administering the recycling program, intra-County waste transport costs, and long haul transport and disposal costs. Recycling activities should be measured, evaluated, and paid for in the same system as non-recyclable solid wastes, since the effectiveness of recycling and reduction initiatives are best measured by their effect on the whole waste stream. Revenues from the sale of recyclable materials (\$400,000 est. in 1999) should be added to the budget in computing the user fee.

The object of an equitable user fee charge should be to distribute the cost of the system among generators in direct proportion to the amount of waste each residence, business, or institution generates. The system should have the virtue of rewarding generators who reduce the amount of waste they generate, whether by increasing recycling or taking other steps to reduce the waste destined for high cost disposal at distant landfills. The system should also be comprehensive and provide a stable and secure flow of revenue for budget and planning purposes.

No system can be effective in attaining these goals, however unless it is logical and understandable to the persons being charged. It must also be simple enough to administer without major re-adjustments from year to year. It must have an accessible and workable appeal process, so that individual circumstances can be taken into account, and adjustments made on a fair and consistent basis. Finally, the system should be structured, if possible, to secure the cooperation, not the antagonism, of the local hauling industry.

To this end we have examined a number of user fee systems in other jurisdictions for their applicability in Ulster. As discussed above, we have rejected systems which require the institution of public collection to achieve public control of waste disposal. These kinds of systems include what is often referred to as "franchising" whereby the County would assume responsibility for collection, and bid out contract areas to private haulers. Public collection will be an option for Ulster County in the future, but we do not believe that disruption of individual hauler-generator contracts is currently warranted. If the "disposal only" user fee system discussed here does not

result in effective competition and reasonable pricing in waste collection, a public system should be examined.

## **8.6 Waste Stream Estimation**

For purposes of this analysis we have reviewed the tonnage records of the Agency for the previous five years to arrive at an estimated waste stream to be landfilled. In 1994 the Agency handled 128,851 tons of waste, including both MSW and construction and demolition debris. In 1995 and 1996 construction and demolition debris was accounted for separately, and the Agency handled 118,180 and 119,180 tons of MSW in these years. In the 1994-96 period the Agency landfilled the waste at the consolidation landfills. In 1997 the Agency handled 112,263 tons of MSW, shipping to Sullivan County. In 1998, tonnage began to drop due to defections from the system and the Agency handled only 84,000 tons. In 1999 the Agency has budgeted for 79,000 tons of waste, but reports that tonnage is lagging behind 1998 for the first two months of the year.

We believe the figures for 1995 and 1996 would most accurately reflect the actual tonnage generated in Ulster which would require landfilling. In both years the County's recycling programs were in full operation and since all waste was accepted at the consolidation landfills, it is unlikely that much Ulster waste was disposed of outside of the County. Moreover, these figures compare favorably with the tonnage projections in the Clough Harbor Feasibility Study prepared in 1993. That report predicted non-recycled waste tonnages falling from 143,000 tons in 1994 to 121,000 tons in 1999 as recycling took hold.

For purposes of analyzing different methods of assessing user fees, we believe that a total non-recyclable tonnage figure of 120,000 tons per year should be employed. Any error in the estimated tonnage to be handled by the Agency under a new financing mechanism should be on the high side. If lower tonnages than expected arrive, the Agency will have a revenue reserve for use in the following year. An underestimation however would result in a deficit and another Net Service fee-charge to the County.

Systems which could be implemented in Ulster, with advantages and disadvantages, are as follows:

## **8.7 Bag or Tag System**

In a bag system, the Agency or the County would sell specially colored bags or tags to residents and businesses for a fixed fee, which would be based upon the Agency's tipping fee broken down based on 30 pound increments. Bags could be sold at town halls, drop off centers and local retail establishments. Generators in the bag system would be residents and small businesses which do not use container services.

Commercial and institutional establishments which use container service would have to be assessed a user fee through a different mechanism, as discussed below.

If 1996 (pre-export) tonnage figures are used as a base estimate of total waste generation, the Agency could expect to handle approximately 120,000 tons of MSW in the first full year of system operations. Using the Agency's 1999 budget as a base, but with \$3.1 million in debt service restoring 40,000 tons/yr. to the system, deducting general benefit costs but not including other budget recommendations, the calculation for a per bag fee is as follows:

|  |                      |
|--|----------------------|
| Agency Expense Budget .....                              | \$10,168,896         |
| Less Ad Valorem Benefit Revenues .....                   | - \$3,800,000        |
| Less Recycling and Other Revenues .....                  | - \$1,040,000        |
| Plus Additional Disposal Costs 40k tons msw @ \$45 ..... | + <u>\$1,800,000</u> |
| <br>Total Bag Fees Required .....                        | <br>\$7,128,896      |
| <br>Cost per ton with 120,000 tons of MSW .....          | <br>\$59.40/ton      |
| Cost per pound .....                                     | \$ 0.03              |
| Cost of 30 gal - 20 pound bag/tag .....                  | \$ 0.59              |

The cost per bag would be increased to take into account added expenses for the bags themselves, promotional efforts, retailer discounts, and a margin of error for fewer bag sales. However, a bag fee of \$1.00 to \$1.10 for 20 pounds would be well within the range found acceptable to programs in Thompsons County, the Town of Southampton, Long Island, and the City of Utica.

The advantages of a bag/tag system include direct rewards to residents who generate little waste, especially senior citizens, and a built-in incentive to recycle more so as to purchase fewer bags and save money. A County-wide bag system would supercede town bag programs and allow residents of one town to deliver bags to another town's drop-off center.

The towns would no longer be charged tipping fees, nor would private haulers who deliver bagged waste to the Agency's facilities. Penalties would have to be established for haulers and residents who deliver non-bagged waste, and an inspection system established to protect the system from "free-riding" waste. Towns may still charge fees to pay for operation of drop-off.

Recycling tonnages at town centers would probably increase, as would transportation costs and revenues from the sale of materials. A bag system would continue to allow free drop-off of recyclables at least at town centers. Private sector recycling by haulers would see increased demand, but services should be observed carefully. Hauling fees should drop to reflect no-fee disposal, but collection costs, for both MSW and recyclables, would remain.

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The primary disadvantage to a bag/tag system would be uncertainty as to whether private haulers and their customers would participate. Even with added revenues from ad valorem benefit assessments, the Agency's per ton cost of \$59.40 would remain substantially higher than disposal costs available to private haulers, particularly those haulers who are owned and operated by vertically integrated companies with in-house landfills. These firms could offer customers the same collection cost plus a disposal component in the \$40 - \$45 per ton range. A \$0 tip fee at the Agency's transfer stations would be a powerful incentive for small haulers to participate, but not necessarily as compelling for a waste firm which makes money off both ends of the collection and disposal equation.

Moreover, if even a substantial minority of customers on haulers' routes continued to place waste at curbside in ordinary bags, the haulers would have to be subject to penalties, or rejection of loads at the Agency transfer stations. In consequence, the Agency would necessarily have to enlist the haulers aid in enforcing the system by leaving unbagged or untagged waste at curbside. The alternative would be to issue summonses to residents who do not buy or use the bags. For those haulers who currently operate profitably by shipping waste themselves, it would be an easy matter to simply continue servicing their customers in the old way, pointing out that the flat collection/disposal rate they offer will ultimately be less than the cost of collection and bag charges offered by the Agency, and without the need to purchase special bags.

A corollary problem would be a potential for increased roadside or open space dumping. Enforcement of bag-only rules at town drop-off centers would have to be stepped up in order for the towns to avoid penalties or rejection of loads at the transfer stations.

The problems associated with the implementation of a bag system in Ulster are substantial. Implementation of such a program in Ulster, with a population of over 165,000, would constitute the largest such program ever attempted in the State of New York. Programs serving large populations usually have the advantage of public control of collection and guaranteed hauler cooperation. This element is lacking in Ulster. The task of organizing such a system in Ulster would be difficult and would not be certain to succeed. On balance we do not believe it is the best answer for the County.

#### **8.8 Flat Fee Charges for Residential Property**

User fees for residential property are generally and most effectively assessed through flat fees based upon an estimated annual generation of waste per household. While there can be variations in the amount of waste actually generated in different households, we are unaware of any user fee system which has been able to make administrative distinctions between dwelling units occupied by large and small families, seniors, or individuals. When compared to waste generation rates at

commercial or industrial properties, residential properties in a given area are generally consistent and predictable from year to year.

Use of the New York State Real Property Tax Classification code system allows identification of the residential property in a given area and further classification into one, two, and three family units. The tax code system does not allow for identification of homes which are temporarily or seasonally unoccupied. Newly constructed homes may become occupied before they are placed on the tax rolls. From an administrative point of view there may be instances where units are charged which do not fully use the system, and other units which benefit from the municipal service without payment of the fee for a period of time. A user fee system which would attempt to correct these anomalies would need to gather further information, or make allowances in an appeal process.

The 1998 Assessment Rolls for Ulster County carried 54,938 "200 Series" residential parcels. For purposes of this report we have assumed that all parcels are occupied and generate waste. We have also assumed that all such parcels are single family units. Two or three family units should be considered differently in the final application of a user fee system, but for purposes of simplicity they are left out of the following calculations as they are not so numerous as to make a significant difference in the estimated charges. Many jurisdictions charge two family units 1.5 times the basic single family charge, and three family units 2.0 times the single family charge for basic waste services.

To arrive at a suggested user fee rate for the basic single family home in Ulster, we have relied upon data provided by the Agency for the Town of Kingston in 1997 and 1998. The Town of Kingston provides collection service for its 250 homes through private contract with a hauler who is required to dispose of the Town's waste with the Agency.

Kingston's contractor delivered 220.59 tons of non-recyclable waste in 1997 and 226.63 tons in 1998. The average for the two year period was 223.67 tons per year, or 0.89 tons per household. This figure is relatively low compared to figures from other localities. It may be accounted for by a relatively high rate of recycling, or other factors unique to the town.

If these figures are extrapolated to the County as a whole, the 54,938 homes in Ulster could be expected to generate 48,895 tons of non-recyclable waste per year. That figure would account for slightly over 40% of the 120,000 tons we believe the Agency should be prepared to handle if a user fee is imposed and all Ulster waste returns to the system. Conversely, this would mean that almost 60% of Ulster's waste would be generated by commercial, industrial, and institutional properties, including multi-family dwellings. This 40/60 distribution of waste generation between residential and non-residential generators would seem to reflect a more

heavily commercialized region than the County appears to be, based upon our review of County bond documents characterizing the local economy.

By contrast, the City of Kingston, which also provides residential collection services, is expected to generate 10,000 tons of MSW per year from an estimated 8700 households. This generation rate is approximately 1.5 tons per household per year.

We believe that the Town of Kingston's waste generation figures are more likely to be at the low end of the County's range of residential generation rates, and that the distribution of residential to non-residential waste generation across the County should be closer to 50/50. We recommend that the residential user fee be based upon a generation rate of 1.1 tons of non-recyclable waste per household per year. This figure can be subject to adjustment as more extensive data is gathered after one year's operation of the user fee system.

The calculation for the assessment of a residential user fee, assuming Agency expenditures of \$10.1 million and the concurrent implementation of an ad valorem benefit assessment on all taxable property for the Agency's general benefit functions is as follows:

|  |                  |
|--|------------------|
| Agency Expense Budget .....                              | \$10,100,000     |
| Less Ad Valorem Benefit Revenues .....                   | -\$3,800,000     |
| Less Recycling and Other Revenues (1999 est.) .....      | -\$1,040,000     |
| Plus Additional Disposal Costs 40k tons MSW @ \$45 ..... | +\$1,800,000     |
| <br>Total User Fees Required .....                       | <br>\$7,060,000  |
| <br>Per ton charge with 120,000 tons of MSW .....        | <br>\$ 58.83/ton |
| Fee Per Residential Unit = 1.1 x \$58.73 = .....         | \$ 64.71         |
| <br>Round to \$65 per Unit                               |                  |

**Total Residential User Fee Revenue Raised = \$65 x 54,938 = \$ 3,570,970**

As a result, the total charge to the average residential property would be as follows:

|   |                        |
|---|------------------------|
| Ad Valorem Benefit Assessment .....       | \$ 45.00               |
| Disposal Service User Fee .....           | \$ <u>65.00</u>        |
| <br><b>Total Residential Charge .....</b> | <br><b>\$110.00/yr</b> |

#### 8.9 Use and Area Charges for Non-Residential Property

We have considered the applicability of use-based charges for various classifications of commercial, industrial, recreational and institutional properties. These systems

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classify properties according to their use, grouping properties such as hotels, motels, resorts, dormitories and high occupancy residences in one category; restaurants, diners, nightclubs in another; office and professional buildings, large retail stores and area shopping centers in still others. These use categories can be assigned a waste generation rating from high to low, with different grades in between. The rating can then be linked to the size of the building on the parcel, yielding a waste generation rate measured in pounds of waste per square foot of floor area per year.

A restaurant, for example, might have a rating of 20 pounds per square foot per year, which would mean it could be expected to generate one ton of waste per 100 square feet of floor space. A restaurant with 1000 square feet of floor space therefore, would be charged for 10 tons of waste each year. In Ulster's case, with a per ton user fee charge of \$60 per ton, such a restaurant would pay \$600 per year as a user fee for waste disposal.

Use and area systems are designed to address the problem posed by different uses generating heavier or lighter volumes of waste, recognizing that restaurants may generate wet, heavy loads, while retail stores may generate light wastes composed of styrofoam and other packaging materials. The area component is used to differentiate the charge between small restaurants or stores and larger ones.

The problem with these systems is that they are extremely complex. There is a great deal of available data from municipal systems in Florida, Maryland and other states which can be analyzed and perhaps even applied directly to Ulster County. Malcolm Pirnie, Inc has recently completed a study for the implementation of such a system in Buffalo, N.Y. which found that workable classifications of users, waste ratings and area correlations could be made and applied.

We are not convinced however, that ratings developed for other localities could or should be applied to Ulster without extensive survey work to confirm their applicability. In addition, we believe that administration of such a system would be nearly impossible in a jurisdiction such as Ulster, not least because every expansion (or demolition) of every building in each of the towns would have to be registered in a central location and factored into the specific user charge for that piece of property.

We also believe that the problem of "weight equity," and the need to adjust the charges paid by generators of heavy waste to offset the charges paid by generators of light waste is a relative one. The fairness of a user fee system should be compared to the fairness of the system it replaces. In Ulster County today, as in most of America, almost no one knows how much their garbage weighs. A private hauler will typically charge a combined rate to pick up the garbage and take it away. Billing is by volume, typically on a per cubic yard basis. Customers rarely know how much of the charge goes to pay for collecting and transporting the waste and how much for the tipping fee, much less the weight, per yard, of the garbage in the container.

An effective, workable user fee system, which can be understood and accepted by the public, need not have multiple levels of charges. A single average weight per yard for the whole spectrum of non-residential waste can be accepted by generators, particularly if their present hauler already makes such a broad assumption in billing the majority of his customers. The essential quality of the system is that the fee is accepted by the public as fair.

#### **8.10 Container Based User Fee For Non-Residential Property**

There are two basic elements needed to assess a user fee for disposal on properties which utilize commercial containers for waste disposal. The first is to determine the number, size, and frequency of collection of the containers at each property. The second is to assign a weight per cubic yard to the waste in the container. Once these elements are known, an annual fee can be calculated and assessed.

Information on the location, size and collection frequency of individual containers can be obtained from two sources. The first, most accurate source, is the business record of the hauler who provides the container and picks up the waste. This information is not now gathered by the Agency or the County. Our recommendation is that the County's solid waste law be amended to require all persons who offer solid waste collection services in the County to secure a permit, a condition of which should be disclosure of the name, location, container size, and collection frequency of all customers serviced. The Agency currently requires that a permit be obtained in order to use the Agency's facilities. The permit should be an occupation permit, similar to permits or licenses required for plumbers, electricians and other trade occupations.

The books and records of the permit holder should be inspected at the offices of the company by qualified personnel. In our experience, a visit by an experienced accountant or auditor to a company's offices produces accurate information very quickly. Such an approach is far preferable to a written request and response through the mails. If Agency or County personnel are not qualified or available to perform this work, outside inspectors can be retained and paid for by the permit applicant with a reasonable application fee.

While this information can be required by force of law, haulers working in the County should be given an incentive to cooperate with the Agency by eliminating any tipping fee for permitted haulers at the Agency's facilities. A \$0 (zero) tip fee should garner the support of independent smaller haulers without their own transfer capability. The smaller companies would view no fee disposal as a means of leveling the playing field in their competition with larger rivals. Firms with transfer capability can offer the lowest combined rates for collection and disposal in an export market, having access to low cost landfills elsewhere. In a no-fee disposal market, competition will turn on the quality and efficiency of collection service alone.

The second source of information on container size and collection frequency is the customer. Hauler business records should be supplemented by field surveys performed by Agency or County personnel to confirm that all hauler stops have been disclosed. A comprehensive survey of all non-residential properties need not be performed, but selective surveys should be performed and hauler collection routes should be monitored to ensure the accuracy of the information provided. Such surveys can also serve to resolve disputes and explain the system to owners and tenants.

As the information from hauler disclosure and field surveys is gathered, the annual user fee for the yardage collected should be calculated and entered for the location, together with the tax map number of the parcel. For improved non-residential premises which do not receive container service (whether the owner receives small can service, or uses a town drop-off center), a minimum annual fee based upon 1 cubic yard of waste generation per week should be charged. For properties which receive container service, an annual user fee can be charged based upon the actual yardage collected, or in a simpler classification of service groups, as follows:

Small generators: 1 cubic yard per week or up to 52 cubic yards per year.

Medium generators: 2-4 cubic yards per week or up to 208 cubic yards per year.

Large generators: over 4-8 cubic yards per week or up to 416 cubic yards per year.

Very large generators: over 8 cubic yards per week on an individual basis.

A conversion ratio from yardage to tons for properties using container service can be calculated using the Agency's own collection figures. The Agency now services over 47 customers using a variety of containers and rolloff boxes. Tonnage figures for these collection operations are also available, and an analysis could be performed to determine the average weight of a cubic yard of waste collected by the Agency from a representative cross-section of its own customers. This analysis could not be performed within the time frame of this report, but a reasonable estimate of such a weight could be fixed at 150<sup>3</sup> pounds per yard to estimate probable user fee costs for non-residential property.

To perform this estimation we have assumed that a small -medium -large classification system is used, and that non-residential generators will fall into the following proportions:

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<sup>3</sup>150 lbs. per yard was selected after discussions with Agency personnel and with officials in the Town of Smithtown, NY, which utilizes a figure of 170 lbs/yd. in its user fee calculation.

Small (1 yd) - 70%; Medium (up to 4 yds.) - 20%; Large (up to 8 yds)- 10%

Very Large Generators (over 8 yds per week) are not included, and would represent additional revenue allowing for a margin of error in the event more tonnage arrives than is anticipated.

As with the residential user fee calculation, the base per ton charge, after elimination of the "general benefit" costs and revenues, would be \$58.83 per ton. The classification properties charged would be as follows:

|  | Parcels      |
|--|--------------|
| 400 Series - Commercial (restaurants, stores, offices, etc.) .....             | 4,644        |
| 500 Series - Recreational (theaters, bowling alleys, skating rinks, etc) ..... | 251          |
| 600 Series - Community Service (schools, churches, hospitals, government etc.) | 105          |
| 700 Series - Industrial (manufacturing facilities) .....                       | 194          |
| <b>Total .....</b>   | <b>6,194</b> |

The annual user charge for these properties, based upon a 150 lb/yd conversion at \$58.83/ton, amounts to \$4.41 per yard times the number of yards collected in each year. Revenue from small medium and large generators could be expected as follows:

Small (1 yd) - 70% = 4336 units x \$4.40 x 52 weeks = ..... **\$994,332**  
 Annual cost per generator = \$229

Medium (up to 4 yds.) - 20% = 1238 units x \$4.40 x 4 yds x  
 52 weeks = ..... **\$1,135,593**  
 Annual cost per generator = \$915

Large (up to 8 yds) - 10% = 619 units x \$4.40 x 8 yds x  
 52 weeks = ..... **\$1,135,592**  
 Annual cost per generator = \$1,830

**Total Revenue ..... \$3,265,517**

The total revenue which the ad valorem and user fee components of the benefit assessment can be expected to generate is as follows:

|  |                            |
|--|----------------------------|
| Ad valorem on all taxable property ..... | <b>\$3,800,000</b>         |
| Residential User Fees .....              | <b>\$3,570,970</b>         |
| Non-Residential User Fees .....          | <b>\$3,265,517</b>         |
| <b><u>Total Revenue .....</u></b>        | <b><u>\$10,636,487</u></b> |

### 8.10.1 Billing

The preferable means of fixing a fee for specific properties and, thereafter for billing individual properties, would be on a case by case basis. If feasible, the County or the Agency should bill specific locations for the service they actually receive. Ideally, billing should be on a monthly basis and take into account periods of the year when service declines or when a business is closed.<sup>4</sup> The billing system should also try to accommodate landlord-tenant relationships, billing tenants in the first instance while holding landlords responsible for delinquent charges.

We recommend that the Agency and the County start with a simple system and add refinements in classifications and billing over time. The property tax system is already established and would be the simplest and most efficient means of billing property owners. A direct billing system incorporating specific volumes and/or classifications of light or heavy waste could be instituted in the second year of operations. This approach would treat both residential and non-residential properties the same in the first year, and would provide the greatest assurance that all necessary operating funds would be collected in a timely fashion. The County and the Agency should not risk a revenue shortfall in the first year of operation due to any billing or collection problems. Once a full year's delivery of waste has been received, the user fee can be adjusted to more accurately reflect the actual waste generation in the County, and billing procedures can be refined as necessary and feasible.

We recommend further that the County establish the Solid Waste Reserve Fund authorized by Public Authorities Law § 2050-u to receive the proceeds of both the ad valorem and user fee components of the special benefit assessment. Funds in this account would be placed in interest bearing accounts and drawn upon to pay the net expenses of the Agency, after use of

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<sup>4</sup>In this regard, the Agency might consider the introduction of computerized on-board scales for use on all collection vehicles in the County. This is a relatively new technology which has made significant advances for applications with front-end loading trucks. On-board scales give the ability to place a bar code on each waste container which identifies the customer, date, time and weight of each pick up. Scales can read weight while the forks are in motion and the information can be stored on disk or transmitted to a central location by radio signal. For user fee applications, the Agency would be able to bill each property based upon the exact amount of waste collected, with no conversion of volume to tons, and no concern over whether the container was fully loaded. Scale systems of this kind are becoming more readily available, but further investigation and testing may be required.

other Agency revenues from the sale of recyclables, sludge and C&D tipping fees, and the like. Any balance in the account at the end of the year would be a reserve for application in the following year.

#### 8.10.2 Out of County Waste

A major concern of the Agency and the County after implementation of the benefit assessment and user fee will be in guarding the system against the importation of waste collected outside of the County. Because there will be no disposal fee for Ulster County waste, some haulers may be tempted to mix waste collected in neighboring counties with local waste and dispose of it with the Agency. This concern must be given priority by the Agency and is another reason why refinements to the billing system should be deferred until after the first year's operation.

One means of handling this problem is to impose a "cap" on the tonnage any individual hauler can deliver over a period of time. Essentially, the hauler's cap would be determined by counting his or her residential and commercial stops, container capacity on the street, and fixing a maximum tonnage which can be delivered without charge. Tonnage delivered beyond that amount would be charged a disposal fee.

We believe this approach would be difficult to administer. The caps would have to be modified throughout the year as haulers compete with each other for customers. The haulers would be likely to request large and small modifications for "special circumstances" present on their routes. The cap would allow and encourage waste from outside of the County to be brought in by haulers who manage to secure a cap "with room", while other haulers who regularly exceed their caps may take the excess outside the County.

We believe that a better approach is to structure the permit system in such a way that out-of-County waste can be detected and heavily penalized, if mixed with Ulster waste. As discussed above, the permit system in the County should be reformed to require a waste hauling license for companies engaged in this business in Ulster. The permit would allow the holder to dispose of waste collected in Ulster for no charge. Waste collected elsewhere would be charged a gate fee if it is identified as such. The penalties for delivering out-of-County waste without prior notice and disclosure should be severe enough to deter "smuggling". On Long Island, zero tip fee systems have controlled this problem by imposing civil penalties of \$10,000 for the first offense, \$15,000 for the second, and loss of license for the third.

The permit should require that haulers submit and regularly update their route plans with the Agency. Routes should be organized so as to keep collection vehicles within Ulster County at all times. For haulers who have legitimate

practical difficulty in servicing routes which take their trucks across the County line, prior arrangements can be made with the Agency for the disposal of limited amounts of non-County waste. The Agency should have the right to inspect any hauler vehicle at any point on its route for the presence of out-of-County waste. These inspections can be effective early in the morning when trucks should be empty. Vehicles should be randomly selected and followed to ensure that they do not leave the County and return to dump at Agency facilities. Loads should be randomly inspected at the transfer station for evidence of out-of-County waste. Most importantly, the penalties should be strictly enforced. One example of a violator who is fined \$10,000 for failing to disclose non-Ulster waste will be noted immediately by all other haulers.

#### 8.10.3 The Towns and City of Kingston Waste

As with private haulers, neither the towns nor the city of Kingston would pay tipping fees to the Agency once the special benefit assessment is implemented. The towns should continue to require identification at drop-off centers to ensure that out-of-County waste is not introduced into the system at these locations.

#### 8.10.4 Recycling Incentives

We recognize that there is an economic logic which favors recycling activities when waste revenues are raised through gate fees and bag systems. The logic is that an individual will tend to recycle more when he or she sees the waste bill decrease as less garbage is thrown away. In the user fee system proposed here, this logic is less apparent. Both recyclables and non-recyclables will be handled under this system for the same fees. Individuals will not see month-to-month changes in their waste costs as they increase recycling. They may see waste costs decline on a year to year basis, as the community as a whole recycles more and the system exports less MSW.

In our view, while the economic logic to recycle more and throw away less is valid, it has less to do with a successful recycling program than effective, consistent public education, easy and regular collection schedules, and good habits. Recycling has proven to be an enduring and popular practice almost everywhere it has been introduced, despite the fact that in many places it has been poorly administered. We think this fact evidences a popular understanding of the benefits of recycling which goes beyond day to day economies. If the recycling program is well run, the average person will see more material in the recycling bin and less in the garbage can on a weekly basis. On balance, we believe that a firm financial foundation for the waste program as a whole is the best means to allow expansion and improvement of the recycling program.

## 9.0 REGIONAL APPROACHES

### 9.1 Likelihood of Federal or State Intervention in the Marketplace

The major casualty of the substantial wave of change which has transformed the waste disposal industry since the 1980's has been the ability to plan for the future on the state or federal level. New York State's first Comprehensive Solid Waste Management Plan was issued in 1987. In that document, and the legislation which accompanied it, local governments were given the responsibility of implementing the reduce-reuse-recycle hierarchy of waste management, and to achieve the State-wide goal of 50% waste reduction by the year 2000. The underlying assumption at the time was that local governments would continue to handle the waste generated by their citizens, and would continue to exercise the powers given to them under the law. The State legislature then mandated the formation of County and regional planning jurisdictions, established funding for numerous solid waste, landfill closure and recycling initiatives, and supported the replacement of public waste disposal infrastructure across the state.

However, few of the major developments of the past fifteen years - the rise and fall of waste-to-energy investment, the growth of the interstate disposal market, the fall of flow control, the wave of recent mergers and acquisitions among hauling firms - were foreseen by state and local policy makers. The waste industry has undergone a dynamic transformation during this time, changing at a pace which has far outdistanced the abilities of government planners to control its direction. The inability of government to recapture the initiative in waste planning is evidenced by the failure of the U.S. Congress to act on bills to restore a measure of flow control power to local government or regulate the interstate flow of waste, and of the State legislature to act on the "Take Title" bill. All this legislation has been pending for several sessions.

As a result, it is likely that Ulster County, as a buyer of waste disposal services in the interstate marketplace, will have to contend with a probable rise in disposal costs over at least the next five years, without legislative relief from either state or federal sources.

### 9.2 Ulster's Common Interests With Other Exporters

On the other hand, Ulster can look to other entities which are similarly situated. The City of New York, MOSA, and several other counties in the state are presented with many of the same problems as Ulster in their common reliance upon the interstate waste disposal market. Factors which tend to increase national landfill capacity, ease transport of waste over long distances, and limit the power of other states to regulate waste transactions, all operate to keep market prices down. This works to the benefit of all exporters.

Our recommendation would be that Ulster begin to open dialogue with New York City and other municipalities which rely on the market. The objective should be induce federal and state policies which ensure both access to the market and the maintenance of a reasonable amount of landfill capacity in the northeast. To the extent that new facilities should be constructed in New York State to reduce the burden on states like Virginia and Pennsylvania, a consortium of exporting municipalities should try to bring this about.

## 10.0 CONCLUSIONS AND RECOMMENDATIONS

Based upon our review of the Agency's organization, history, assets, liabilities and prospects for the future, we submit the following recommendations to the County Legislature for its consideration.

1. The Agency should not be dissolved, but communication and cooperation with the County should be enhanced. Monthly reports by the Agency to an appropriate committee of the legislature should be continued and institutionalized if deemed necessary.
2. The Agency should prepare to bid out a five year landfill disposal contract to a single contractor guaranteeing annual delivery of a minimum of 80,000 tons of waste. The County should immediately re-open discussions with Sullivan County to explore the potential of disposal at the Sullivan County landfill, under a direct, per ton disposal contract. If these discussions are not fruitful, the agency should proceed with its bid.
3. The Agency should prepare to concurrently bid and award one or more transportation contracts for long haul to the landfill identified in the disposal bid. This bid should incorporate the use of the Agency's trailers. If the bid prices are equal to or lower than the Agency's own long haul costs, the Agency should cease long haul operations, re-assign personnel and dispose of surplus equipment.
4. The Agency should reduce annual expenses through the reduction of staff, petition the NYSDEC for a reduction of CLF monitoring requirements, implement methods to reduce leachate volumes from the CLF's, relocate the Agency office and SAC operations, delay organic waste composting and negotiate Hose Community Benefits.
5. The County should institute a Special Benefit Assessment consisting of an ad valorem charge to all taxable real property to raise \$3.8 million to cover the Agency debt service, landfill monitoring and hazardous waste program costs, and a user fee on all waste-generating properties to raise \$6.8 million to cover the Agency's remaining waste transport, disposal, recycling and administrative activities.
6. In the first year, both components of the Special Benefit Assessment should be collected through the real property tax bill. In the second year, the Agency can go to direct billing for non-residential property and add refinements to the user fee calculation for additional weight classifications.
7. The Agency should eliminate the gate fee for waste generated in Ulster County. Revenues for MSW and Recycling services provided to Ulster residents and businesses would be provided by the County's Special Benefit Assessment. The Agency would continue to charge a gate fee for sludge and C&D services, and for any waste collected outside of Ulster County.

8. The Service Agreement should be amended to provide a procedure for the County to pay the proceeds of the Special Benefit Assessment utilizing the Solid Waste Reserve Fund authorized by the Public Authorities Law
9. The County's Solid Waste Law should be amended to require occupational permits for all persons engaging in the waste collection business in Ulster. The permit should require ownership disclosure of customer information and route plans from haulers, as well as recycling information. The law should provide substantial penalties for delivery of out-of-county waste, including loss of license. Permit holders would not be charged a gate fee.
10. Operation of Town drop-off centers and municipal collection should be continued at the discretion of the municipalities. Municipalities would not be charged a fee for disposal.
11. Funding for recycling education and promotion should be increased.
12. The Agency's waste collection and long haul activities should be phased out.
13. The County should seek relationships with other waste-exporting municipalities to influence state and federal policy to ensure the availability of adequate long term disposal capacity at reasonable prices.
14. Increase Agency or County compliance staff based on implementation of user fee.
15. Request special State legislation to authorize NYSDEC funding to reimburse the Agency for providing landfill capping and closure funds to town owned landfills.
16. The County office of Real Property Tax Service should work directly with the Agency to implement the two-tier Benefit Assessment System.

# League of Women Voters Letter

- Dated: July 3, 2012



**LEAGUE OF WOMEN VOTERS  
OF THE MID-HUDSON REGION**

P.O. Box 3564  
Kingston, NY 12402

*A Voice for Citizens / A Force for Change*

July 3, 2012

**To: County Legislature Chairwoman Terry Bernardo, Minority Leader David Donaldson, County Executive Michael Hein, Legislators Carl Belfiglio and Tracey Bartels**

**From: Cindy Lanzetta, Chair, Solid Waste Committee, League of Women Voters of the Mid-Hudson Region**

**Re: The future of solid waste management in Ulster County**

The League of Women Voters of the Mid-Hudson Region is aware that there is discussion among leaders of the Legislature and the Executive branch about options for reducing or eliminating the Net Service Fee and otherwise improving solid waste management in Ulster County.

As you know, our League has been following solid waste issues for decades. We currently have a very active study group that is monitoring developments at this pivotal juncture. We offer the following observations and hope that the League can be an active participant in a transparent process that informs the public and welcomes its input:

As you work with the challenges of developing a sustainable business plan for managing the County's solid waste, we strongly recommend that the following be considered:

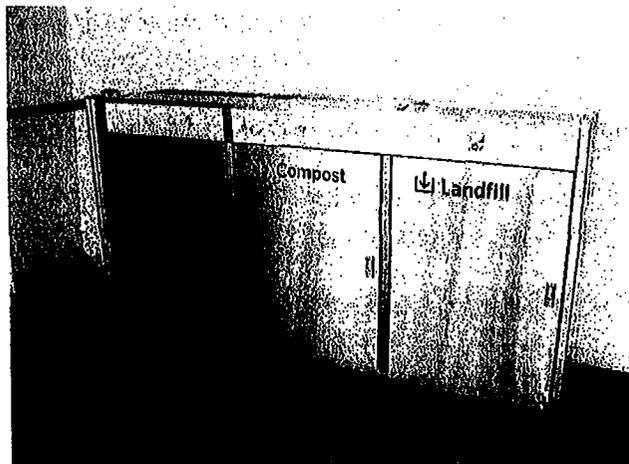
- The New York State Department of Environmental Conservation (DEC) requires that the County have a solid waste planning unit, and right now that is the Ulster County Resource Recovery Agency (UCRRA).
- As the County looks at continuing with UCCRA or replacing it, it has a valuable opportunity to move the County to a whole new level with solid waste by following the DEC's "Beyond Waste" plan.
- The County is a Climate Smart Community and the pledge calls for climate smart solid waste management.
- There is an aggressive eight-month process funded by NYSERDA to develop a Regional Sustainability Plan. (It comes out of Cleaner, Greener Communities program announced by Governor Andrew Cuomo in 2011 and should be completed by the end of this year.) This is closely tied to greenhouse gas emission reduction and to economic development goals. There is a Waste Working Group. How will decisions made in Ulster County integrate with the Sustainability Plan? We encourage the County to both go "green" and think regionally.

We encourage you to ask questions such as:

- Will the solution reduce greenhouse gas emissions, especially through the collection and transportation of waste and recyclables?
- Will the solution attract residents, businesses and visitors to Ulster County or drive them away?
- How can jobs be maximized within the county through waste reduction, recycling and composting?

Finally, any plan should include:

- Methods and incentives to encourage toxins and waste reduction, reuse, recycling, and organics composting to approach zero waste.
- Plans to move toward a three-bin system as called for in *Beyond Waste*. (An elegant example from San Francisco's Academy of Sciences is shown below.)
- Methods for funding and implementing enforcement of the recycling law.



The League offers our help as you proceed, *stressing again the need that the discussions be transparent, informative, and open to public input.* We also suggest you involve the Recycling Oversight Committee and the Environmental Management Council.

Members of the Solid Waste Committee who approved this message:

Cynthia Lanzetta, Committee Chair

[packback56@yahoo.com](mailto:packback56@yahoo.com)

Dare Thompson, LWV MHR President

[darethompson@gmail.com](mailto:darethompson@gmail.com)

Manna Jo Greene

Emilie Hauser

Susan Holland

Jolanda Jansen

Kathy Oconnor

Peter Robbins

Sarah Womer

# League of Women Voters Draft Local Law 1998

- Dated: July 14, 1998

7/14/98

A LOCAL LAW  
ESTABLISHING A NON-RESIDENTIAL SOLID WASTE USER FEE

**Section I. Short Title.**

This law shall be known as the Ulster County Non-Residential Solid Waste User Fee Local Law.

**Section II. Findings.**

The County Legislature of Ulster County finds that:

A. The New York State Solid Waste Management Plan (the "Plan") and the Solid Waste Management Act of 1988 (the "1988 Act") mandate that the amount of solid waste generated and disposed in New York State be managed through the establishment of programs to reduce the amount of waste being produced and disposed by recycling and reusing that portion of the waste stream that can feasibly be so recovered.

B. To provide the citizens of the County with solid waste management and recycling services required by the 1988 Act and the Plan, the County entered into and amended, from time to time, a Solid Waste Service Agreement with the Ulster County Resource Recovery Agency (the "Agency" or "UCRRA"), a public benefit corporation created pursuant to Title 13-G of the Public Authorities Law. The Service Agreement requires the County to deliver or cause to be delivered to the Agency the solid waste generated within the County.

C. The Agency, through the Service Agreement, has undertaken on behalf of the County a number of programs pursuant

to the mandates of the Plan and 1988 Act, which provide services to the residents of the County and serve to implement the local solid waste management plan adopted by the Agency, and approved by this Legislature and the State Department of Environmental Conservation ("NYSDEC"), including but not limited to recycling programs for the collection, processing, transporting and marketing of regulated recyclable materials; the operation, closing and monitoring of consolidation landfills in accordance with directives of NYSDEC; the provision of monies to certain towns to assist in closing local landfills; the development of a system of recycling and solid waste drop-off centers and transfer stations to process regulated recyclable materials and municipal solid waste generated by County residents; development, construction and operation of a household hazardous waste facility; and educational and administrative functions attendant to these services and facilities.

The County Legislature has determined as a matter of public policy that the cost of providing such services should be borne by the generators of solid waste, both residential and non-residential, who are the users of the services and facilities being provided. The County Legislature has further determined that fees for such services provided to residential users should be based on an annual unit charge basis, and that fees for non-residential users should be based on a monthly disposal capacity basis.

The County Legislature has further determined that funding the entire cost of services and facilities by charging a tipping fee at the Agency facilities has raised these tipping

fees to unacceptable levels. The County intends to reduce the tipping fees charged at Agency facilities by paying directly to the Agency, or causing users of the services to pay directly to the Agency, a portion of the cost of providing services, creating a market based incentive for private collectors to deliver to the Agency solid waste generated within the County.

**Section III. Purposes.**

This law is enacted pursuant to County Law Section 226-b, to: institute a plan to charge non-residential users of solid waste management and related services and facilities provided by the Agency on behalf of the County, a fee for the use of such services and facilities, which fee shall cover the cost of the services being provided, and which fee shall be charged on an equitable basis, related to the level of recycling and solid waste services available to the class of users and which fee shall ensure that the public financial obligations necessary to pay for recycling, solid waste management and household hazardous waste services for the public health, safety and welfare of the citizens of the County.

**Section IV. Definitions and General Provisions.**

- A. *County Legislature or Legislature* means the Ulster County Legislature.
- B. *County* means the County of Ulster.
- C. *Recyclables, Recyclable Materials or Regulated Recyclable Materials* means materials that would otherwise be solid waste, and which can be collected, separated, and/or processed, treated, reclaimed, used or reused so that their component materials or substances can be beneficially used or

reused, as more specifically defined in Local Law No. 8 of 1991.

D. *Solid Waste* means all putrescible and non-putrescible solid waste materials generated or originated within the County, including but not limited to, materials or substances discarded or rejected, whether as being spent, useless, worthless, or in excess to the owners at the time of such discard or rejection or for any other reason; or being accumulated, stored, or physically, chemically or biologically treated prior to being discarded or rejected, having served their intended use; or a manufacturing by-product, including, but not limited to, garbage, refuse, waste materials resulting from industrial, commercial, community, and agricultural activities, sludge from air or water pollution control facilities or water supply treatment facilities, rubbish, ashes, contained gaseous material, incinerator residue and offal; but not including construction and demolition debris, sewage and other highly diluted water-carried materials or substances and those in gaseous form, or hazardous waste as defined in the New York Environmental Conservation Law or its implementing regulations.

E. In the event that any date herein falls on a Saturday, Sunday or legal holiday, then the applicable date shall be the next succeeding date that is not a Saturday, Sunday or legal holiday.

**Section V. Establishment of Non-Residential Billing System.**

A. There is hereby created and established a nonresidential solid waste disposal capacity generation fee billing system. Charges billed through this system shall be used to provide funds for the operation of the system.

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B. This nonresidential solid waste disposal capacity generation fee billing system and the disposal rates specified in this section shall become effective no later than 1999.

**Section VI. Rates.**

A. Serviced billing rates. Nonresidential solid waste generators, serviced by licensed commercial waste collectors, shall be billed a monthly solid waste disposal capacity fee calculated in accordance with the following formula:

SCY = Serviced container yards.

DSUR = DSU (disposal service unit) rate.

SCY X DSUR = Disposal capacity billing charge.

B. DSU rate. The DSU rate shall be as established by the County Legislature. The DSU rate may be amended by resolution from time to time by the County Legislature without the necessity of a formal public hearing.

**Section VII.**

A. The charges established herein for nonresidential solid waste disposal capacity shall be billed monthly to the landowner of each parcel of improved property.

B. The monthly nonresidential solid waste disposal capacity bill shall set forth the following information:

(1) Name and billing address of the landowner, including the address of that parcel of land for which this bill applies.

(2) The number and different sizes of the containers that are located on such parcel of property and the individual breakdown for each charge for each separate and distinct container and whether or not any container is shared by any

businesses.

(3) The service dates for which the bill applies, along with the frequency of pickup at the location for each container and the compaction factor utilized by the town.

(4) Any on-demand or extra disposal service from the prior calendar month, setting forth a detailed breakdown of what the disposal charges were for that location.

(5) The date payment is due without interest and late charges.

C. Payment of the monthly disposal capacity bill by the landowner shall be made to the Agency at the address as specified on the bill, within 15 calendar days of the due date. In the event that the disposal capacity fee bill is not paid within 15 calendar days of the due date, a late payment charge of \$25.00 will be added to the next monthly disposal capacity bill. Furthermore, all delinquent unpaid balances will accrue interest at the periodic rate of 18%, which amount will be reflected on the landowner's subsequent disposal capacity fee bills until such amount is fully satisfied.

D. In the event that such disposal capacity fee bill becomes over 75 days delinquent, the County may pursue any and all lawful and appropriate collection remedies, including but not limited to:

(1) Civil action against the delinquent landowner seeking monetary relief for the amounts owed for the disposal capacity service.

(2) A levy against the landowner's tax bill in accordance with General Municipal Law §120-cc, where the County

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may impose a levy in any year in which unpaid fees or charges, including penalties for unpaid municipal solid waste disposal capacity service.

E. The provisions for failing to make payment set forth herein shall be in addition to any other rights and remedies which the County may have under the laws of the State of New York.

**Section VIII. Adjustments to charge; appeal proceedings.**

A. Any person, firm or corporation billed for charges outlines in this article, and who considers such charges to be inaccurate, erroneous or inconsistent with the provisions of this article shall have the right to appeal the disputed charges by making written request to the Ulster County Resource Recovery Agency Executive Director. A review and investigation of the disputed charges will then be made by the Executive Director who will provide to the appellant a written decision on the appeal which contains the reasons for the decision.

B. The appellant may seek a review of the Executive Director's decision by filing a written request to the Appeal Board within 10 days of the date of mailing of the Executive Director's decision to the appellant. The appellant's notice of appeal must clearly state the nature of the action or reasons why the action should be modified, reversed or remanded. A review by the Appeal Board shall be conducted not less than 15 days and no more than 60 days from the date the appellant's notice of appeal is filed, unless the Appeal Board, in its sole discretion, finds that the review should be delayed.

**Section IX. Waste management restrictions.**

A. Container identification. All waste collector must display on each container a business name or trade name, which shall sufficiently identify the licensee providing waste collection services to the establishment using or owning the waste container. In addition, the waste collector must display on every container a commercial solid waste identification decal as supplied by the Agency. This decal must be applied in such a way so as to become permanent and conspicuously visible to any employee and the general public. It will be the solid waste collector's responsibility to affix the decal supplied by the Agency to its container.

B. Container capacity. The capacity of each container as agreed to by the Agency Executive Director must be conspicuously displayed on the container so as to be readily accessible to any employee of the Agency. If there is any change in the capacity of the container, the waste collectors must notify the Agency Executive Director within 72 hours of such change.

C. Frequency of pickup. All waste collectors must conspicuously display on all containers the frequency of collection of the waste in each container. In the event such frequency of collection changes, the waste collector must notify the Agency Executive Director, in writing, within 72 hours of such change.

D. Demand service. All waste collectors must conspicuously display on all containers that are set up as demand service that such container is not picked up on any specific frequency but is an on-demand container. The waste collector must display in letters at least two inches tall, that such

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container is "ON DEMAND". In the event that such container changes from an on-demand service to a specific frequency of collection, the waste collector must notify the Agency Executive Director, in writing, within 72 hours of such change. All on-demand service for any given month shall be billed based on the serviced container yards (SCY) disposed of in that month and reflected on the landowner's subsequent month's disposal fee bill.

E. Extra service. All waste collectors must notify the Agency Executive Director of any extra service provided to a location that currently has a specific frequency of collection. Such notice must be made to the Agency Executive Director, in writing, within 24 hour after such extra service is provided to any specific location, indicating the capacity size of the extra container service. The landowner will be billed for the disposal capacity fee for the extra service provided to the landowner, based on the serviced container yards (SCY) disposed of in that month and reflected on the landowner's subsequent month's disposal fee bill.

**Section X. Route manifest reporting requirements.**

A. Every operator of a motor vehicle licensed to a waste collector shall maintain a solid waste disposal route manifest, which shall be a completed accurate, current and legible record of each load of nonresidential waste collected, removed, transported and/or disposed of.

B. Solid waste disposal route manifests required by this section shall be maintained on a form approved by the Agency Executive Director and shall contain the following:

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(1) The date of the information reflected in the manifest; the business name and license number of the waste collector for which the vehicle is operated; the vehicle license number as required by the County; and the vehicle operator's full, true and correct name.

(2) An itemized listing for each distinct point of waste collection of the collection address, container sizes and the County decal number from which waste was collected and the account name of the customer from whom waste was collected.

(3) For each listing of waste collection, the name and address of the disposal, facility and the date of disposal.

C. Vehicle operators shall subscribe to the following statement on the manifest: "I understand that falsification of a solid waste disposal route manifest is a criminal offense. Understanding this, I do hereby affirm that all garbage collected by me is only commercial waste generate within the confines of the County of Ulster and that information contained in the foregoing manifest is full, true and correct to the best of my knowledge."

D. Every operator of a motor vehicle licensed to a waste collector shall have an accurate and current solid waste disposal route manifest in his immediate possession at all times and shall display such manifest on demand of any employee of the Agency or the County. Failure to do so shall be deemed a violation of this chapter subjecting a person convicted under this section to the fines and penalties as set forth in this chapter.

E. The solid waste disposal route manifest shall be submitted to the Agency Executive Director or his duly authorized

representative daily upon delivery of the load to any disposal facility.

F. The waste collector must set forth on its solid waste disposal route manifest the route that each truck takes in collecting the waste by delineating the stop numbers in numerical order on the solid waste disposal route manifest.

**Section XI. Notice of changes.**

A. Commercial waste collectors shall provide the Agency Executive Director with written notification within 72 hours of the effective date of any changes in operation which affect the service to a commercial customer. The notification shall include the effective date(s) of such changes. Changes requiring written notification include but are not limited to the following:

- (1) Loss of customer.
- (2) Sale, lease or transfer of any portion of a waste collector's solid waste operation.
- (3) Change of mailing address or phone number.
- (4) Purchase, sale or lease of any vehicle or related solid waste collection equipment, including loaned and borrowed vehicles or equipment.
- (5) Changes in number, sizes, types and collection frequency of containers.
- (6) Addition of customers.
- (7) Any extra container services.

B. Any changes to a customer's service which will affect their disposal charges shall be communicated in writing to the Agency Executive Director.

**Section XII. Administration fee.**

A. The County shall charge each commercial property owner as administrative fee to cover the cost of implementing, administering and enforcing this commercial waste disposal capacity generation fee system. Each property owner shall be charged an administration fee to be included in the disposal capacity generation fee bill. The administration fee shall be as established by the County of Ulster. The administration fee may be established and/or amended by the County of Ulster without the necessity of a formal public hearing.

B. All commercial properties that have an assessment code classification as set forth below will be exempt from the administrative fee as set forth by the County of Ulster:

- 610 Education
- 611 Libraries
- 612 Schools
- 614 Special schools and institutions
- 615 Other education
- 620 Religious
- 632 Benevolent and moral associations
- 633 Homes for the aged
- 641 Hospitals
- 642 All other health facilities
- 650 Government
- 651 Highway garage
- 652 Office building government
- 653 Parking lots
- 662 Police and fire protection
- 681 Cultural facilities

690 Miscellaneous

692 Road, streets, highways and parkways

695 Cemeteries

**Section XIII. Penalties for false statements.**

A. Any applicant for a license, as hereinabove described, who knowingly makes a false statement in such application shall be guilty of an unclassified misdemeanor and shall be liable to a fine of not more than \$5,000 or imprisonment for not more than 30 days, or both. In addition, any license issued by the Agency in reliance on any false statement material to the application shall be immediately suspended until such time as the applicant submits a new application, together with supporting documentation and all appropriate fees. Upon approval of the application the Agency Executive Director shall remove the suspension from the license, and the same shall continue to be in effect until the expiration date stamped on the license.

B. It shall be unlawful and an offense for any person to knowingly prepare or execute an inaccurate solid waste disposal route manifest or to induce or coerce any other person to prepare or execute an inaccurate solid waste disposal route manifest. Persons violating the provisions of this section shall be guilty of an unclassified misdemeanor and, upon conviction thereof, shall be liable for a fine of not more than \$5,000, excluding costs, and/or by imprisonment for a period of not more than 30 days.

C. Violations of this section shall be deemed sufficient cause for the cancellation, suspension or revocation of the waste collector's license pursuant to the rules and regulations

**DRAFT**

authorized by this chapter.

**Section XIV. Penalties for offenses.**

Any person who shall violate or neglect or refuse to comply with any of the provisions of this chapter, except where otherwise indicated, shall be guilty of an unclassified misdemeanor and shall be liable to a fine of not more than \$5,000 or imprisonment for not more than 60 days, or both. Each day shall constitute a separate violation and subject any person who shall violate or neglect or refuse to comply with any provision of the chapter to liability to the same extent as the first-time violator.

**Section XV. Severability.**

If any clause, sentence, paragraph, subdivision, section or other part of this chapter shall be judged by any court of competent jurisdiction to be unconstitutional or otherwise invalid, such judgment shall not affect, impair or invalidate the remainder of this chapter, and it shall be construed to have been the legislative intent to enact this chapter without such unconstitutional or invalid part therein.

**Section XVI. When effective.**

This chapter shall become effective immediately upon filing with the Secretary of State as prescribed by law.

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# CRREO/Pattern for Progress Report

- Dated: July 2010
- Introductory email from  
CRREO Director, Gerald  
Benjamin, dated July 5, 2012

Dear Legislator Belfiglio:

I understand from the League of Women voters that you have set a July 5, 2012 deadline for receipt of receipt of information regarding Ulster County's future approach to managing solid waste. As you may know, I am currently heading the Solid Waste committee for the regional Mid-Hudson Smart Growth planning process and additionally helped author a study for the county on intergovernmental intergovernmental collaboration in 2010 that includes an extensive treatment of solid waste options. I would like to talk with you about the findings of our study, which may be found at [http://www.newpaltz.edu/crreo/intergovernmental\\_summary\\_report.pdf](http://www.newpaltz.edu/crreo/intergovernmental_summary_report.pdf). I would also appreciate the chance to discuss with you why I think that any changes the county takes in its approach to solid waste management should be considered in the broader framework of regional challenges and opportunities. Unfortunately, I am out of the county now and will not return until July 5. Also, on that date I will be doing field interviews for a study we have under way in Dutchess County. At minimum, perhaps we could arrange to talk on the phone. I may be reached at 917 375 4832.

Thereafter, if possible, I would appreciate an opportunity for my colleague Josh Simons and I to come to talk with you in Kingston about this matter.

Thank you for your consideration.

GB

Gerald Benjamin  
SUNY Distinguished Professor of Political Science  
Associate Vice President - Regional Engagement  
Director - CRREO

**INTERGOVERNMENTAL COLLABORATION  
IN ULSTER COUNTY**

*Submitted to County Executive Michael P. Hein by:*

**PATTERN FOR PROGRESS**

*with*

**CRREO**

*SUNY New Paltz Center for Research, Regional Education, and Outreach  
and  
Intergovernmental Studies Program, Rockefeller College  
Center for Applied Community Research & Development, Binghamton University  
Fairweather Consulting*

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# **INTERGOVERNMENTAL COLLABORATION IN ULSTER COUNTY**

**Shared Municipal Services Feasibility Study for Ulster County  
Funded by New York State Department of State - Local Government Efficiency Grant Program**

**JULY 2010**

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## **SUMMARY REPORT**

*Gerald Benjamin and Joshua Simons*

**CRREO**

**SUNY New Paltz**

**Center for Research Regional Education and Outreach**

**Also Reference Separate Reports :**

- **Identifying Opportunities for Highway Service Cooperation**
- **Shared Municipal Services Study Report on Justice Courts**
- **Options for Shared Planning and Economic Development**
  - **An Action Plan for Moving Forward**

**PUBLISHED BY**

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## **PATTERN FOR PROGRESS**

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**6 Albany Post Rd., Newburgh, NY 12550 (845) 565-4900 [www.pattern-for-progress.org](http://www.pattern-for-progress.org)**

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## Executive Summary

This study effort focused on three major areas of interest – highways, justice courts and planning and economic development. Detailed approaches to enhancing intergovernmental collaboration, summarized here, are given for each of these areas.

### I. Special Study A - Identifying Opportunities for Highway Service Cooperation in Ulster County – Michael Hattery – Center for Local Government – Binghamton University

Highway services and capacity were analyzed from existing data sources and through a series of interviews with each of the highway managers in sponsoring municipalities. These interviews also provided the opportunity to collect additional documents from these jurisdictions. These resources were supplemented with the results of interviews of a number of local officials in other New York State counties. An overview of highway services and capacity was developed in each of the following areas: Infrastructure, Fiscal, Service Delivery (with separate sections on Winter and Summer Maintenance), Garage, Fuel and Salt Storage Facilities, Human Resources, and Existing Cooperation.

#### Key Findings:

- **Infrastructure and Finance.** There is substantial variation in both the road mileage maintained by town governments in the county (page 3) and the property tax based resources to support highway services (page 4). A need for an improved and consistent (or standardized) approach to activity and project costing would be valuable within jurisdictions and in comparing with other departments to improve efficiency and better highlight best practices.
- **Service Delivery.** There is broad consistency in the maintenance practices and goals of highway departments in the study (pages 5-8). There are a number of town garage facilities with very close proximity to a facility in the network of county regional highway facilities. In some cases (e.g. Town of Denning) the town and county have facility needs that are complementary (page 7).
- **Cooperation.** There is a broad level of cooperative activity among town highway departments and between the county and town highway departments. Sharing of personnel, equipment and materials is routine. There are many written bi-lateral agreements among municipalities in the county that provide important liability protections, etc. for the routine conduct of sharing among municipalities. A county-wide agreement in this area may prove advantageous and cost effective. A number of other written agreements exist for equipment sharing, etc. (pages 8-11).

#### Policy Options and Recommendations:

- **Comparative Assessment.** Three counties that have more extensive contracting out models for county highway services are discussed in some detail: Monroe County, Jefferson County, and Chemung County. Monroe and Jefferson provide relatively mature arrangements, while Chemung is developmental, in the early stages of implementation.
- **Recommendations based on Comparative Assessment.** Ulster County should consider a revised regional approach in the provision of highway services. Drawing from the examples in Monroe and Jefferson counties, the following areas or characteristics for a revised approach are highlighted:

- **The Road Network in Ulster County is a Single Network.**
- **Key Areas in Updating Ulster's Regional Approach**
- *Multi-Season Service Contracts may be Most Efficient*
- *Examine the Potential for Diminishing the Overall Number of County Regional Facilities.*
- *Flexibility for Differences in the Capabilities, Resources and Motivations of Town Highway Partners.*
- *Contractual Arrangements*
- *Balancing the Need for Stability with a Competitive Environment.*
- **Improved Cost Accounting and Performance Information**
- **Human Resource needs for Implementing and Managing an Updated Regional Approach**
- **Mechanisms for Monitoring and Maintaining Agreements**
- **Estimating the Potential for Cost Savings.** In this section multi-year average expenditure data and comparative personnel figures are used to show the relatively lower costs and a higher number of miles maintained per employee, respectively, by both Monroe and Jefferson Counties. These figures indicate that significant potential savings may be available through a revised regional approach.

#### **Targeted Recommendations and Implementation Guidance**

- Development of a Single County-wide Umbrella Agreement for the Routine Sharing of Personnel, Equipment and Materials.
- Improve Project and Activity Costing Practices and Implement a Pavement Management System.
- Revised Regional Approach: Contracting out Major Maintenance and Construction Responsibilities to Towns in Ulster County

#### **II. Special Study B: Ulster County Shared Municipal Services Study - Report on Justice Courts Prepared by Sydney Cresswell, assisted by Michael Landon, at The Intergovernmental Studies Program (IGSP) - Rockefeller College of Public Affairs and Policy - University at Albany**

The justice court study provides a summary of justice court issues, operations, and an analysis of restructuring opportunities in Ulster County. The complex environment in which justice courts function is reviewed, as are various stakeholder perspectives. Metrics that can be used to understand justice court fiscal and administrative performance are calculated ("workload factors"), and analyzed in the context of existing justice court conditions. The report provides recommendations that range from strengthening internal oversight of the justice courts to weighing the formation of a regional criminal court.

The study is countywide; in some respects, however, the more in-depth analyses focus on the 12 towns that participated in the Ulster County Shared Services Study, funded under the Shared Municipal Services Incentive program (SMSI). Profiles on participating justice courts can be found in Section 4 of Special Study B.

IGSP used primary source qualitative and quantitative data in conducting the study. This included fiscal and caseload data from the NYS Office of the State Comptroller (OSC) and municipal governments, and interviews with local, county, and state-level stakeholders. An extensive document review was also

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completed. IGSP also prepared case summaries of court restructuring efforts in other areas of NYS, utilizing news reports, written accounts, and additional interviews.

### **Key Findings**

- **Fiscal Condition of the Courts** - Most justice courts in Ulster County have become insolvent (expenditures exceed revenue), even before calculating the added costs of salary assessments, fringe benefits and county-level expenses associated with justice courts.
- **Information Gap** - The fiscal status of the courts was a surprise to many supervisors, and interviews showed that an information gap exists between the justice courts and governing board in most municipalities. The justice court information gap impedes "rightsizing" the courts.
- **Governing Board Oversight Needed** - Although the autonomy of the courts is protected with respect to judicial decision making, governing boards retain critical (statutory) oversight responsibilities that need to be duly exercised. A chief aim of this study is to provide municipal officials with key data and metrics that permit comparison of courts and help identify opportunities for restructuring.

### **Study Recommendations:**

- Improve the level of oversight by municipal governing boards (largely through the consideration of justice court metrics and conditions)
- Build countywide technical support for new case management tools
- Share a single justice in the smallest courts
- Share the expense of new court facilities with adjacent towns
- Merge justice courts in some adjacent towns into a regional court
- Consider creating regional criminal courts
- Seek other efficiencies: use mediators in civil cases; develop a comprehensive resource book for justices; extend the pre-screening investigation pilot program; reexamine arraignment activity.

### **III. Special Study C – Ulster County Intergovernmental Collaboration Study -- Recommendations: Options for Reconfiguring the Delivery of Planning and Economic Development Services - Peter Fairweather - Fairweather Consulting**

The recommendations outlined below respond to the project goals, with consideration of existing conditions of service delivery and current best practices in planning and economic development. They can be considered as separate alternative approaches to improving service delivery in planning and economic development. Alternatively, taken together, they comprise a comprehensive approach toward improving and more closely integrating planning and economic development in Ulster County.

#### **Planning Services:**

- ***Create "Circuit Riders" for Planning and/or Code Enforcement Services through a Council of Governments***

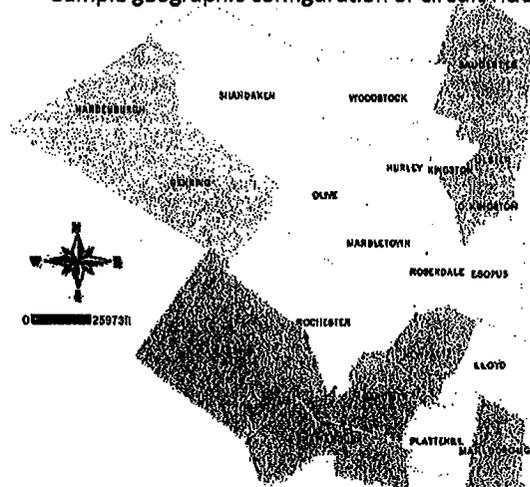
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As discussed under "best practices," it is common for municipalities to share planning services by pooling funding to create "circuit rider" positions. These are full-time paid professional staff positions whose services are shared across several municipalities.

### *Implementing the Circuit Rider System*

1. Create a Council of Governments (COG) to host the program. This would involve a process similar to the creation of the Ulster County Transportation Council. The intermunicipal agreement would be created identifying the participating municipalities, defining the purpose of the COG and outlining the system of governance and representation, and establishing a method for financing the activities conducted under the auspices of the COG. (The most common approach would be to assess each community a charge based upon estimated use of the circuit rider service, with additional charges assessed if the community required time above and beyond that estimate.)
2. Establish staffing levels to provide circuit rider services. This would involve working with the participating towns to estimate their needs for planning and code enforcement services for the coming year. This would indicate the number of hours involved in providing the circuit rider services, from which a staffing plan and budget could be developed.
3. Secure the professional staffing needed to provide the circuit rider services. This can be done through a variety of means. For example, the COG could contract with the Ulster County Planning Board for such services. Alternatively, it could be implemented through a contract with a professional planning firm for professional planning and/or code enforcement services through a contract evaluated and renewed on an annual basis.
4. Ensure an efficient and effective geographic distribution of services for the circuit rider program. Figure 2 provides an example of how the circuit rider services can be grouped geographically to reduce overhead related to travel time.

Special Study C Summary - Figure 2.  
Sample geographic configuration of circuit riders



## Economic Development Services

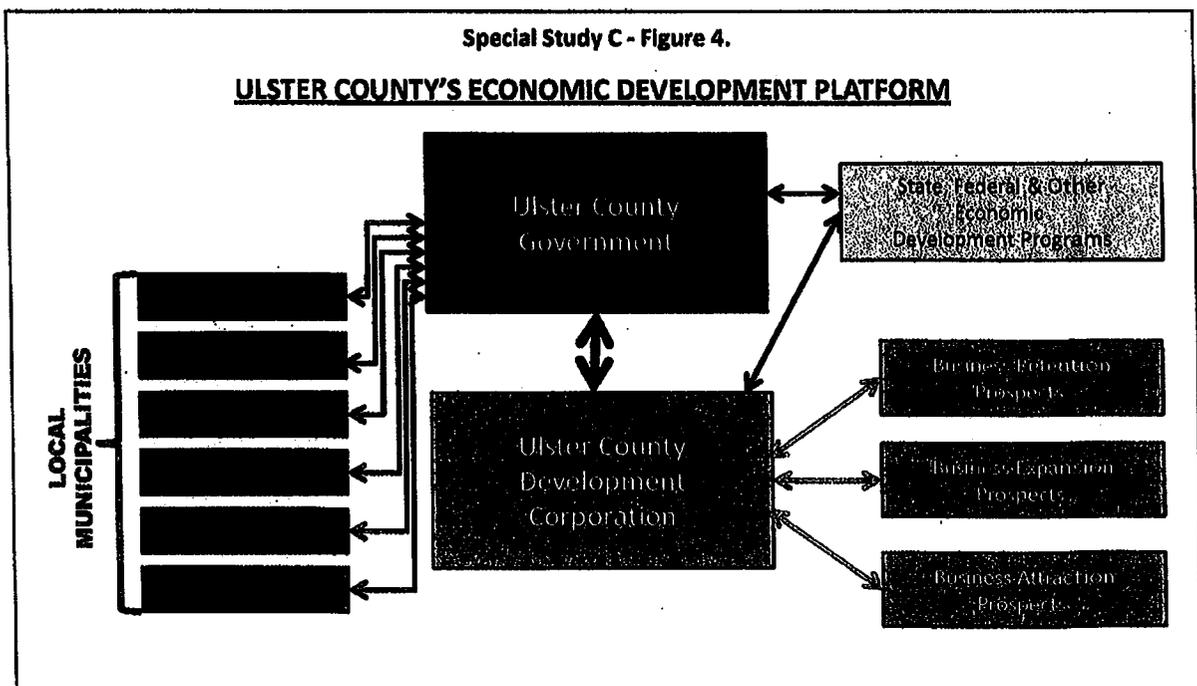
### *Implementing Ulster Tomorrow*

There is substantial capacity for planning and economic development in Ulster County at the present time. As noted in the *Ulster Tomorrow* Plan, improving Ulster County's performance requires greater coordination and clarity in the service provision system. *Ulster Tomorrow* saw the need for a "super economic development agency," a single point of entry to bring together the "demand" side of economic development (businesses, developers, communities) with the "supply" side (economic development agencies, local planning boards, state and local assistance programs, etc.). (See Figure 4 below.) That report summarizes the important relationships that must be preserved and strengthened in the County's economic development delivery system. Each of these interests must have a clearly structured role in the process, with clear and consistent channels of communication that serve each party's interest.

Two options were considered for the future structuring Ulster County's economic development services: creating a county department or keeping and strengthening the UCDC as the central focus. After considering four key dimensions - scope, flexibility, focus and the prospect of private sector support - we find that keeping and strengthening the UCDC is preferred.

Ulster County conforms to best practices in terms of its general structure for economic development service delivery. As is the case with Ulster County, it is quite common in New York State and elsewhere to have the county economic development office established as a separate not-for-profit corporation that leads the county's industry attraction, retention and expansion efforts, while providing staff support to the industrial development agency through a contract with that agency.

The use of the not-for-profit structure has several advantages. It enables the economic development office to provide tax deductions for contributions from the local business community to support the corporation's operations. In addition, by being constituted as a private organization, the corporation is freed from civil service requirements when hiring and deploying staff. As such the current structure provides greater focus and flexibility while providing a greater potential for securing private sector support and funding.



In essence, the current economic development structure is a viable platform to continue to implement and expand upon the work of *Ulster Tomorrow*. As illustrated in Figure 4, one of the critical tasks is to use the current structure to continue to build the public and private relationships so essential to success in the ongoing competition to retain and attract innovative companies and high-quality jobs.

In further developing this structure it is important to remember that getting the right balance in this type of public/private partnership requires incremental adjustments over time. For example, in Columbia County, the Columbia Hudson Partnership in Columbia County has been recently reorganized so that the Partnership's executive director is now appointed by the County—rather than the Partnership board. As Ulster County moves forward, it too must continually review and evaluate the public/private partnerships in its economic development platform and periodically consider ways to fine-tune the economic development platform to maintain and/or strengthen the crucial relationships outlined in Figure 4.

#### **IV. Intergovernmental Collaboration in Ulster County, Overview, Analysis and Recommendations – Targets of Opportunity – Gerald Benjamin and Joshua Simons.**

In addition to completing the special studies summarized above, the county government and town governments in Ulster County that commissioned this work asked that we identify “targets of opportunity” - other key service areas for our future that are in need of new or enhanced collaborative approaches. In order to accomplish this portion of our assignment, we took a broad yet detailed look at the structure and operations of all the local governments in the county. The results of that effort are presented below in an extensive, separate detailed report. Three areas that seem particularly promising for producing economies and efficiencies, or are in critical need of attention, are summarized here: Sanitation services, Water and Technology and Information Services. A great number of other potentially promising areas for action, some quite specific, are presented at the end of the full report.

**Sanitation Services:** General purpose government spending for sanitation services in Ulster County totaled \$17.7 million in 2007. Additionally, \$13.7 million was spent by the Ulster County Resource Recovery Agency (UCRRA), a public authority established in 1986 to develop, finance and implement a comprehensive solid waste management program in the county. Economies from collaboration in this area may flow to town governments and, insofar as the UCRRA requires less support from it, to the county government.

**Sludge:** In 2007, the City of Kingston entered into a fifteen year agreement with Aslan Environmental Services to build a system that used methane generated by its sewage treatment plant to dry sludge and convert it into pellets that may be used as fertilizer or fuel. Anticipating the prospect of growth, the Kingston sludge treatment facility was built to accommodate twice the capacity of the Kingston sewer treatment plant. The Executive Director of that agency, Michael A. Bemis, estimated in an interview that

- **\$125,000 per year might be saved if investments were made that allowed sludge from other jurisdictions now taken elsewhere could be brought to Kingston.**

**Storm Sewers:** Under the leadership of the then county administrator (now the county executive) in 2007, Ulster County developed an innovative approach to pooling municipal resources to meet MS4S regulatory

requirements. According to one estimate, this collaborative effort saved participating governments a total of \$600,000.

- **County government intends to seek funding in support of the development of a formal intermunicipal agreement in storm water management. This will open the way for cost-saving collaborative action in reporting, equipment acquisition, mapping and the education of citizens, community leaders and key local government personnel.**

*Solid Waste:* When all expenses are included, solid waste transfer stations in Ulster County collectively operate at a loss. The 1995 solid waste agreements among the Towns of Woodstock, Saugerties and Shandaken provide an early model that all participants regard as successful. The New York State Comptroller's 2009 *Annual Report on Local Government* notes that: "In localities where residents contract individually with private refuse haulers, numerous audits and reports indicate that local governments can realize substantial savings for their residents by contracting for refuse collection on their behalf." Pursuant to this idea,

- **Groups of Ulster County towns might join together regionally to contract with a single private carter for roadside pickup of solid waste. An incentive for recycling might be built into this contract, as it has been met with success in other communities. Carters could then take the waste directly to one of the two UCRRA regional transfer stations, eliminating most of the need for town stations and the transportation costs now incurred by towns. Town stations might then be operated at a much reduced schedule at far lower cost.**
- **Cost-saving models are proposed in the body of this report for two groupings of towns: Wawarsing, Rochester and Marbletown and Shawangunk, Plattekill and Marlborough.**

*Water:* Water is a regional resource; it is not constrained by municipal boundaries, nor amenable to proper management within them. It is, therefore, a natural candidate for intergovernmental collaboration. In a time of growing scarcity across the world, New York's rich water resources, especially in the Hudson Valley, are central to our environmental heritage and the key to our future economic viability. Ulster County, a custodian of a main part of the NYC water system, has within it four municipal systems – the City of Kingston and the three villages - and fourteen that are organized as special districts within towns. In addition, Hurley is served by a private water company. Considerable inter-jurisdictional collaboration for the use of water is already in place. Yet aging infrastructure needs attention. A 1970 study proposed the development of six integrated water supply areas to meet projected needs for Ulster County. In a 1989 study, the prospect was raised of integrating existing water systems in two sub-regions of the county, the southeast (New Paltz, Lloyd, Marlborough, Newburgh) and along the Thruway corridor (Kingston, Ulster and Saugerties). Additionally, the 1989 study identified potential long-term water supply issues in Gardiner, Shawangunk and Plattekill. Action is very costly, and has not been taken. The availability of ample water is an essential environmental asset and economic development resource. At minimum,

- **There is a need to encourage additional intergovernmental collaboration in the delivery of water to our communities, and for updating the county-wide water study completed two decades ago, integrating municipal, environmental and economic development goals and needs.**

**Technology and Information Services:** This study shows that intergovernmental collaboration between and among the city, towns and villages in Ulster County has succeeded and will continue to succeed on a bilateral and, sometimes, multilateral basis. An essential lesson is that for collaboration to work as a broad scale strategy, the county government must be a fundamental player in the collaborative process. To do this the county must continue to re-conceive its role, coming to further understand itself as not only a service provider, but as facilitator of connections and efficiencies for all governments within its borders. Initiatives that the county has already undertaken in the areas of storm water management and highways indicate that this fundamental change is, in fact, beginning to occur. As this trend continues, technology and information services provide a special area for collaborative opportunities. There is a growing movement for the county government to become the provider of information and support services for municipalities within it. Support services may be centralized, while decision making and service delivery remain decentralized. This is already true for property tax administration. Savings and efficiencies will be realized; all must be done with an equitable sharing of costs.

- **Back office support functions now provided by localities themselves, or contracted to private providers – e.g. check writing, bookkeeping, electronic record keeping – could be done by contract with the county.**
- **Collaborative data bases for specific service areas should be further developed or created.**
- **Town supervisors are interested in a common budgetary format and management information system that would allow them to improve local government performance by allowing inter-jurisdictional comparisons of program costs.**
- **There are possibilities too in areas ranging from vehicle repair and maintenance to the provision of professional support, as previously noted, for labor contract negotiation.**

**Policing:** The sixteen local police departments in Ulster County spent a total of \$26,084,096 in 2007 (not including benefits), and had 317 full time and 213 part-time employees in 2007. In that year in the Town of New Paltz the police function required almost a quarter of the budget (24.3%), in the Town of Ulster 17.9%, and in the City of Kingston 16.55%. Eight towns and one village had no police department; the village of Saugerties recently decided to merge its department with that of its town. Additional police services were provided by the state (the New York State Police, DEC Police, SUNY New Paltz Police) and by New York City on its watershed properties. This pattern of service delivery regularly raises issues of equity in the distribution of cost and benefits.

A survey by the International City and County Management Association done in 2006 shows that in the United States there are, on average, 2.12 police officers per 1,000 people in localities with populations between 10,000 and 24,999. Counting full-time sworn officers only, this ratio was exceeded in 2007 in Ulster County by the City of Kingston (3.27), and the Towns of New Paltz (3.07) and Ulster (2.23). These facts suggest that there may be opportunities for savings from a consideration of reduced staffing or alternative patterns for the delivery of police services (i.e. contracting by towns with the county Sheriff's Department, inter-town collaboration). Recent developments in Saugerties indicate that

- **Ulster County's citizens, increasingly pressed by the costs of local government, are willing to give consideration to properly presented efficiency- enhancing alternatives for the delivery of police services.**

**Code Enforcement.** A total of \$1.16 million was spent in the 12 Ulster County towns sponsoring this study of total spent on code enforcement, much of this for consulting services. Divided evenly among the 12 towns, current spending could support one full-time code enforcement position for each town paid at \$59,000 per year, with 30% benefits and a \$20,000 operating budget.

- **Collaborative activity among the towns on code enforcement, organized through the county Association of Towns, might thus provide a higher level of service without additional spending.**

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# Intergovernmental Collaboration in Ulster County

## Baseline, Overview, Analysis and Recommendations

In accord with the terms of a grant provided to Ulster County under New York State's Shared Municipal Services Initiative, administered by the Department of State, this study identifies reviews, analyzes and reports upon the governmental services provided by municipal governments in Ulster County. Its objective is to "describe areas where combining space and/or service, would result in positive outcomes including cost savings and/or increase in the quality and amount of service delivery." The terms of this study did not mandate any specified outcome, for example the consolidation of governments or services. However, Ulster County did require an implementation plan, and identified highways, justice courts and planning and economic development as specific focal points for attention and action.

The initial focus of this study was upon the jurisdictions that passed resolutions sponsoring this effort: the Ulster County government, the City of Kingston and the Towns of Denning, Gardiner, Hardenburgh, Hurley, Marletown, Marlborough, New Paltz, Rosendale, Saugerties, Shawangunk, Ulster and Wawarsing. As the research proceeded, it became evident to researchers that some attention to the functioning of *all* the county's general purpose local governments was necessary to assure full consideration of opportunities for intergovernmental collaboration, and thus maximize the report's utility. The chief elected officers of the Towns of Kingston, Lloyd, Olive, Plattekill, Rochester, Shandaken and Woodstock and the Villages of Ellenville, New Paltz and Saugerties were therefore interviewed. During these discussions with heads of non-sponsoring governments we found that they were amenable to collaborating; their failure to act timely by resolution to be included as sponsors was almost always due to changes in leadership, the press of other business or simple oversight, not disinterest or opposition.

Consequently, data was gathered and is reported below, whenever possible, for all of Ulster County's General Purpose municipalities. Additionally, to provide as full a picture as possible, information is reported on Ulster County's special purpose governments that are supported largely or entirely from real property tax levies: school districts, fire districts and library districts. However, more than incidental consideration of their inclusion in collaborative activities was beyond the scope of this study. Heads of these governments were not interviewed.

During the course of this research the nation entered into its most severe economic crisis since the Great Depression. In the Hudson Valley, as in the nation, unemployment grew, foreclosures on homes skyrocketed and the resources of local government plummeted, diminishing their capacity to provide public services while increasing pressure to raise property tax rates. Some Ulster County governments were sheltered from the immediate effects of the economic crisis due to their substantial fund balances, a legacy of persistent fiscal prudence and fiscal practices. Yet all of the county's governments felt an increased need to find economies through collaboration and other means in these circumstances, a reality that made the purpose of this study even more compelling.

## **Project Team Research Process and Methodology**

This report is based upon the collaborative effort of the participating governments and researchers at five different institutions. All made important substantive contributions to the work.

Ulster County Executive Michael Hein, a leading advocate in the state in advancing intergovernmental collaboration to reduce governmental costs and increase efficiency and effectiveness, took the lead in conceiving this project by gathering support from other participating municipalities. Regular liaison and oversight was provided by Adele Reiter, Chief of Staff, and Sue Ronga, in the County Executive's Office. The Ulster County Legislature committed the required matching funds and endorsed the application for funding for this project. Resolutions in support of this application were passed by the council of the City of Kingston and the boards of the Towns of Denning, Gardiner, Hardenburgh, Hurley, Marbletown, Marlborough, New Paltz, Rosendale, Saugerties, Shawangunk, Ulster and Wawarsing. In accord with Resolution #108 of the Ulster County Legislature, passed on June 11, 2008, an advisory committee comprised of a representative of each participating municipality was constituted. It was consulted twice as the project progressed. Additionally, a member of the research team attended the regular monthly meetings of the Ulster County Association of Town Supervisors to keep its members apprised of the progress of the project.

This report draws upon four major sources of information:

- Face-to-face interviews of elected and appointed officials in all participating governments, additional interviews of the chief elected officials of all other general purpose local governments in Ulster County, and telephone or face-to-face interviews with current or past county administrative officials and others active in county government. Records of these interviews are held in the files of the research team at Pattern for Progress and CRREO, SUNY New Paltz.
- Follow-up phone interviews with the chief elected officials of each general purpose local government in Ulster County.
- Public meetings convened by Pattern for Progress in three locations in Ulster County during the summer of 2009: Gardiner, Saugerties and Wawarsing.
- Review of existing quantitative data obtained from state sources and from the county's general purpose local governments and documents provided by participating governments, such as intergovernmental agreements, budgets and labor contracts. This data is in the files of CRREO, SUNY New Paltz.

Additionally, Secondary research and information was gathered from other organizations and experts who have studied and worked to implement shared services. This information and the context in which it was collected inform the development of an effective implementation plan.

Pattern for Progress took overall administrative responsibility for this project as the prime contractor, and remained in regular contact with the Office of the County Executive of Ulster County over its course. Jonathan Drapkin and Barbara "Charlie" Murphy at Pattern for Progress played principal roles in convening and coordinating the project team, conducting field interviews with all chief elected officials of general

purpose governments in Ulster County and gathering public input through the county website and the public meetings held during August of 2009. They also led in focused, follow-up interviewing of Chief Elected Officials. Robin DeGroat of Pattern's Staff provided administrative support.

The Center for Research, Regional Education and Outreach (CRREO) at SUNY New Paltz gathered an extensive quantitative database from state and county sources to support the work of all researchers. This database, assembled by Joshua Simons with the assistance of two student interns, Danhui Wang and Zachary Keck, is a project deliverable. K.T. Tobin Flusser at CREEO reviewed, edited and commented upon this draft.

With the agreement of County Executive Michael Hein, the Chief Elected Officer in each town participating in this study was in August of 2009 provided with a time series of 12 years of town-related budget data to assist them with their administrative work. Joshua Simons identified, obtained and conducted research in secondary sources. Gerald Benjamin participated in field research interviews, conducted secondary source research, provided extensive data analysis and led in the writing of this report.

Three members of the project team conducted extensive field research in connection with preparing in-depth studies of areas of potential collaboration specified by the county for priority attention:

Michael Hattery of The Center for Applied Community Research and Development at SUNY Binghamton conducted field interviews and other research and prepared the Special Report A on *Highway Collaboration*.

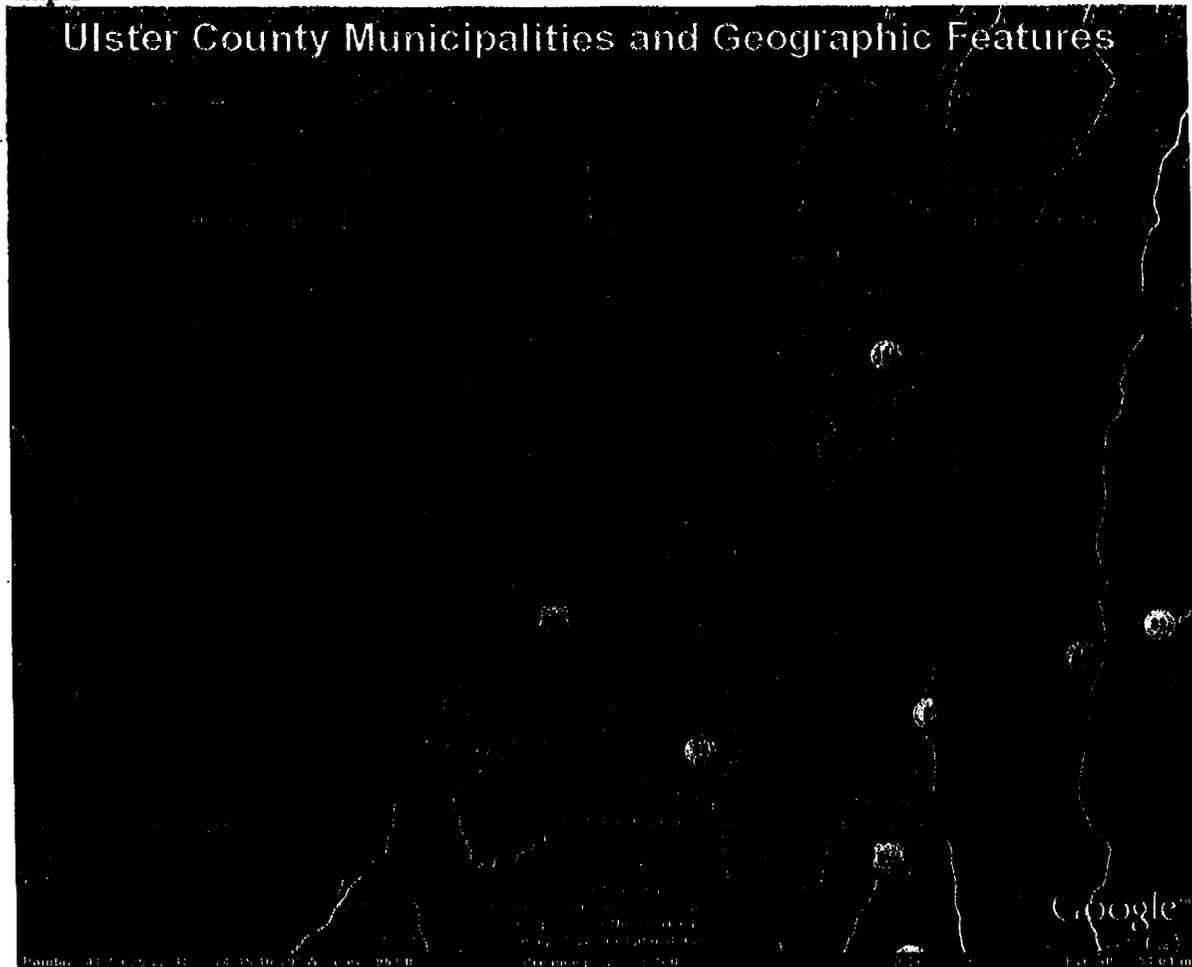
Sydney Cresswell, Director of the Intergovernmental Solutions Program of the State University at Albany, conducted field interviews and other research for Special Report B on *Justice Courts*. She was assisted by Michael Landon.

Peter Fairweather of Fairweather Consulting conducted the research for and prepared Special Report C on *Planning and Economic Development*.

## Ulster County and Its Local Governments – The Baseline

Ulster, one of New York State's original thirteen counties, is located in the heart of the Mid-Hudson Valley, roughly equidistant between New York City and Albany. The county is defined geographically by the Hudson River on its eastern boundary; the Shawangunk Range, rising from the river's valley going westward; and the Catskill Preserve - protected as "forever wild" by the New York State Constitution - encompassing large portions of its north-westernmost towns. **(Map I)** Ten towns are wholly or partly in the New York City watershed, or are affected by land use regulations related to that watershed.

## Map I



### Land Area and Population

The County has a total land area of 1,126 square miles, making it approximately equal in size to the state of Rhode Island. Its population increased steadily in recent years. In 1990, the population was 165,304; in 2000, it was 177,749; in 2008 it was estimated to be 181,670. Recent projections show only modest growth over the next thirty years, to 186,012 by the year 2035.<sup>1</sup> In general, as in much of New York State, Ulster's population has been aging, and growing more demographically diverse. (Table I)

### Economy

Ulster County's estimated median household income in 2007 (\$55,589) exceeded that for New York State as a whole (\$53,448). However, average wages for public and private sector jobs were lower compared with other counties in the region or for the state as a whole. Between 2000 and 2007 average annual unemployment rates in Ulster County were compared with statewide rates. This changed in 2008, when the rate in Ulster (5.5%)

<sup>1</sup> Estimates from the Ulster County Department of Planning Data Book. "Ulster County Population Projections"  
[http://www.co.ulster.ny.us/planning/ucpb/demo/databook/NYSIS\\_Projections.pdf](http://www.co.ulster.ny.us/planning/ucpb/demo/databook/NYSIS_Projections.pdf).

was similar to the statewide rate (5.4%). The largest industries in Ulster County are Retail Sales, Health Care, and Food Service. The biggest employers in numbers of employees are the County of Ulster, New York State and United Healthcare. As is the case for its Mid-Hudson Valley neighbors, about one-third of Ulster's workforce is employed outside the county.

Economic growth in the county has lagged compared with its neighbors in the region. While employment in neighboring counties increased during the 2000 to 2008 period at rates substantially exceeding those for New York State as a whole, there was a 2.1% decline in the number of jobs in Ulster. The drop in private sector jobs in Ulster during this period was nearly double that percentage (4%). Governments employed 658 more people in the county in 2008 than in 2000, while private sector businesses had 1,957 fewer workers.

In general, and in part because of the presence in it of several large state prisons and a State University of New York comprehensive college campus (SUNY New Paltz), Ulster County is far more dependent on public sector jobs than is New York State as a whole. Ulster ranked fifteenth among the fifty-seven counties outside New York City in its proportion of full-time equivalent state employees in the county in 2008 (6.9%), while it was thirty-fourth in its local government employees as a proportion of its workforce (16.1%).<sup>2</sup> Overall, about one in five (18%) of working New Yorkers at the beginning of 2009 worked for government; in Ulster the ratio was closer to one in four. Moreover, the public/private employment contrast in the county, driven by the economic crisis, accelerated in the first quarter of 2009. While the number of public sectors jobs in the county increased slightly during this period, another 3,226 private sector positions were lost. In other words, the number of private-sector jobs lost in Ulster County in a single year was about one and two-thirds times as great as the number for the entire previous eight year period. (Chart I)

#### **Number, Structure and Types of General Purpose Local Governments**

The U.S. Census bureau defines general purpose local governments as "political subdivisions within which a municipal corporation has been established to provide general local government for a specific population concentrated in a defined area."<sup>3</sup> For the purposes of this study, county government – separately treated by the Census Bureau – is included within the general purpose category. There are twenty-five general purpose municipalities in Ulster County: the county government, one city, twenty towns and three villages. Since 2003, the City of Kingston has been the core of a federally designated Metropolitan Statistical Area.<sup>4</sup>

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<sup>2</sup> Rockefeller Institute of Government. *New York State Statistical Yearbook*, 2008 (Albany: Rockefeller Institute of Government) Table E-55 consulted at [http://www.rock.inst.org/nys\\_statistics/2008/E/](http://www.rock.inst.org/nys_statistics/2008/E/).

<sup>3</sup> U.S. Department of the Census. *Governments Integrated Directory*. <http://ftp2.census.gov/govs/cog/2007/techdocgovorg.pdf> p. 2.

<sup>4</sup> See Executive Office of the President. Office of Management and Budget. "OMB Designates 49 New Metropolitan Statistical Areas" <http://www.whitehouse.gov/omb/pubpress/2003-18.pdf>

Characteristics of General Purpose Local Governments in Ulster County (2007)

Table I

|                      | Population       | Population % change 1990-2000 | Land Area (Sq. Miles) | # of Fire Districts | Total Expenditures   | Property Tax Revenue | Sales Tax Revenue   |
|----------------------|------------------|-------------------------------|-----------------------|---------------------|----------------------|----------------------|---------------------|
| City of Kingston     | 24151 †          | 4.6%                          | 7.4                   | 1                   | \$46,882,140         | \$13,626,083         | \$11,172,760        |
| <b>Towns</b>         |                  |                               |                       |                     |                      |                      |                     |
| Denning              | 516              | -1.5%                         | 105.2                 | —                   | \$1,351,574          | \$814,009            | \$28,263            |
| Esopus               | 9,331            | 5.3%                          | 37.2                  | 5                   | \$6,799,073          | \$2,644,200          | \$114,274           |
| Gardiner             | 5,238            | 22.4%                         | 44.4                  | 1                   | \$2,552,147          | \$1,283,311          | \$142,439           |
| Hardenburgh          | 208              | 2.0%                          | 81.3                  | —                   | \$845,987            | \$663,533            | \$24,627            |
| Hurley               | 6,564            | -2.6%                         | 29.9                  | 2                   | \$3,266,123          | \$2,528,902          | \$136,126           |
| Town of Kingston     | 908              | 5.1%                          | 7.8                   | 1                   | \$514,067            | \$416,031            | \$13,033            |
| Lloyd                | 9,941            | 7.7%                          | 31.7                  | 1                   | \$11,667,445         | \$5,263,559          | \$173,151           |
| Marbletown           | 5,854            | 10.8%                         | 54.6                  | 2                   | \$2,481,055          | \$1,263,894          | \$160,968           |
| Marlborough          | 8,263            | 11.2%                         | 24.8                  | 3                   | \$6,160,420          | \$4,436,227          | \$144,041           |
| New Paltz            | 12,830           | 12.7%                         | 33.9                  | —                   | \$8,778,974          | \$7,032,108          | \$190,668           |
| Olive                | 4,579            | 12.1%                         | 58.7                  | —                   | \$3,792,945          | \$2,689,804          | \$175,465           |
| Plattekill           | 9,892            | 11.3%                         | 35.6                  | 3                   | \$3,116,200          | \$1,661,904          | \$122,592           |
| Rochester            | 7,018            | 23.6%                         | 88.4                  | 1                   | \$3,195,700          | \$2,165,637          | \$127,621           |
| Rosendale            | 6,352            | 2.1%                          | 19.9                  | 3                   | \$3,464,340          | \$2,215,445          | \$91,134            |
| Saugerties           | 18,821           | 1.9%                          | 64.5                  | 5                   | \$13,335,922         | \$7,730,930          | \$252,929           |
| Shandaken            | 3,235            | 7.4%                          | 119.8                 | 2                   | \$3,939,129          | \$2,739,965          | \$105,032           |
| Shawangunk           | 12,022           | 19.3%                         | 56.2                  | 2                   | \$5,437,713          | \$2,966,494          | \$183,259           |
| Town of Ulster       | 12,544           | 1.7%                          | 26.8                  | 3                   | \$14,309,268         | \$8,453,684          | \$232,623           |
| Wawarsing            | 13,936           | 12.9%                         | 130.7                 | 3                   | \$8,827,898          | \$5,674,265          | \$145,615           |
| Woodstock            | 6,241            | -0.8%                         | 67.5                  | 1                   | \$6,385,291          | \$4,289,681          | \$237,298           |
| <b>Villages</b>      |                  |                               |                       |                     |                      |                      |                     |
| Ellenville           | 4,130            | -2.7%                         | 8.7                   | 1                   | \$7,659,087          | \$2,286,167          | \$25,705            |
| New Paltz            | 6,034            | 10.5%                         | 1.7                   | —                   | \$5,978,277          | \$1,397,445          | \$0                 |
| Saugerties           | 3,908            | -0.2%                         | 1.8                   | —                   | \$4,579,956          | \$1,949,223          | \$0                 |
| <b>Ulster County</b> | <b>181,755 †</b> | <b>10.0%</b>                  | <b>1,126.5</b>        | <b>39</b>           | <b>\$311,199,118</b> | <b>\$67,523,671</b>  | <b>\$81,572,504</b> |
| <b>Total</b>         | <b>181,755 †</b> |                               | <b>1,126.5</b>        | <b>39</b>           | <b>\$486,519,849</b> | <b>\$153,716,172</b> | <b>\$95,572,127</b> |

† 2007 Estimate (The rest are 2000 Census)

†† The Towns of Saugerties and Wawarsing and the Village of Saugerties have had their population totals revised to reflect the proper placement of the prisons located within Ulster County.

\*Residents of villages are counted twice, once in the town, once in the village.

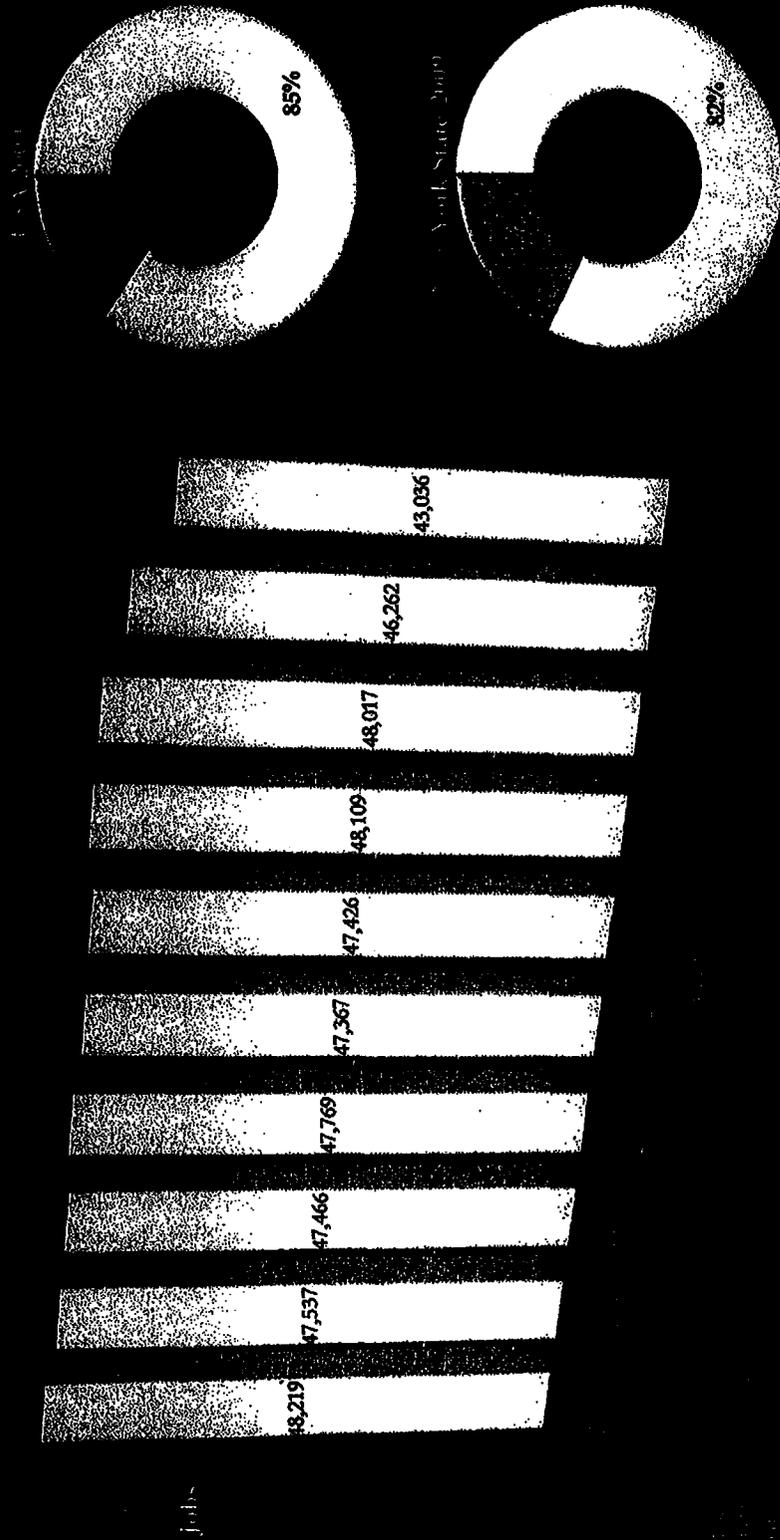
\*\* The land area of villages is also within the town.

\*\*\* Fields left blank indicate that municipality either has a fire department that does not levy its own taxes (Municipal or Volunteer Department), or is covered by a fire department/district in another municipality. The Ulster County total is of taxing districts. The NYS Department of State lists 87 fire departments including private fire departments and volunteer departments, as well as fire departments at correctional facilities.

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Chart 1

Ulster County Employment in 2006 - 2009



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The number of general purpose local governments has not changed since the dissolution of the Village of Pine Hill in 1985. Earlier, in 1978, the Village and Town of Rosendale were consolidated. Consolidation of the Town and Village of Saugerties is reported by the Supervisor and Mayor there to have been discussed on several occasions, but is not currently under consideration. Dissolution of the Village of Ellenville, a step that the current mayor thinks should be given serious consideration, was recently studied by a volunteer committee there; it recommended against such a step.<sup>5</sup> The Village and town of New Paltz have been awarded funding for a municipal shared service and consolidation study.<sup>6</sup>

The county government operates under a charter first adopted in 2007. It has an elected executive and a thirty-three member legislature elected from multi-member districts. Though districts are drawn with consideration of town boundaries, because of adherence to constitutional one-person-one vote requirements they are not coterminous with these lines. The current executive is a Democrat; the legislative majority, Democratic when this study was authorized, became Republican on January 1, 2010. By provision of the charter the number of county legislators will be reduced to 22 after districts are redefined in accord with the 2010 Census. There has been some discussion of the value of a further reduction in the size of the county legislature. Other countywide elected county officials are the Clerk, the District Attorney, the Comptroller and the Family and County Court Judges. Legislators work part-time.

The City of Kingston operates under a charter adopted in 1994. It has a strong mayor form of government and a Common Council comprised of nine Aldermen, elected from wards, and a president, elected citywide. The current mayor and Council majority are Democratic. City court judges are also elected citywide. Citywide elected officials, but not aldermen, are full time employees.

Villages are the only general purpose governments in New York State that may be created or dissolved through local initiative. Ulster's villages were created in the 19<sup>th</sup> century at local request by areas of concentrated population, in order to provide more extensive services than towns were then authorized to deliver. The three villages are governed by boards comprised of a mayor and four trustees, elected at large. All are selected in non-partisan elections except for the Mayor of Ellenville. Most governing powers are vested in the board, though under New York law village mayors do independently exercise administrative authority. Ellenville employs a village manager. Elected officials generally serve part-time; compensating the mayor on a full time basis has been an issue in the village of New Paltz in recent years.

New York State Law classifies towns according to population. Those with 10,000 or more population in the last preceding federal census are categorized as "First Class." In Ulster County these are New Paltz, Shawangunk, Ulster, Saugerties and Wawarsing. By special state legislative provision, however, the Town of Ulster is excluded from this category. Other Ulster County towns are classified as being in the "Second Class." There are no towns in Ulster classified as "Suburban" (defined in law as those having populations of 25,000 or more). These classifications were originally intended to allow the governments of more populous jurisdictions to be structured differently and to provide a greater range of services than those that were more

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<sup>5</sup> "Report of the Ellenville Government Study Committee on Village Dissolution" (undated)  
<http://villageofellenville.com/Documents/EGSC%20Report.pdf>

<sup>6</sup> State of New York. Office of the Governor. Press Release. "Governor Paterson announces more than \$1 million in local government efficiency grants for the Hudson valley, July 6, 2009." [http://www.state.ny.us/governor/press/press\\_0706093.html](http://www.state.ny.us/governor/press/press_0706093.html)

rural, without the need to create additional general purpose governments within them (i.e. villages). In fact, the distinctions in structure and powers between towns in the different classes have diminished over time.<sup>7</sup>

Towns have boards comprised of a supervisor and four board members, elected at-large in partisan elections. There has been recent discussion in western New York, taken up by some in Ulster County, about the desirability of reducing the number of town board members. The county is no longer dominated by a single political party, as it has been in the past. In 2009 there were 8 towns in Ulster County with Democratic majorities and 10 with Republican majorities. (Table III) According to most analysts, this sort of competitive political environment produces more accountable, responsive government. Other town elected officials are the Highway Superintendent, the Clerk and one or two Justices of the Peace. In most towns, the elected clerk also serves as tax collector. Esopus and Saugerties have full-time, elected tax collectors. In Denning, Wawarsing and Rosendale a separate Tax Collector works part-time.

Formal decision-making authority in towns is concentrated in the town board. Though communities look to the supervisor for leadership, and as the board's presiding officer he or she often therefore exercises authority beyond that formally vested in the office, state law does not in general empower this as an executive position. The supervisor does, however, initiate the town budget process by preparing a draft budget for board consideration. Towns may provide services to sub-areas within them not served by villages by the creation of special districts.

Highway superintendents and town clerks (except in the town of Kingston) are full time workers; this is reflected in their pay and benefits. Town board members and justices (except in Esopus, Saugerties and Lloyd) are part-time. Twelve of the county's 20 supervisors work full time. Compensation levels for elected officials are locally determined and range widely. In some cases, additional pay is given for the assumption of added duties (e.g. the supervisor functioning as welfare officer; the clerk functioning as tax collector). (Table II)

### **Distribution of Population Growth Among Municipalities**

Population growth in the county has not been evenly distributed. Between 1990 and 2000, the increase in population in some jurisdictions – Gardiner, Rochester and Shawangunk - approached or exceeded 20%. The Village of New Paltz, the location of a state university campus, has experienced consistent growth. After a long period of decline, The City of Kingston's population has recently begun to increase. In contrast, population actually declined during the 1990-2010 decade in Denning, Hurley, Woodstock and the Villages of Ellenville and Saugerties. (Table I)

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<sup>7</sup> New York State. Secretary of State. Local Government Handbook, 5<sup>th</sup> Edition (Albany: Department of State, 2008) p. 61. Consulted at <http://www.dos.state.ny.us/lgss/pdfs/Handbook.pdf>

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Table II

Health Benefits Offered to Full and Part-time Elected Officials

2008

| Towns        | Full-time Elected Officials | Insured | Insurance Paid in Fall | Average Salary | Part-time Elected Officials | Insured | Insurance Paid in Fall | Average Salary |
|--------------|-----------------------------|---------|------------------------|----------------|-----------------------------|---------|------------------------|----------------|
| Denning      | 3                           | 3       | Yes                    | \$16,326       | 6                           | 6       | Yes                    | \$2,577        |
| Esopus       | 5                           | 5       | Yes                    | \$32,513       | 4                           | 4       | No                     | \$5,223        |
| Gardiner     | 2                           | 2       | Yes                    | \$50,240       | 6                           | 1       | Yes                    | \$25,498       |
| Haradenburgh | 2                           | 2       | Yes                    | \$24,700       | 6                           | 1       | Yes                    | \$5,164        |
| Hurley       | 2                           | 2       | Yes                    | \$39,500       | 6                           | 6       | Yes                    | \$11,008       |
| Kingston     | 0                           | 0       |                        |                | 8                           | 0       |                        | \$7,459        |
| Lloyd        | 4                           | 4       | No                     | \$41,576       | 4                           | 4       | No                     | \$9,469        |
| Marbletown   | 3                           | 3       | Yes                    | \$41,384       | 5                           | 1       | Yes                    | \$6,214        |
| Marlborough  | 2                           | 2       | Yes                    | \$48,527       | 6                           | 1       | Yes                    | \$23,208       |
| New Paltz    | 4                           | 4       | Yes                    | \$40,034       | 4                           | 4       | No                     | \$6,851        |
| Olive        | 3                           | 3       | Yes                    | \$49,827       | 5                           | 5       | No                     | \$8,591        |
| Plattekill   | 3                           | 3       | Yes                    | \$38,577       | 5                           | 0       |                        | \$7,420        |
| Rochester    | 2                           | 2       | No                     | \$42,513       | 6                           | 6       | No                     | \$10,333       |
| Rosendale    | 2                           | 2       | No                     | \$40,104       | 7                           | 1       | No                     | \$10,518       |
| Saugerties   | 5                           | 5       | Yes**                  | \$37,673       | 4                           | 0       |                        | \$10,000       |
| Shandaken    | 3                           | 3       | Yes                    | \$36,084       | 5                           | 5       | Yes                    | \$10,856       |
| Shawangunk   | 3                           | 3       | Yes                    | \$44,979       | 5                           | 5       | No                     | \$12,636       |
| Ulster       | 3                           | 3       | No                     | \$45,000       | 5                           | 5       | No                     | \$14,200       |
| Wawarsing    | 3                           | 3       | No                     | \$45,634       | 6                           | 6       | No                     | \$17,457       |
| Woodstock    | 3                           | 3       | No                     | \$48,571       | 5                           | 5       | Yes                    | \$11,319       |

\* Denning, Esopus, Lloyd, Marbletown, New Paltz, Olive, Plattekill, Saugerties, Shawangunk Ulster, Wawarsing and Woodstock consider the Town Supervisor to be a full time position. Gardiner, Haradenburgh, Hurley, Kingston, Marlborough, Rochester and Rosendale consider the Town Supervisor to be a part time position. The Town of Kingston is the only municipality with a part time Town Clerk, and in every town other than Denning, Esopus, Saugerties and Wawarsing, the Town Clerk also acts as the Tax Collector. In Denning, Rosendale and Wawarsing the Tax Collector is considered to be a part time position. The Town of Kingston is the only town that considers the Highway Superintendent to be a part time position, and only Esopus, Kingston and Saugerties consider the Town Justice to be a full time position. Shandaken offers health insurance to all of its elected officials regardless of full time / part time status.

\*\* Except for the Town Justice

Data Source: Robin Yes, CPF.

Town Leadership Characteristics and Experience in 2009

Table III

|             |                        |            |     |   |   |   |   |   |
|-------------|------------------------|------------|-----|---|---|---|---|---|
| Denning     | William Bruning        | Republican | 6   | 4 | 0 | 0 | 0 | 0 |
| Esopus      | John K. Coutant        | Republican | 4   | 2 | 1 | 0 | 0 | 1 |
| Gardiner    | Joe Katz               | Democrat   | 2   | 1 | 2 | 0 | 1 | 0 |
| Hardenburgh | Jerry A. Fairbairn     | Republican | 11  | 3 | 1 | 0 | 0 | 0 |
| Hurley      | Gary S. Bellows        | Republican | 2   | 1 | 3 | 0 | 0 | 0 |
| Kingston    | Paul Landi             | Republican | 1   | 3 | 0 | 1 | 0 | 0 |
| Lloyd       | Raymond J. Costantino  | Republican | 2   | 3 | 1 | 0 | 0 | 0 |
| Marbletown  | Brooke Pickering Cole  | Democrat   | < 1 | 0 | 3 | 0 | 0 | 0 |
| Marlborough | Alphonse P. Lanzetta   | Democrat   | 4   | 3 | 1 | 0 | 0 | 0 |
| New Paltz   | Toni Hokanson          | Democrat   | 4   | 0 | 4 | 0 | 0 | 0 |
| Olive       | Berndt J. Leifeld      | Democrat   | 21  | 1 | 3 | 0 | 0 | 0 |
| Plattekill  | Bruce Loertscher       | Republican | 4   | 3 | 1 | 0 | 0 | 0 |
| Rochester   | Carl Chipman           | Republican | 2   | 2 | 2 | 0 | 0 | 0 |
| Rosendale   | Patrick McDonough      | Democrat   | 2   | 3 | 1 | 0 | 0 | 0 |
| Saugerties  | Gregory L. Helmsmoorte | Democrat   | 12  | 0 | 1 | 0 | 3 | 0 |
| Shandaken   | Peter DiSclafani       | Democrat   | 2   | 1 | 2 | 1 | 0 | 0 |
| Shawangunk  | John Valk Jr.          | Republican | 12  | 3 | 0 | 0 | 0 | 0 |
| Ulster      | Nicky B. Woerner       | Democrat   | 4   | 2 | 2 | 0 | 0 | 0 |
| Wawarsing   | Edward Jennings        | Republican | 2   | 1 | 3 | 0 | 0 | 0 |
| Woodstock   | Jeff Moran             | Democrat   | 2   | 0 | 4 | 0 | 0 | 0 |

## Varied Geographic and Population Size of Towns

Towns range in land area from 130.7 square miles for Wawarsing, the largest, to 7.8 square miles for the Town of Kingston, the smallest. The largest municipality in population is the City of Kingston, with 24,151 people; the smallest, Denning with a population of 516. (Table I) Of the county's municipalities, the City of Kingston (3,170 people per square mile) and the villages (Ellenville: 570, New Paltz: 2,429, Saugerties: 3,352) are most densely settled. Population density for the towns ranges from a high of 468 people per square mile in the Town of Ulster to a low of 2.6 in Hardenburgh. (Table I)

## A Cautionary Note in Comparing Ulster's Governments

Notwithstanding their formal type – “city,” “town,” “village” -- in recent decades New York's municipalities have come to be legally empowered to perform a very similar array of functions.<sup>8</sup> Their wide range in land area, population, population characteristics and population density all dictate, however, that Ulster's localities have varied expectations and demands upon them. These differences are confirmed by the results of a report released in 2006 by the New York State Comptroller's office. After a careful multivariate factor analysis, it placed Ulster's municipalities in three different categories: “Small Urban Centers,” “Suburban,” and “Rural”<sup>9</sup> (Table IV). Because of these differences, the county's governments are likely to be different in their priorities and functioning; therefore care needs to be taken when making comparisons within traditional types.

## Ulster's Other Local Governments

Intergovernmental collaboration among general purpose local governments is the focus of this study. However, as detailed below, interaction between and among municipalities, single purpose local governments and public authorities is often required by state law. Additionally, of course, general and single purpose governments share a common primary tax base – the property tax. In fact school districts, not municipalities, place the greatest demands upon this resource; **63.2% of the property tax collected in Ulster County in 2008 was for school funding.** As of this writing, a number of Boards of Cooperative Educational Services (BOCES) in the Hudson Valley, themselves created to facilitate and support collaborative service delivery among school districts, had under study potential areas for further school district collaboration in support service areas.<sup>10</sup>

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<sup>8</sup> See Gerald Benjamin and Richard Nathan. *Regionalism and Realism: A Study of Governments in the New York Metropolitan Area* (Washington: Brookings Institution Press, 2001) p. 12.

<sup>9</sup> New York State Comptroller. Division of Local Government Services and Economic Development. *Outdated Municipal Structures* (Vol. 2, No. 3, October 2006) <http://www.osc.state.ny.us/localgov/pubs/research/munistructures.pdf>

<sup>10</sup> For background on the BOCES System see Benjamin and Nathan. (2001) pp. 212-221.

# Outdated Municipal Structures

Table IV

|             |         |                       |        |       |         |
|-------------|---------|-----------------------|--------|-------|---------|
| Denning     | Town    | <i>Not Designated</i> | 516    | 105.2 | 4.9     |
| Esopus      | Town    | Rural                 | 9,331  | 37.2  | 250.8   |
| Gardiner    | Town    | Suburbs               | 5,238  | 44.4  | 118.0   |
| Hardenburgh | Town    | <i>Not Designated</i> | 208    | 81.3  | 2.6     |
| Hurley      | Town    | Rural                 | 6,564  | 29.9  | 219.5   |
| Kingston    | Town    | <i>Not Designated</i> | 908    | 7.8   | 116.4   |
| Lloyd       | Town    | Suburbs               | 9,941  | 31.7  | 313.6   |
| Marbletown  | Town    | Rural                 | 5,854  | 54.6  | 107.2   |
| Marlborough | Town    | Rural                 | 8,263  | 24.8  | 333.2   |
| New Paltz   | Town    | Suburbs               | 12,830 | 33.9  | 378.5   |
| Olive       | Town    | Suburbs               | 4,579  | 58.7  | 78.0    |
| Plattekill  | Town    | Rural                 | 9,892  | 35.6  | 277.9   |
| Rochester   | Town    | Rural                 | 7,018  | 88.4  | 79.4    |
| Rosendale   | Town    | Suburbs               | 6,352  | 19.9  | 319.2   |
| Saugerties  | Town    | Suburbs               | 19,868 | 64.5  | 308.0   |
| Shandaken   | Town    | Rural                 | 3,235  | 119.8 | 27.0    |
| Shawangunk  | Town    | Rural                 | 12,022 | 56.2  | 213.9   |
| Ulster      | Town    | Suburbs               | 12,544 | 26.8  | 468.1   |
| Wawarsing   | Town    | Rural                 | 12,889 | 130.7 | 98.6    |
| Woodstock   | Town    | Suburbs               | 6,241  | 67.5  | 92.5    |
| Kingston    | City    | Smaller Urban Center  | 23,456 | 7.4   | 3,169.7 |
| New Paltz   | Village | Smaller Urban Center  | 4,130  | 1.7   | 2,429.4 |
| Saugerties  | Village | Smaller Urban Center  | 6,034  | 1.8   | 3,352.2 |
| Ellenville  | Village | Smaller Urban Center  | 4,955  | 8.7   | 569.5   |

Data Source: New York State Comptroller Division of Local Government Services and Accountability, *Outdated Municipal Structures*, Local Government Issues in Focus, Vol. 2, No. 3, October, 2006.

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As for public authorities, they receive fee revenue that might otherwise flow to general purpose local governments, and sometimes may require subsidies from those governments. Therefore, full consideration of the operation of Ulster County's municipalities, and identification of opportunities for them to achieve economies and efficiencies in operation, must be informed by an understanding of the entire network of local governments that operate within the county.

### **School Districts**

There are nine school districts within the county (not including the West Park Union Free District, which serves only special needs children, and the Board of Cooperative Educational Services, which is not a direct property tax-levying government.) School taxes are collected directly by school districts or under contract by their agents. Some Ulster residents pay school taxes and are served by six school districts outside the county: Tri-Valley, Pine Bush, Valley Central, Margaretville, Fallsburgh and Livingston Manor.

The City of Kingston School District, the largest in the county, had a budget of \$130,918,892 in 2007, employed 588 teachers and had an enrollment of 7,363 children.<sup>11</sup> With the exception of the West Park Union Free School District, which, as noted, serves a small number of children with special needs in a residential setting, the smallest in the county is the Highland School District with a budget of \$35,301,721, 144 teachers and 1,935 students. Between 1997 and 2007 school enrollments dropped in every school district in Ulster County except Highland, which grew by 67 students (or 4%). The drop was most dramatic in Onteora, which declined by 509 students (21%) over the decade. These declines led to discussions of school closing in such places as Marlborough and Woodstock. Schools are defining community institutions. Evidence of informal yet strong link between them and general purpose government was the priority given by the Woodstock Town Supervisor in his interview with us for this study to saving the elementary school there, within the Onteora district.

The demographic character of school populations illustrates the growing diversity of Ulster County. The proportion of children enrolled in Ulster County school districts in 2007-2008 who were White ranged from 92% in Saugerties to 60% in Ellenville. Enrollments of African-American students were greatest in the Kingston (17%) and Ellenville (12%) districts. Enrollments of Hispanic students were largest in Ellenville (25%) and Wallkill (18%). The districts with the highest proportion of children eligible for free school lunches, an indicator that they served less affluent communities, were Ellenville (36%), Kingston (25%) and Rondout (18%).

### **Fire Districts**

Ulster County includes 51 fire districts within its borders that have independent taxing authority.<sup>12</sup> The Towns of Saugerties and Esopus each have 5 fire districts, the most of all of the municipalities. In Denning

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<sup>11</sup> Data in this section is taken from New York State Department of Education. *Annual School Report Cards*. The latest school year for which comparative data was available was 2007-2008. <http://www.emsc.nysed.gov/irts/reportcard/>

<sup>12</sup> The Ulster County Fire District Mutual Aid Plan lists 51 participating fire districts and four brigades operating in New York State prisons. The New York State Secretary of State listed 87 fire districts, departments and companies. Several are no longer operating (e.g. SUNY New Paltz, IBM facility). Others are maintained by correctional facilities, or specific corporations, are connected with state agencies (the DEC) or, as noted, are part of general purpose local governments. Finally, some companies that do not have taxing authority contract with municipalities to provide services, and receive public funds in this manner. For a detailed discussion of the complex organizational arrangements for the provision of fire protection in New York State see the summary prepared by the

and Hardenburgh fire protection is provided by volunteer fire departments from Ulster, Sullivan, and Delaware Counties. The Town of Olive has a non-taxing fire district, established as a not-for profit, contracted for fire protection. Under New York State practice, the fire departments of the City of Kingston, and the Villages of New Paltz and Saugerties are supported as a municipal service, not by a special tax levy. The Village of Ellenville is covered by the Ellenville Fire Department, a taxing district, as well as two volunteer departments. New Paltz currently has under consideration the transfer of responsibility for fire services from the village to a newly created fire district with taxing authority, governed by an elected board. Fire districts may choose to offer mutual support in accord with a formally adopted mutual aid plan administered by the county Fire Coordinator. Further collaboration in emergency response may be obtained, as needed, from companies in adjacent counties. <sup>13</sup>

Fire District elections for commissioners, held on the second Tuesday in December, attract little turnout beyond firemen and their families. The long history and central place of volunteer fire departments in communities and the increased difficulty in attracting and retaining volunteers, engenders a reluctance in communities to appear critical of their funding or operations. There is a statutory cap on fire district spending linked to the assessed valuation of property within the fire district, but the State Commission on Efficiency and Competitiveness reported that it has no real limiting effect. Inquiries in some parts of the state have indicated that the maintenance of many small districts, and the expense of the equipment that each desires, results in expense beyond that necessary to efficiently deliver fire services. (Table V)

#### **Libraries and Library Districts**

The Mid-Hudson Library Association lists 26 public libraries in Ulster County. Notwithstanding efforts by the Mid-Hudson Association to include them, four of these -- in Cragmoor, Ellenville, Gardiner and Wallkill -- remain in the Ramapo Catskill Library System. <sup>14</sup> Total spending for public libraries in Ulster County in 2008 was \$7,006,853. Of this, \$5,477,447 (78.2%) came from local government sources. There are eleven special district libraries in Ulster County headed by elected boards that have independent taxing authority. There are libraries funded primarily through school districts in Ellenville, Highland and Marlborough. Gardiner has a town library, with some school district funding. There are Association libraries in Cragmoor, Milton, New Paltz, Phoenecia, Pine Hill and Olive/West Shokan. These have no taxing authority.<sup>15</sup> All receive public resources at the discretion of the governments in the communities they serve, or as a result of authorization by voters acting by special referendum as provided for in the state Education Law. The Elting Library in New Paltz and the Marlboro Free Library held such referenda in the fall of 2009; the former was successful, the later was not.

Public libraries provide a model of gathering local institutions collaboratively to provide regional services. Most are linked through the Mid-Hudson Library Association, a state-supported, regional, multi-county entity. Resources are presented through a common electronic catalog and quickly made available to patrons

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Commission on Local Government Efficiency and Competitiveness at  
[http://www.nyslocalgov.org/pdf/Fire\\_Protection\\_in\\_NYS.pdf](http://www.nyslocalgov.org/pdf/Fire_Protection_in_NYS.pdf)

<sup>13</sup> See Ulster County Fire Mutual Aid Plan at <http://midhudson.org/mhls/services.htm>

<sup>14</sup> <http://midhudson.org/libraries/#ulster>

<sup>15</sup> See "Types of Libraries: A Comparison" in the 2008 Annual Report of the Mid-Hudson Library Association at [http://midhudson.org/annual\\_reports/2007/Types%20of%20Libraries-a%20comparison.pdf](http://midhudson.org/annual_reports/2007/Types%20of%20Libraries-a%20comparison.pdf)

Fire Expenditures

Table V

|                  |             |             |        |
|------------------|-------------|-------------|--------|
| Ulster County    | \$117,307   | \$93,763    | -20.1% |
| Towns            | \$4,272,361 | \$2,391,401 | -44.0% |
| Villages         | \$1,098,351 | \$1,611,007 | 46.7%  |
| City of Kingston | \$3,203,035 | \$4,772,894 | 49.0%  |
| Fire Districts   | \$6,060,649 | \$9,693,268 | 59.9%  |

system-wide. The system also supports professionalization, diversification and improved service quality through training, advocacy and information sharing.<sup>16</sup> A reorganization that would place all Ulster County Libraries in the Mid-Hudson system seems sensible, and is supported within that system.

### **Public Authorities**

There are nine local public authorities listed by the New York State Comptroller as operating in Ulster County. These entities may directly deliver services, charge fees for these services and borrow or lend money. Sometimes they receive subsidies from general purpose local governments, and therefore have an indirect impact on the costs of those governments. The county's public authorities are: the Ulster County Development Corporation (UCDC), the Ulster County Industrial Development Agency (IDA), the Ulster County Resource Recovery Agency (RRA), the Ulster County Tobacco Asset Securitization Corporation (TASC), the City of Kingston Housing Authority, the City of Kingston Local Development Corporation (LDC), the Town of Wawarsing Local Development Corporation (LDC), the Village of Ellenville Housing Authority and the Village of Ellenville Local Development Corporation (LDC).<sup>17</sup>

On November 23, 1998, 46 states settled their lawsuits against the nation's major tobacco companies to recover tobacco-related health care costs. The Ulster County Tobacco Asset Securitization Corporation was established to issue bonds to be repaid with the money from the structured settlement so that the county could make use of the funds in a lump sum. The bonds were issued in 2001; presently the only function of the authority is the repayment of those bonds.

There is some debate as to if the Ulster County Local Development Corporation is a public authority. While the New York State Authority Budget Office lists them as an authority, they operate as a non-profit 501(c)3. The UCDC administers by contract the work of the Ulster County Industrial Development Agency (UCIDA). The UCIDA is authorized to issue taxable and tax-exempt industrial development revenue bonds for qualified projects. These bonds are structured so that any lease or purchase payments by a benefiting company equal the debt service on the bonds, allowing these private businesses significant tax exemptions.

The Ulster County Resource Recovery Agency, discussed in greater detail below, was established in 1986 under Article 8, Title 13-G, Section 2050 of New York State Code. It was formed for the purpose of developing, financing, and implementing a comprehensive county-wide Solid Waste Management program. In 2008, the RRA had \$15,833,149 in expenditures.

The Ellenville Housing Authority was budgeted for \$531,840 in 2010. The Wawarsing Local Development Corporation was budgeted \$110,000 for 2009.

As of this writing the budgets for the City of Kingston Housing Authority, the City of Kingston Local Development Corporation, and the Ellenville Local Development Agency were unavailable.

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<sup>16</sup> See MHLS. <http://midhudson.org/mhls/services.htm>

<sup>17</sup> See the NYS Comptroller's Report at <http://www.osc.state.ny.us/pubauth/classic.htm>. Of these, the Resource Recovery agency is the key operating agency. The Development Corporation does not regard itself as a public authority, and is contesting this status in litigation.

## The Size and Growth of Ulster County's Local Government Sector

Local government in Ulster County was a billion dollar enterprise in 2007 (Table VI). Just under half of this spending was by school districts. When the totals for fire and library districts and public authorities are added to the school districts total, more than half the local government spending in the county was by these entities, not a direct focus of this study. The county government did about two-thirds (64%) of all the general purpose local government spending in Ulster in 2007. The City of Kingston added nearly another tenth (9.6%). Towns accounted for just under a quarter (22.9%), with one of three town dollars spent in just three towns: Ulster, Saugerties and Lloyd. Aggregated town spending was less than spending by a single school district, the Kingston Consolidated District. Finally, spending by the three villages was 3.7% of the total.

Over the twelve year period for which we gathered data, total local government spending in Ulster County grew by about three quarters (72.5%, Table V) in nominal terms. About half of this increase (44.4%) may be attributable to inflation.<sup>18</sup> Spending growth for the county government and the City of Kingston was beneath the level for all local governments in the county. It was greatest for fire districts, followed by villages and school districts. Increases in expenditures were approximately at the rate of inflation for library districts and town governments. (Table VI)

### The Cost and Management of People

Local government is a labor intensive enterprise. There were 6,556 employees in classified civil service local government positions in Ulster County in 2007. The Ulster County Personnel Department reported that it supervised 5,517 full- and part-time county, town, village school district and special district employees. Of these, 2,081 worked for the county, 1,250 for towns, 143 for villages and 179 for special districts (including the Ulster County Resource Recovery Agency). The City of Kingston maintains a separate Civil Service Commission which not only oversees the city government, but also the Kingston Consolidated School District, the Housing Authority and the Public Library. The city commission covered a total of 1039 classified public employees in 2007.<sup>19</sup> These totals do not include teachers and other professional employees in the public schools, an estimated 400-450 people in unclassified, paid elected and policy making positions in municipalities, and of course, those volunteers in unpaid positions.<sup>20</sup>(Table VII)

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<sup>18</sup> The U.S. Bureau of Labor Statistics Inflation Calculator was used to calculate the effects of inflation. <http://146.142.4.24/cgi-bin/cpicalc.pl>

<sup>19</sup> Kingston City totals were made up of 364 city employees, 642 school district workers, 18 in the housing authority, and 15 at the library. Kathy Thomas, Executive Secretary of the City Civil Service Commission, reported on August 20, 2009 that the school district's re-designation of "Teacher's Aides" as "Teacher's Assistants" would take 169 positions out of the classified service in 2009. Some civil service administrators are skeptical about school district's authority to classify jobs without review by civil service agencies.

<sup>20</sup> In general, all public employment in New York State counties is under the authority of county personnel departments. Cities, however, may opt to maintain their own civil service commissions. Interestingly, human resources management is the only area in which an administrative function of the state's schools is integrated to some degree with that of general purpose governments. However, under the law county administration of civil service requirements does not reach teaching or administrative personnel in schools. These numbered about 3405 in 2007. An under-estimate of the number of local public employees in Ulster County results from civil service operations in the Ellenville School District being supervised from Sullivan County. The data is also limited because this enumeration of persons in the classified service does not include local elected officials or those in most policy-making positions. A printout of all positions in the Ulster county data base yielded a total of 5924, which suggests that about 400 people are in unclassified positions in the county.

## Public Sector Growth in Ulster County

Table VI

From 1996-2007 government expenditures in Ulster County grew 72.5% with increases in spending in villages outpacing towns 78.5% to 56.0%. The governments participating in this study (including the county government) grew 67%.

|                                  | 1996 Expenditures    | 2007 Expenditures    |
|----------------------------------|----------------------|----------------------|
| <b>Ulster County Total</b>       | <b>\$577,201,209</b> | <b>\$995,577,068</b> |
| <b>Participating Governments</b> | <b>\$258,553,448</b> | <b>\$431,784,250</b> |
| Ulster County Government         | \$184,600,368        | \$311,199,118        |
| City of Kingston                 | \$27,633,300         | \$46,882,140         |
| Towns                            | \$70,666,942         | \$110,221,272        |
| Villages                         | \$10,204,342         | \$18,217,320         |
| School Districts                 | \$278,035,608        | \$493,702,801        |
| Fire Districts                   | \$6,060,649          | \$11,363,217         |
| Public Libraries*                | \$2,572,074          | \$3,991,200          |

\* 1999-2007

Source: New York State Comptroller, Division of Local Government and School Accountability

### Percent Growth

|                           |       |
|---------------------------|-------|
| Ulster County Total       | 72.5% |
| Participating Governments | 67.0% |
| Ulster County Government  | 68.6% |
| City of Kingston          | 69.7% |
| Towns                     | 56.0% |
| Villages                  | 78.5% |
| School Districts          | 77.6% |
| Fire Districts            | 87.5% |
| Public Libraries*         | 55.2% |

## Civil Service Employees in Ulster County, 2007

Table VII

|                                     |      |      |      |    |    |      |    |     |     |
|-------------------------------------|------|------|------|----|----|------|----|-----|-----|
| County Dept./Agencies               | 2081 | 1199 | 1105 | 41 | 53 | 711  | 24 | 37  | 110 |
| Cities                              | 335  |      |      |    |    |      |    |     |     |
| Towns                               | 1250 | 276  | 251  | 6  | 19 | 729  | 2  | 151 | 92  |
| Villages                            | 143  | 33   | 32   | 1  | 0  | 89   | 0  | 6   | 15  |
| School Districts                    | 1864 | 444  | 420  | 9  | 15 | 1350 | 2  | 24  | 44  |
| Special Districts                   | 179  | 73   | 43   | 3  | 27 | 31   | 0  | 38  | 37  |
| City Civil Service Agencies         |      |      |      |    |    |      |    |     |     |
| City Dept. Agencies                 |      |      |      |    |    |      |    |     |     |
| Board of Education/ School District | 642  |      |      |    |    |      |    |     |     |
| Housing Authority                   | 18   |      |      |    |    |      |    |     |     |
| Special Districts                   | 15   |      |      |    |    |      |    |     |     |

During the eight year period between 2000 and 2007, special district employment under the jurisdiction of the civil service system in the county grew by more than half (53%), while employment in towns rose by just over a fifth (20.4%) and in villages by slightly more than a tenth (10.8%). At the same time there was virtually no growth in the number of county government employees in the classified system.<sup>21</sup>

Pay (\$393 million) and benefits (\$188 million) for the people who worked for the twenty-five general purpose local governments in Ulster County totaled just under 60% of their costs in 2007. Note that benefits, mostly pension contributions and health care premiums, totaled about a third (32.34%) of personnel costs. Major required increases by local governments to pension fund contributions in 2010 were projected by the State Comptroller as a result of the decline in the value of pension funds assets as a result of the national economic crisis of 2009. Based upon recent experience (further discussed below), major future increases in health benefits costs for public employees may also be anticipated.

Pay and benefits of most public employees in Ulster County are determined through collective bargaining at the municipal level. That is, while hiring is supervised centrally through the county or city, compensation decisions are decentralized. In the twelve year period between 1996 and 2007, the countywide total municipal employees' salaries increased by 66%, while the total costs of benefits increased at an extraordinary 2 ¼ times that rate (147.8%). The former exceeded the impact of inflation by about 50%; the latter grew at more than three times the inflation rate. Increases of total salary (77.6%) and benefits (175.6%) costs over this period for employees in the Ulster County government exceeded the rate for all other classes of municipalities. Employee salary costs in the City of Kingston rose the least during this period (48%), just tracking cost-of-living increases. The rise in the aggregated costs of benefits, though still very substantial (109%), was least great in the three villages. (Table VIII)

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<sup>21</sup> Data derived from annual reports of the Ulster County Personnel Department, 2000-2007, Table 4 "Employees."

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## Real Property Tax

As dramatized by the 2008 report of the Suozzi Commission, the real property tax burden in New York State is, on average, among the highest in the country by several measures. It is therefore a major statewide issue.<sup>22</sup> Polls done by the Marist Institute of Public Opinion in 2002 and 2007, funded by the Dyson Foundation, showed that reducing taxes went from 9<sup>th</sup> to 3<sup>rd</sup> as a community priority in Ulster County during this period.<sup>23</sup> Surveys of listeners done in 2007 and 2008 by WAMC Radio, the National Public Radio affiliate serving the region, found that the property tax burden ranked as the primary public policy concern in Ulster County.<sup>24</sup>

As is the case for all counties in New York State outside New York City, the primary discretionary source of revenue for general purpose local government in Ulster County is the real property tax. Property taxes collected in Ulster County in 1997 were \$86,124,302 (\$111,263,210 in 2007 dollars); in 2007 total collections were \$161,715,623, an increase of 84.7% (58.6% with inflation adjusted).<sup>25</sup> Of the levy in 2007, 62% was for schools, 15% for county government, 15% for towns, 1% for villages, and 3% for special districts. (Table IX)

The total value of all real property in Ulster County in 2006 was \$24.8 billion. Of this, about a quarter (25.5%) was off the tax rolls.<sup>26</sup> The estimated actual value of all *taxable* real property in Ulster County in the next year, 2007, was \$18.99 billion. This was more than double the value in nominal dollars ten years earlier (\$8.41 billion), and an increase of 91% even after considering the effects of inflation.<sup>27</sup>

With a growing base, revenue for local governments could grow with no increase in tax rates. The ability of citizens to pay, however, is not linked to the growing value of their property, but to their income, which – as we have seen – was largely generated from jobs that paid modestly during this period. Thus, though the total property taxes paid in the county as a percentage of the actual value of real property dropped by more than 38% during this ten year period, from 1.14% to .7%, the property tax burden per household and relative to income grew dramatically, generating the beginnings of a tax revolt. A 2006 report by the State Comptroller showed that the property tax in Ulster County per household and in relation to personal income was among

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<sup>22</sup> New York State Commission on Property Tax Relief. *Final Report* (January, 2009). <http://www.cptr.state.ny.us/index.html>

<sup>23</sup> Marist Institute of Public Opinion. *Many Voices, One Valley* (2007) p. 6.

<sup>24</sup> Interview with David Guistina, WAMC Public Radio, August 14, 2009.

<sup>25</sup> We are using amounts collected here, not amounts levied. Source is the Ulster County Department of Planning. "Ulster County Property Tax Levies and Collections, Value of Taxable Property, 1989-2007."

<sup>26</sup> See Rockefeller Institute of Government. *New York State Statistical Yearbook* (Albany: The Institute, 2008) [http://www.rockinst.org/nys\\_statistics/2008/BI/](http://www.rockinst.org/nys_statistics/2008/BI/Table%20F12) Table F12. The value of fully exempt property tends to be underestimated. Assessing it regularly is not a high priority, as it produces no taxes. The Ulster County Planning Department. *Ulster County Tax Levies and Collections, 1989-2007*. <http://www.co.ulster.ny.us/planning/ucpb/demo/databook/Tax%20Levies%20and%20Coll.pdf>

<sup>27</sup> 1997 full value is equal to \$11.301 billion in 2007 dollars. Bureau of Labor Statistics Inflation used. Find it at <http://data.bls.gov/cgi-bin/cpicalc.pl>

## Property Tax Increases in Ulster County

**Table IX**

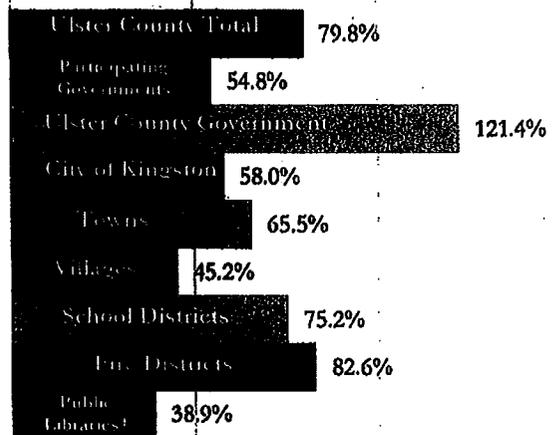
From 1996-2007 property taxes in Ulster County grew 79.8% with county tax increases outpacing towns 121.4% to 65.5%. The Governments participating in this study (including the county government) increased taxes an average of 54.8%.

|                                  | 1996 Property Tax    | 2007 Property Tax    |
|----------------------------------|----------------------|----------------------|
| <b>Ulster County Total</b>       | <b>\$257,970,234</b> | <b>\$463,951,374</b> |
| <b>Participating Governments</b> | <b>\$84,083,805</b>  | <b>\$130,124,695</b> |
| <b>Ulster County Government</b>  | <b>\$31,947,199</b>  | <b>\$70,742,563</b>  |
| <b>City of Kingston</b>          | <b>\$8,980,495</b>   | <b>\$14,189,341</b>  |
| <b>Towns</b>                     | <b>\$41,092,764</b>  | <b>\$67,994,659</b>  |
| <b>Villages</b>                  | <b>\$3,885,072</b>   | <b>\$5,642,944</b>   |
| <b>School Districts</b>          | <b>\$165,083,765</b> | <b>\$289,262,114</b> |
| <b>Fire Districts</b>            | <b>\$6,980,939</b>   | <b>\$12,750,653</b>  |
| <b>Public Libraries*</b>         | <b>\$2,426,104</b>   | <b>\$3,369,100</b>   |

\* 1999-2007

Source: New York State Comptroller, Division of Local Government and School Accountability

### Percent Growth



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the highest in New York State. Moreover, the rate of increase in the countywide levy exceeded the statewide rate for the 1995-2005 periods.<sup>28</sup>

This is the story from totals and averages. But within the county, as outside it, the growth in both the property tax base and the burden has been uneven. The pain is greater or less, depending upon where you live. In the Town of Marlborough, in the southeast part of the county, the real property tax base increased by 139.4% between 1996 and 2007. In contrast, in the town of Marbletown, in the center of the county, it went up by only 9%.

Fully exempt property is not evenly distributed throughout the county, either, but is concentrated in the villages and the City of Kingston. In the Village of New Paltz almost half (46.9%) of the assessed value of property is off the rolls. In Ellenville it is about one-third (32%); in the City of Kingston about one-sixth (16.1%). Esopus, along the Hudson, has the highest percentage (14.9%) of exempt property value for a town within Ulster County that contains no village. Interestingly, much of the New York State (Catskill Preserve and Minnewaska Park) and New York City (watershed) property within the county, though in government hands, is on the tax rolls. Again, local jurisdictions face quite different challenges based upon their particular circumstances. (Table X)

A recent study done by CRREO showed that when the combined effects of school, county, city, town and village taxes were considered, there were 55 different property tax burdens borne by citizens in Ulster County in 2006. The greatest burden was borne by residents of the Village of Ellenville. The burden was lowest in the portion of the Town of Marbletown in the Onteora school district.<sup>29</sup>

Occasionally, dramatic changes to the real property tax base can have shocking effects. This was the case in the Town of Marlborough in 2008, when the Town of Newburgh in Orange County agreed to a settlement of a lawsuit brought by the Dynergy Corporation. The company's Roseton and Danskammer power plants are in the part of Newburgh that is within the Marlborough School District. When the settlement reduced the assessment of these plants from \$1.46 billion to \$895 million, the school tax burden on homeowners and other local businesses in Marlborough was dramatically reallocated. The result was a one year 37% average increase in school taxes for town residents.<sup>30</sup>

When major property taxpayers in any municipality within the county achieve a lower assessment, it can have the same kind of dramatic effects as recently experienced in Marlborough. For example, New York City has successfully litigated to gain a reduction in the assessment of its watershed properties in Hurley and Olive, not only redistributing the tax burden to others in those towns, but also allowing the city to recover money paid to all governments that previously used these assessments.

Interestingly, however, in light of the economic crisis, when interviewed for this study local officials did not report a serious year-to-year falloff in property tax collections.

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<sup>28</sup> Division of Local Government and School Accountability. Office of the State Comptroller. Property Taxes in New York State. Local Government Issues in Focus. (Vol. 2, #2, April 2006)<http://www.osc.state.ny.us/localgov/pubs/research/propertytaxes.pdf>

<sup>29</sup> Gerald Benjamin and Rachel John. *Equity and the Property Tax Burden for Citizens in Ulster County*. Discussion Brief #1 (New Paltz: SUNY New Paltz Center for Research, Regional Education and Outreach, 2008).

<sup>30</sup> Marlboro Central School District. "New Tax Levy; Questions and Answers" (undated).

Change in Tax Base and Revenues 1996-2007

Table X

| Town                  |              |               |               |              |              |               |
|-----------------------|--------------|---------------|---------------|--------------|--------------|---------------|
| Denning               | 44.6%        | 36.4%         | 47.9%         | 3576.9%      | 2.3%         | 2443.4%       |
| Esopus                | 57.4%        | 137.4%        | 23.9%         | 78.6%        | -21.3%       | 13.4%         |
| Gardiner              | 36.9%        | 209.8%        | 20.5%         | 49.4%        | -12.0%       | 9.1%          |
| Hardenburgh           | -7.6%        | 60.3%         | 57.5%         | 12.4%        | 70.5%        | 21.7%         |
| Hurley                | 68.3%        | 144.1%        | 83.8%         | 101.5%       | 9.2%         | 19.7%         |
| Kingston              | 62.9%        | 98.6%         | 51.3%         | 155.5%       | -7.1%        | 56.8%         |
| Lloyd                 | 99.1%        | 142.0%        | 98.3%         | 83.7%        | -0.4%        | -7.7%         |
| Marbletown            | 59.3%        | 217.4%        | 9.0%          | 200.9%       | -31.6%       | 88.9%         |
| Marlborough           | 105.9%       | 122.6%        | 139.4%        | 122.9%       | 16.3%        | 8.2%          |
| New Paltz             | 72.4%        | 136.6%        | 92.2%         | 2.7%         | 11.5%        | -40.4%        |
| Olive                 | 46.5%        | 186.5%        | 26.8%         | 10.0%        | -13.4%       | -24.9%        |
| Plattekill            | 27.8%        | 136.5%        | 31.8%         | -1.6%        | 3.1%         | -23.0%        |
| Rochester             | 31.3%        | 140.4%        | 37.7%         | 136.4%       | 4.9%         | 80.0%         |
| Rosendale             | 50.3%        | 149.5%        | 56.9%         | 28.1%        | 4.4%         | -14.8%        |
| Saugerties            | 65.6%        | 109.6%        | 67.1%         | 231.4%       | 0.9%         | 100.1%        |
| Shandaken             | 25.9%        | 147.7%        | 62.2%         | 399.3%       | 28.9%        | 296.7%        |
| Shawangunk            | 78.7%        | 173.7%        | 59.2%         | 71.0%        | -10.9%       | -4.4%         |
| Ulster                | 67.7%        | 84.9%         | 123.8%        | 44.9%        | 33.5%        | -13.6%        |
| Wawarsing             | 107.5%       | 64.6%         | 86.2%         | 59.7%        | -10.2%       | -23.0%        |
| Woodstock             | 55.1%        | 136.7%        | 38.5%         | 58.9%        | -10.7%       | 2.4%          |
| <b>Villages</b>       |              |               |               |              |              |               |
| Village of New Paltz  | 26.4%        | 91.0%         | 57.4%         | 29.1%        | 24.5%        | 2.1%          |
| Village of Saugerties | 54.7%        | 85.1%         | 49.0%         | 36.2%        | -3.7%        | -11.9%        |
| Village of Ellenville | 58.1%        | 32.5%         | 47.3%         | 67.3%        | -6.8%        | 5.8%          |
| <b>City</b>           |              |               |               |              |              |               |
| City of Kingston      | 69.6%        | 105.3%        | 52.1%         | 49.2%        | -10.3%       | -12.0%        |
| <b>Ulster County</b>  | <b>68.1%</b> | <b>128.4%</b> | <b>112.7%</b> | <b>49.1%</b> | <b>26.6%</b> | <b>-11.3%</b> |

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## Sales Tax

The County levies a sales tax at a rate of 8%, half of which goes to New York State. Thirty-six of New York's 57 counties outside New York City were levying at this rate in 2009. In the Hudson Valley, sales tax rates in Dutchess (8.125%), Orange (8.125%), Putnam (8.375%) and Rockland (8.375%) were higher than in Ulster. (Unlike many of its regional neighbors, Ulster is not subject to taxes on sales or payroll, as it is outside the Metropolitan Commuter Transportation District.)

In 2007, Ulster County received a total of \$99,572,127 as the local share of sales tax revenue, \$32,048,456 more than it collected in property tax. Of this, it retained \$81,572,504; this was \$14,049,133 more than it collected in property tax. The sum of \$11,172,760 (11.5%) was shared with the City of Kingston and \$2,826,863 (3%) was distributed to the towns, based upon each town's proportion of the County's full real estate value. The three towns with villages, in turn, share a portion of their sales tax proceeds with those villages. If authorized by a resolution of the Village Board, as was the case for Ellenville in 2007, the county makes a cash transfer to the village. If no resolution is passed, the town reduces its annual charges to village residents for town services by the amount of the sales tax due the village. (Table XI)

The sales tax, linked directly to consumption, is a relatively volatile source of revenue, which makes reliance upon it quite risky when times are bad. Anticipating economic difficulties, Ulster County conservatively estimated no increase from this source for 2009. Notwithstanding this conservative stance, by mid-August it was estimating a shortfall of at least \$8 million from projected sales tax income for the fiscal year. This would mean a shortfall of: \$6,960,000 for the county; \$800,000 for the city of Kingston; and \$240,000 for the towns and villages.

## Other Local Source Revenue

The county also collects a hotel room occupancy tax, estimated for 2009 to produce \$1 million, and realizes some revenue from a tax on Off Track Betting (OTB), estimated at \$400,000 in the same year. The city, towns and villages share in the proceeds of a mortgage recording tax. Statewide, this source provided 5.7% of town revenues in 2007. In Ulster, mortgage tax revenues totaled \$7,167,750 in 2007, with the greatest amount going to the City of Kingston and the least to the Town of Denning. Ulster County was among the hardest hit by the housing market collapse, when measured by the reduction in the number of transactions in the market.<sup>31</sup> Though the comptroller has not yet released data on revenues from this source for 2008 for towns, it is available for villages. The decline has been precipitous. (Chart II) Almost all supervisors interviewed for this study were anticipating major shortfalls in their mortgage recording tax collections in 2009. The Town of Kingston was an exception.

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<sup>31</sup> Office of the New York State Comptroller. Division of Local Government and School Accountability. *Meltdown: The Housing Crisis and its Impact on New York State's Local Governments* (November, 2008) p.9.

### Sales Tax Increases in Ulster County

Table XI

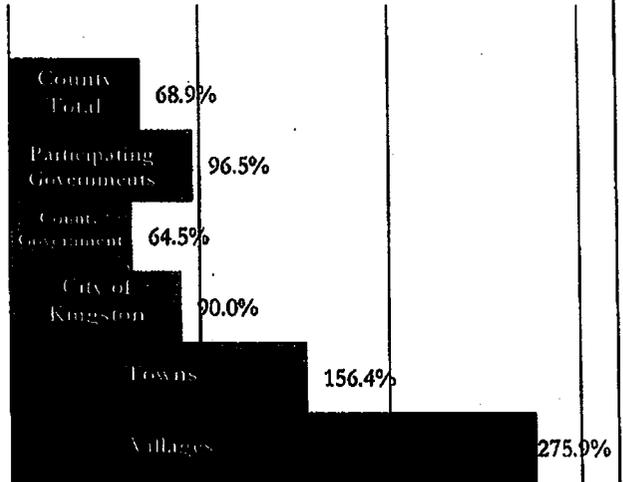
From 1996-2007 sales taxes in Ulster County grew 72.5%. Sales tax distribution in towns increased 156.4% while the sales tax distribution to the county government only grew 67.8%. The total increase for the participating governments was 96.5%.

|                                  | 1996 Sales Tax | 2007 Sales Tax |
|----------------------------------|----------------|----------------|
| <b>Ulster County Total</b>       | \$56,612,959   | \$95,572,127   |
| <b>Participating Governments</b> | \$55,938,178   | \$94,836,577   |
| <b>Ulster County Government</b>  | \$49,600,738   | \$81,572,504   |
| <b>City of Kingston</b>          | \$5,879,638    | \$11,531,381   |
| <b>Towns</b>                     | \$1,092,574    | \$2,801,159    |
| <b>Villages</b>                  | \$6,838        | \$25,705       |

Source: New York State Comptroller, Division of Local Government and School Accountability

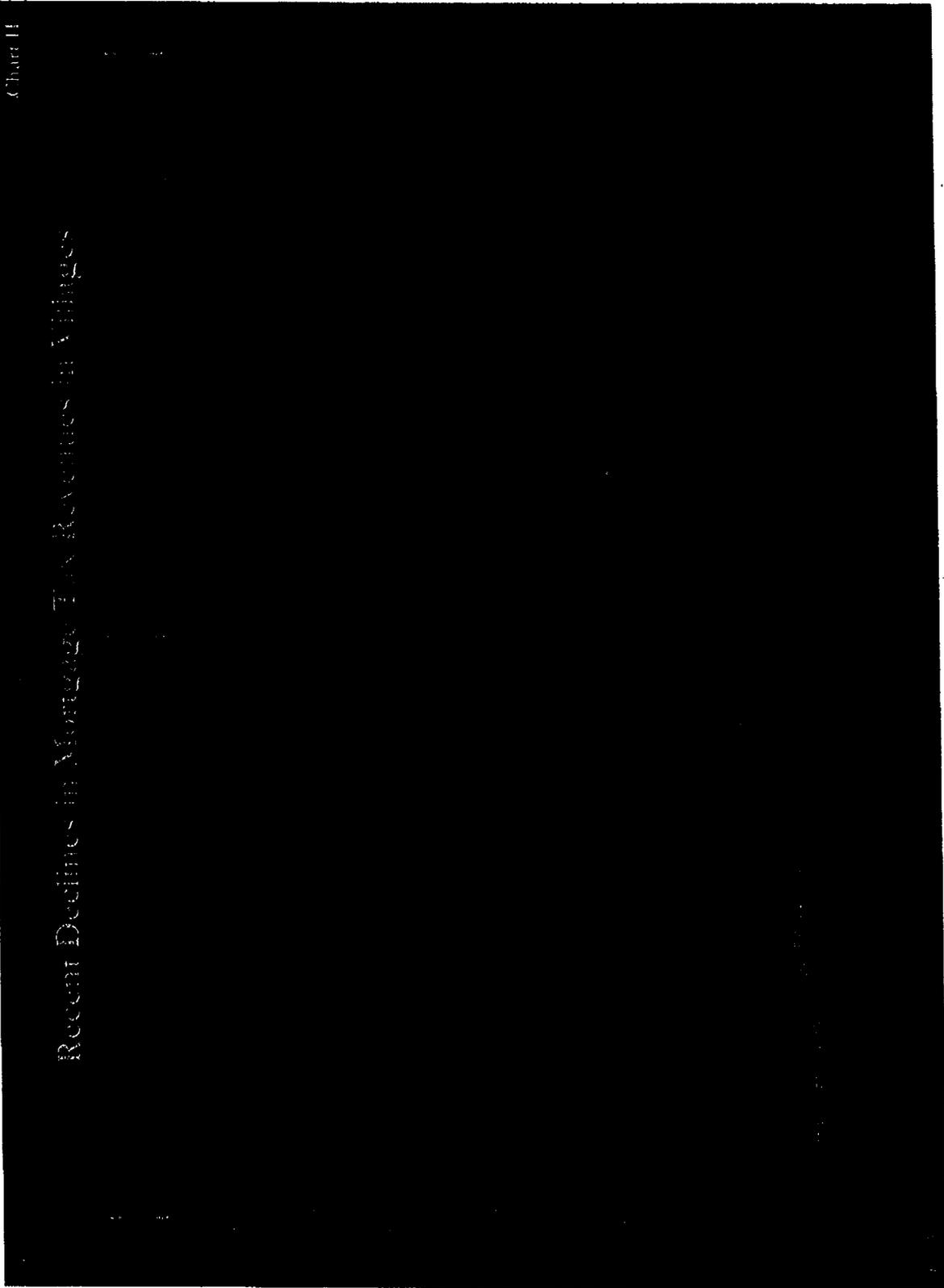
\*The Village of Ellenville shares in the Town of Wawarsing's sales tax distribution.

### Percent Growth



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# Recent Declines in Mortgage Tax Revenues in Villages



## Fees

Fees are an increasingly important source of revenues used by municipalities to support specific services, helping in some measure to offset the burden on the general taxpayer. (Table X) For example, a surcharge of \$0.35 on telephone bills supports the county emergency communication system. As noted, fees for services support local water and sewer systems in the City of Kingston, the villages and town special districts. Fines help offset costs for local courts. Rarely however, as shown by the accompanying study on the justice courts prepared as part of this report, do they cover these costs entirely. Sometimes a community enters into a lively debate as to whether fees or taxes should support a service; this was the case with regard to the community swimming pool in New Paltz during the summer of 2009.

## Intergovernmental Aid

All governments receive some state assistance, on a formula or discretionary basis (often in response to a competitive process). Cities towns and villages receive general purpose assistance. The county government -- with the broadest array of functions and which must act as the agent of the state for the local delivery of many state programs -- receives its aid for specified purposes, and is most heavily reliant on intergovernmental payments in its budget. Insofar as they are able to do so, all the county's local governments seek grants to diminish the degree to which they must rely on the property tax to meet community needs. Consideration of Ulster localities' initiative or success in seeking and obtaining intergovernmental aid is not a focal point of this study.

## Debt

Five Ulster County towns, mostly to the west and among the smallest in population, had no outstanding debt in 2007. They were Denning, Hardenburgh, Kingston, Olive and Hurley. Additionally, Shandaken was virtually debt free.<sup>32</sup> (Table XII) Ulster's other general purpose local governments borrow over the long term to meet capital needs and, over the short term when necessary, for cash flow purposes. Total debt of general purpose local government in Ulster County in 2007 was \$263,404,176. Of this, \$162,886,416 (61.8%) was county government debt. Between 1996 and 2007 -- largely but not entirely due to the costs of building a new jail -- county debt increased by just over \$104 million (177%). The total increase in other general purpose municipal debt in the county was just over \$30 million (43%).<sup>33</sup>

The State Comptroller considers it a fiscal warning sign when a locality's debt service costs (the money it must pay back annually to cover principal and interest) exceeds 15% of total revenues. In Ulster County in 2007 this "red flag" was raised only for the Town of Lloyd, whereas in 1996 the threshold was exceeded by Esopus, Lloyd, Ulster, Woodstock and the Village of New Paltz. Though it had not yet reached 15%, Ellenville's debt as a percentage of revenue in 2007 (12.6%) was more than double its level in 1996 (5%).

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<sup>32</sup> Denning and Olive incurred and fully repaid debt during this twelve year period.

<sup>33</sup> Total School District debt in Ulster County was \$138,467,791 in 2007. Aggregated Public authority debt was unavailable at the time of writing, but the Resource Recovery Agency, which is the largest public authority in Ulster County, had \$28,142,562 debt on January 1, 2009.



## Fund Balances

Localities maintain a range of fund balances. Some are held for specified purposes, i.e. the purchase of equipment. Others are available to meet unanticipated special needs, or for application – in whole or in part – to a following year's budget. The combined size of the appropriated and un-appropriated balances in its General Fund, relative to its annual expenditures, may be regarded as one indicator of a locality's fiscal health.

These combined fund balances accumulate over time. If they are allowed to become too small, a local government will have insufficient resources to deal with a crisis. If too large, it might be regarded as burdening the taxpayers beyond the necessary level to provide needed services. Most places in Ulster County have put away a good deal of money for a rainy day relative to the size of their budgets. At one extreme, the Town of Kingston in 2007 had enough in its savings account to cover more than a year's worth of expenses, and Plattekill's combined general fund balances were 83% of the budget. In contrast, the Village of Ellenville and Saugerties had their general fund accounts overdrawn in that same year. (Table XIII) The county's combined fund balance in 2007, \$19.6 million, was about 6% of its budget, reasonable for a government of its size and in accord with accepted good practice.

## Local Government Functions

The size and scope of the county government in Ulster County – a total budget of \$311,199,118 with 2081 classified employees in 2007 – far exceeds that for any other municipality within its boundaries. As illustrative of the difference in scale, total county spending was about 80% higher than the combined spending of the other 24 general purpose local governments, and its employment rolls were 59.9% of the local general purpose government total. This is because, as is the case for all counties in New York State outside New York City, the Ulster County government is not only charged with delivering essential local services in accord with its own priorities, but additionally acts as the agent of the state in such key social policy areas as health, mental health, and public assistance. State mandated services and processes in New York are estimated to result in between half and two-thirds of overall county government spending.<sup>34</sup>

The range of city, town and village functions in the county is specified in Chart III. This chart also indicates where the county government provides the same or a similar service. Counties and towns were originally set up at the state's initiative to meet the local government needs of rural areas. Cities and villages, created at local initiative to meet the governance needs of more densely settled areas, were empowered to provide a greater range of services than counties or towns. Over the course of the 20<sup>th</sup> century, as suburbanization progressed, state law was changed repeatedly to further empower counties and towns.<sup>35</sup> The result was extensive overlap in the services delivered by different types of local governments in the county and throughout the state.

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<sup>34</sup> Estimates vary widely because of differing analytic assumptions. See for example <http://www.erie.gov/exec/?news/upstate-county-executives-announce-mandate-relief-commission.html>

<sup>35</sup> Benjamin, Gerald. *Evolution of New York State's Local Government System*. Albany, New York: Nelsen A. Rockefeller Institute of Government, 1990. <http://www.nyslocalgov.org/pdf/BenjaminEvolution.pdf>

Fund Balances 2007

Table VIII

| Town                  |               |           |       |              |        |              |      |  |  |  |
|-----------------------|---------------|-----------|-------|--------------|--------|--------------|------|--|--|--|
| Denning               | \$1,351,574   | \$50,000  | 3.7%  | \$301,876    | 22.3%  | \$551,876    | 26%  |  |  |  |
| Esopus                | \$6,799,073   | \$0       | 0.0%  | \$636,518    | 9.4%   | \$636,518    | 9%   |  |  |  |
| Gardiner              | \$2,552,147   | \$30,000  | 1.2%  | \$232,406    | 9.1%   | \$262,406    | 10%  |  |  |  |
| Hardenburgh           | \$845,987     | \$0       | 0.0%  | \$383,812    | 45.4%  | \$383,812    | 45%  |  |  |  |
| Hurley                | \$3,266,123   | \$215,115 | 6.6%  | \$857,960    | 26.3%  | \$1,073,075  | 33%  |  |  |  |
| Town of Kingston      | \$514,067     | \$463,913 | 90.2% | \$63,052     | 12.3%  | \$526,966    | 103% |  |  |  |
| Lloyd                 | \$11,667,445  | Unknown   |       | \$2,489,802  | 21.3%  | \$2,489,802  | 21%  |  |  |  |
| Marbletown            | \$2,481,055   | \$150,000 | 6.0%  | \$254,526    | 10.3%  | \$404,526    | 16%  |  |  |  |
| Marlborough           | \$6,160,420   | \$80,000  | 1.3%  | \$521,172    | 8.5%   | \$601,172    | 10%  |  |  |  |
| Town of New Paltz     | \$8,778,974   | \$350,000 | 4.0%  | \$898,160    | 10.2%  | \$1,248,160  | 14%  |  |  |  |
| Olive                 | \$3,792,945   | \$350,000 | 9.2%  | \$46,918     | 1.2%   | \$396,918    | 10%  |  |  |  |
| Plattekill            | \$3,116,200   | \$494,500 | 15.9% | \$2,084,640  | 66.9%  | \$2,579,140  | 83%  |  |  |  |
| Rochester             | \$3,195,700   | \$0       | 0.0%  | \$1,497,737  | 46.9%  | \$1,497,737  | 47%  |  |  |  |
| Rosendale             | \$3,464,340   | \$75,000  | 2.2%  | \$88,743     | 2.6%   | \$163,743    | 5%   |  |  |  |
| Town of Saugerties    | \$13,335,922  | Unknown   |       | \$753,867    | 5.7%   | \$753,867    | 6%   |  |  |  |
| Shandaken             | \$3,939,129   | \$280,000 | 7.1%  | \$95,088     | 2.4%   | \$375,088    | 10%  |  |  |  |
| Shawangunk            | \$5,437,713   | \$669,000 | 12.3% | \$1,380,684  | 25.4%  | \$2,049,684  | 38%  |  |  |  |
| Town of Ulster        | \$14,309,268  | \$375,000 | 2.6%  | \$412,660    | 2.9%   | \$787,660    | 6%   |  |  |  |
| Wawarsing             | \$8,827,898   | \$136,835 | 1.6%  | \$978,346    | 11.1%  | \$1,115,181  | 13%  |  |  |  |
| Woodstock             | \$6,385,291   | \$239,674 | 3.8%  | \$926,310    | 14.5%  | \$1,165,984  | 18%  |  |  |  |
| Village               |               |           |       |              |        |              |      |  |  |  |
| Ellenville            | \$7,659,087   | \$129,300 | 1.7%  | (\$764,122)  | -10.0% | (\$634,822)  | -8%  |  |  |  |
| Village of New Paltz  | \$5,978,277   | \$510,000 | 8.5%  | \$405,313    | 6.8%   | \$915,313    | 15%  |  |  |  |
| Village of Saugerties | \$4,579,956   | \$224,402 | 4.9%  | (\$189,047)  | -4.1%  | \$35,355     | 1%   |  |  |  |
| City                  |               |           |       |              |        |              |      |  |  |  |
| City of Kingston      | \$46,882,140  | Unknown   |       | \$3,942,797  | 8.4%   | \$3,942,797  | 8%   |  |  |  |
| County                |               |           |       |              |        |              |      |  |  |  |
| Ulster County         | \$311,199,118 | \$0       | 0.0%  | \$19,555,222 | 6.3%   | \$19,555,222 | 6%   |  |  |  |

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Of course, not all localities choose to deliver all of the functions they are authorized to provide. For example, of Ulster's 25 general purpose local governments, ten do not have police departments. Another example: Wawarsing is the only town that operates an airport. Moreover, in some communities, the degree of local commitment to a function may be far greater than others, reflecting local history and values. Thus the town of Saugerties has far more extensive recreation facilities and programs than do other Ulster County localities. (See Chart III)

## Collaboration

Intergovernmental collaboration in Ulster County is both formal and informal. Local elected officials travel in the same circles; considerable informal interaction occurs at community and political events and public forums. In general, town supervisors were pleased with the availability and responsiveness of county legislators to them. A major venue for the interaction of the supervisors is the regular monthly meeting of the Ulster County Town Supervisors Association. They unanimously expressed the value to them of the regular attendance of the County Executive at these meetings since he has taken office under the new charter. Research team members who attended these meetings confirmed their utility for the exchange of information.

Collaboration between municipalities and school districts is minimal. As detailed below, the Ulster County and Kingston City Civil Service offices oversee the hiring and promotion of classified personnel in school districts. There is snow plowing for school parking lots reported by municipalities in some communities. The City of Kingston has a shared telephone system with the offices of the school district, just across Broadway in that city, and contracts to provide school security for the district. Ulster BOCES collaborates with the County Department of Social Services in the state-funded Wheels for Work program. In fact, most elected municipal officials take pains to distinguish their responsibilities from those of the schools when interacting with citizens, while emphasizing that most property taxes are in fact raised for education, not for municipal purposes.

### Nature of Current Collaborations

Our inquiry revealed that collaboration between and among municipalities through formal intergovernmental agreements was less extensive than we expected. (Table XIV) Many local chief elected officers reported that their towns had entered into no such agreements. For highways, the service area in which agreements were most common and that is discussed in detail elsewhere in this report, informal agreements were most common. Highway superintendents were interested in cooperating with their neighbors in a variety of matters, but not in "paperwork." Only one town supervisor of all those interviewed reported a preference for formal agreements, citing the advice of counsel and liability concerns.

Two findings of previous research on collaboration were confirmed by this study in Ulster County.<sup>36</sup> Intergovernmental collaboration was far more frequent between two jurisdictions than among more than two. One exception is the collaboration of the Towns of Shawangunk, Gardiner, Wawarsing, Rochester, New Paltz and Rosendale in the Shawangunk Mountain Scenic Byway. Another example of a multi-jurisdictional collaboration is that among Saugerties, Shandaken and Woodstock for the use of the Saugerties

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<sup>36</sup> Benjamin, Gerald and Richard P. Nathan. *Regionalism and Realism: A Study of Government in the New York Metropolitan Area*. Washington DC: Brookings Institution Press. 2001.

| Function                            | County | City | Zoning | Codebook | Headings | Index | Manhattan | Madison | New Paltz | Rosendale | Saugerties | Shawangunk | Ulster | Warrensburg |
|-------------------------------------|--------|------|--------|----------|----------|-------|-----------|---------|-----------|-----------|------------|------------|--------|-------------|
| Office Management                   | X      | X    | X      | X        | X        | X     | X         | X       | X         | X         | X          | X          | X      | X           |
| Central                             | X      | X    | X      | X        | X        | X     | X         | X       | X         | X         | X          | X          | X      | X           |
| Records Management                  | X      | X    | X      | X        | X        | X     | X         | X       | X         | X         | X          | X          | X      | X           |
| Financial Management                | X      | X    | X      | X        | X        | X     | X         | X       | X         | X         | X          | X          | X      | X           |
| Human Resources                     | X      | X    | X      | X        | X        | X     | X         | X       | X         | X         | X          | X          | X      | X           |
| Planning                            | X      | X    | X      | X        | X        | X     | X         | X       | X         | X         | X          | X          | X      | X           |
| Zoning                              | X      | X    | X      | X        | X        | X     | X         | X       | X         | X         | X          | X          | X      | X           |
| Environmental/Open Space            | X      | X    | X      | X        | X        | X     | X         | X       | X         | X         | X          | X          | X      | X           |
| Justice Court                       | X      | X    | X      | X        | X        | X     | X         | X       | X         | X         | X          | X          | X      | X           |
| Highways and Bridges                | X      | X    | X      | X        | X        | X     | X         | X       | X         | X         | X          | X          | X      | X           |
| Facilities construction/maintenance | X      | X    | X      | X        | X        | X     | X         | X       | X         | X         | X          | X          | X      | X           |
| Transportation - Other              | X      | X    | X      | X        | X        | X     | X         | X       | X         | X         | X          | X          | X      | X           |
| Parks                               | X      | X    | X      | X        | X        | X     | X         | X       | X         | X         | X          | X          | X      | X           |
| Adult Programming                   | X      | X    | X      | X        | X        | X     | X         | X       | X         | X         | X          | X          | X      | X           |
| Summer Children's Programming       | X      | X    | X      | X        | X        | X     | X         | X       | X         | X         | X          | X          | X      | X           |
| Licensing (Various)                 | X      | X    | X      | X        | X        | X     | X         | X       | X         | X         | X          | X          | X      | X           |
| Administration/Collection           | X      | X    | X      | X        | X        | X     | X         | X       | X         | X         | X          | X          | X      | X           |
| Assessment                          | X      | X    | X      | X        | X        | X     | X         | X       | X         | X         | X          | X          | X      | X           |
| Airport                             | X      | X    | X      | X        | X        | X     | X         | X       | X         | X         | X          | X          | X      | X           |
| Collection                          | X      | X    | X      | X        | X        | X     | X         | X       | X         | X         | X          | X          | X      | X           |
| Disposal                            | X      | X    | X      | X        | X        | X     | X         | X       | X         | X         | X          | X          | X      | X           |
| Transfer Station                    | X      | X    | X      | X        | X        | X     | X         | X       | X         | X         | X          | X          | X      | X           |
| Processing                          | X      | X    | X      | X        | X        | X     | X         | X       | X         | X         | X          | X          | X      | X           |
| Water and Wastewater Management     | X      | X    | X      | X        | X        | X     | X         | X       | X         | X         | X          | X          | X      | X           |
| Electricity administration          | X      | X    | X      | X        | X        | X     | X         | X       | X         | X         | X          | X          | X      | X           |
| Police                              | X      | X    | X      | X        | X        | X     | X         | X       | X         | X         | X          | X          | X      | X           |
| Fire                                | X      | X    | X      | X        | X        | X     | X         | X       | X         | X         | X          | X          | X      | X           |
| Ambulance                           | X      | X    | X      | X        | X        | X     | X         | X       | X         | X         | X          | X          | X      | X           |
| Libraries                           | X      | X    | X      | X        | X        | X     | X         | X       | X         | X         | X          | X          | X      | X           |
| Animal Control                      | X      | X    | X      | X        | X        | X     | X         | X       | X         | X         | X          | X          | X      | X           |
| Sewer                               | X      | X    | X      | X        | X        | X     | X         | X       | X         | X         | X          | X          | X      | X           |
| Street Lighting                     | X      | X    | X      | X        | X        | X     | X         | X       | X         | X         | X          | X          | X      | X           |
| Community-based advisory groups     | X      | X    | X      | X        | X        | X     | X         | X       | X         | X         | X          | X          | X      | X           |

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Local Intergovernment Agreements

Table XIV

| Denning            | All municipalities within Ulster County                     | Contract of Shared Services Renting, Leasing of Highway Machinery and Equipment Exchanging, Borrowing Equipment, Borrowing or Lending of Materials and Supplies | 1.2.2008   | 12.31.2008                           |
|--------------------|---|---|------------|--------------------------------------|
| City of Kingston   | Ulster County   | Alternative Sentencing  | 2.18.2009  |                                      |
|                    | Town of Esopus  | Boarding of Dogs  | 9.2007     |                                      |
|                    | Ulster County   | Agreement for Professional Services   | 7.2.1975   |                                      |
|                    | Esopus  | Kingston Esopus Sewage Agreement  | 5.21.1997  |                                      |
|                    | Esopus  | Kingston Esopus Sewage Agreement (update)   | 5.12.1998  |                                      |
|                    | Town of Rhinebeck, Village of Tinker, Village of Saugerties | Mid Hudson Ferry Exploratory Group Intermunicipal Agreement   |            |                                      |
|                    | New York State  | Municipal Aid and Assistance Agreement for Water/Wastewater Providers   |            |                                      |
|                    | All Ulster County municipalities                            | UC Shared Services Contract - High way equipments   | 9.18.1986  |                                      |
|                    | Ulster County   | UC Data Processing  | 7.20.2004  |                                      |
|                    | Town of Ulster  | Town water supply agreement   | 7.11.2007  | Amendment to the Emergency agreement |
|                    | Ulster County   | Ulster County Kingston Hazardous-Materials Response Service Agreement   |            |                                      |
|                    | All Ulster County municipalities                            | Ulster County Mutual Aid plan   |            |                                      |
|                    | Ulster County   | Emergency communication/Emergency Management  | 8.20.2007  |                                      |
| Town of Lloyd      | Town of New Paltz   | Inter-municipal contract between Town of Lloyd and Town of New Paltz regarding purchase of heavy equipment  |            |                                      |
| Marlborough        | Hurley  | Inter-municipal Reciprocity Agreement (Marlborough and Hurley)  |            |                                      |
|                    | Town of Rosendale   | Inter-municipal Agreement High Falls Water District   |            |                                      |
|                    | Town of Rochester, Rosendale, Hurley, Olive and New Paltz   | Certification (Contract of shared services with those municipalities)   |            |                                      |
| Marlborough        | Town of Lloyd   | Mobile Life Support Services, Inc. Proposal to the Town of Marlborough and the Town of Lloyd  |            |                                      |
| Town of Saugerties | Hardenburgh   | Saugerties and Hardenburgh animal shelter agreement   | 12.17.2003 | Being Renewed                        |
|                    | Ulster County   | UCSPCA and Saugerties animal control agreement  | 2.20.2007  | Being Renewed                        |
|                    | Woodstock   | Saugerties and Woodstock animal shelter agreement   | 7.18.2007  | Being Renewed                        |
|                    | Village of Saugerties                                       | Saugerties and Village of Saugerties emergency dispatch agreement   | 1.22.1998  |                                      |
|                    | All Ulster County municipalities                            | Contract of shared services   | 12.17.2008 |                                      |
|                    | Shandaken   | Saugerties Shandaken municipal Solid Waste and Recycling Center Agreement   | 8.11.1995  |                                      |
|                    | Woodstock   | Saugerties and Woodstock municipal Solid Waste and Recycling Center Agreement   | 23.6.1995  |                                      |
|                    | Ulster County Resource Recovery Agency                      | Solid Waste Management Agreement between Ulster County Resource Recovery Agency and Saugerties  | 1.1.1993   |                                      |

Municipal and Solid Waste Recycling Center. Nested jurisdictions – villages within towns, towns within the county – were more likely to work together in a number of ways than were side by side jurisdictions.

### The Special Case of Towns and Villages

Apart from the “required collaborations” between the county government and Ulster’s other general purpose governments explored below, the most structured local municipal interactions are between villages and the towns in which they are located. Mayors and town supervisors report regular scheduled interactions. Joint committees are not uncommon. Saugerties has joint Economic Development and Public Access T.V. Committees. New Paltz maintains joint Bicycle and Pedestrian Advisory and Public Access Advisory Committees, a Global Warming Task Force and a Community Improvement Team. There is also the shared delivery of services: the Moriello Pool in New Paltz is an example.

Mayors of all three villages suggested the possibility of additional shared services. However, in all three cases each institutional party in these interactions reports ongoing tensions, based upon clashing values, different priorities, conflicting constituencies or interpersonal differences. There are inefficiencies and communication issues that arise from groups reporting to each board with overlapping interests and responsibilities. And each chief elected town and village official notes the other’s reluctance to fully cooperate in one or another area of administration or policy. In one current area of shared service, the provision of municipal water, the supervisor of the Town of New Paltz, unopposed for re-election, has made it a major priority to free the town from reliance upon the village. Even when town and village jointly engage in research, collaboration often founders at the implementation stage. This has recently been the case in New Paltz, for example, for a major transportation study.<sup>37</sup>

In a recent grant application, the Town and Village of New Paltz detailed the interactions between these two governments. It is worth quoting this summary in detail, as it was prepared for consideration of a potential funder, and provides a view of the intergovernmental relationship from their perspective:

“The Town and Village have already functionally consolidated services for police protection, real property assessment, recreation and youth services, judicial courts and recycling. There are formal inter-municipal agreements for fire protection and water and sewer. . . .

The New Paltz Land Use and Transportation Study, funded by the NYS DOT and conducted with the Village, Town and SUNY New Paltz in 2003-2006 was a collaborative process to address a series of transportation and land use concerns such as congestion, parking and bicycle/pedestrian issues. The resulting reports were adopted by both boards and implementation has begun.

In 2003, the Town Open Space Committee and Village Environmental Conservation Commission secured NYS DEC funds for support of the planning, negotiation and legislation to enable the establishment of the Millbrook Preserve. Still in process, this project encompasses property located within both Town and Village borders and incorporates four separate and distinct ownership entities. The end objective is a public access preserve with interpretive opportunities of the ecologically critical Tributary 13, which leads to the Hudson River and is part of the Hudson River Estuary.

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<sup>37</sup> Jeremiah Horrigan. “In New Paltz, Cooperation Not a 2-Way Street” *Times Herald-Record*, December 14, 2009, p. 7. Note that the reference to collaboration on this study, written for a state grant and quoted below, dates to earlier in 2009.

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The 2006 Open Space Plan was adopted by the Town and Village of New Paltz. This plan, which began as part of a systematic approach to conserving open space and biodiversity, built on a previous inventory of open space. Since adoption, the implementation process has been nurtured and now includes a build-out analysis so that the community can anticipate growth. Town and Village residents overwhelmingly adopted a \$2 million bond referendum for purchase of Open Space based on the recommendations of the Plan....

... Each board holds meetings twice a month. There are also meetings of committees and commissions where board members from each municipality attend as liaison, and there are joint meetings of the boards to discuss business relating to shared services. Not only is significant time invested in these meetings on the part of board members, clerks and staff as well as public attendees, but there are also costs involved with filming and broadcasting meetings.

Both the Town and the Village fill committee, council, task force and board membership from a similar pool of volunteers. Given changing demographics and limited time availability, the volunteer pool is dwindling and thus straining a civic asset. There has been a vacancy on the Village Planning Board for over 2 years. An informal survey of existing boards, councils, committees and commissions in the Town and Village found 32 groups, of which 14 represent duplication of 7 functions. To streamline this process offers potential savings in both tangible costs as well as volunteer time. Again, the actual impact and structure of such will be identified in the study itself.<sup>38</sup>

The proposed study on the relationship between the town and village of New Paltz, jointly applied for by both governments, funded this year by the Secretary of State's office, is currently being launched. The recently published study on the consolidation of police services between the village and town of Saugerties, also funded from that source and mentioned below, provided the basis for a vote in March of 2010 authorizing the dissolution of the village police department. There was interest expressed in potential areas of collaboration by leaders in both the Town of Wawarsing and the Village of Ellenville. These two jurisdictions might consider seeking state funding for a study similar to that being undertaken by the Town and Village of New Paltz. The successful New Paltz application provides a ready template for such an application.

### Three Categories

The intergovernmental collaborations we found, or that might be created or further developed, fall into three general categories:

1. Areas in which collaboration is *required* by state law, or is the result of long established practice;
2. Areas in which localities *do* the same things, and may enhance economy and/or efficiency by doing them together; and
3. Areas in which local governments *need* the same things, and might achieve increased economy and/or efficiency by acquiring them together.

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<sup>38</sup> . New Paltz Municipalities: *High Priority Planning Grant Application for Efficient and Effective Government* (New Paltz: office of the Town Supervisor, Draft of September 19, 2009) pp 3-4.

A primary motivation in seeking to advance intergovernmental collaboration, and a primary purpose of this study, is to find ways to lower the cost of government, not to shift these costs from one government to another. Moreover, steps that might reduce net overall costs borne by the taxpayer might require reducing spending at one level, while increasing it at another.

This study shows that intergovernmental collaboration between and among the city, towns and villages in Ulster County has succeeded and will continue to succeed on a bilateral and, sometimes, multilateral basis. An essential point for all these three areas, however, is that for collaboration to work as a broad scale strategy, the county government must be a fundamental player in the collaborative process. To do this the county must re-conceive its role, and come to understand itself as not only a service provider, but as facilitator of connections and efficiencies for all governments within its borders. Initiatives that the county has already undertaken in the areas of storm water management and highways, detailed below, indicates that this fundamental change is, in fact, beginning to occur.

### **Required Collaboration**

Local governments don't generally regard as collaborative those areas in which state law or long-established practice requires or results in them working together, perhaps because "that's just the way things always worked." But in fact, the County Government is at the center of a complex collaborative web as it conducts its daily business both as an agent of the state and an autonomous actor. For example, the administration of both the property tax and sales tax is clearly collaborative. So is the delivery of sanitation services. The County Civil Service department oversees the operations of civil service in all local governments in the county, except that of the City of Kingston, the governments within the city, and the Ellenville School District.

There are many other examples. Most decision making power in land use planning and administration is with the city, the towns and the villages, but the county planning board – comprised of representatives from these municipalities - does have a mandated review function, and can require reconsideration of decisions. Ulster County is unique in that its towns and city have financial responsibility for a portion of the social services safety net; this results in required collaboration between the county and the town governments. Towns must collect taxes for fire and library districts that exercise taxing authority; errors in meeting this responsibility can be most troublesome.<sup>39</sup> Fire coordination, police dispatch, disaster planning and emergency medical services at the county level are all collaborative in structure and operation. In fact, the Ulster County Charter established an Inter-Governmental Collaboration Council to provide a venue for reconciliation of tensions and the regular consideration of areas of potential collaboration for municipalities.

Finally, the towns and city are the building blocks of the local and county political party organizations through which contests occur for control of governance in our municipalities. Thus, though not a focus of this study, party ties may provide one key way in which localities are linked, just as party differences define potential cleavages.

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<sup>39</sup> Adam Bosch. "Claryville Fire Department's Funds Dip After Ulster County's Mistake" *Times Herald Record*, September 6, 2009 <http://www.recordonline.com/apps/pbcs.dll/article?AID=/20090906/NEWS/909060331>. Editorial. "Fired Department Sets The Example Others Can Follow," *Times Herald Record*, September 9, 2009, p. 42.

Of course, it is important to remember that not all intergovernmental interaction in the county is collaborative in design. Counties, as agents of the state government, often act to assure adherence to state regulations. For example, the county health department must make sure that municipal water systems provide safe, clean drinking water. This is an oversight role, not a collaborative one.

When collaboration is required, or occurs in the normal course of business, the question is not whether to collaborate, but how to most effectively do so to serve the citizenry. We seek to identify the points of stress or inefficiency in existing relationships and ask: "What can be done to improve efficiency/effectiveness of these long-established collaborations?"

Additionally, in the area of "required collaboration" there are two other issues. One concerns the proper allocation of costs and revenues. Simply put, in a required collaborative intergovernmental relationship, it is reasonable that the costs and revenues connected with the service, function or activity should be reasonably shared among the participating governments. A second concern is that the allocation of duties among the collaborating governments assures economic, efficient, effective performance of the function or delivery of the service. This requires that the county's governments see themselves not only as autonomous, but also as part of an ongoing network or system. Within this system, we do not assume that bigger is always better. And in considering change, we seek to maximize the *net benefits* for the citizens that all our governments serve while minimizing the net costs.

*Valuation of the Real Property Tax Base.* Assessment of real property is often advanced across New York State as an area in which greater intergovernmental collaboration might reduce costs and improve outcomes.<sup>40</sup>

Currently, assessors are town, city or (for Ellenville) village employees. The costs of assessment are borne by the governments that employ the assessors, even though all who use the resulting tax rolls benefit from the work. Moreover, the costs of defending the assessor's work in court -- in Hurley, for example, totaling about \$300,000 for recent litigation with New York City -- must be borne by the jurisdiction that employs the assessor, even though other jurisdictions will be substantially affected by the outcome of litigation, or its settlement.

A study completed in early 2009 showed the total budgeted cost for Ulster's towns, the City of Kingston and the Village of Ellenville for assessing real property to be \$1,995,144.<sup>41</sup> By one count, there were 16 full-time assessors in the county, six working part-time, and 26.25 clerical personnel. (One town, Shandaken, continued to maintain a three person board of elected assessors.) Of the assessors at work in Ulster County, eight had accreditation from the International Assessors Organization (IAO) or an equivalent credential. Four jurisdictions collaborate informally by sharing employment of an assessor with other towns in- or outside the county.

Additionally, the budget of the County's Real Property Tax Agency (RPTA) was \$485,899, offset by revenues in the amount of \$76,034. Ulster's RPTA employed nine full-time workers and one part-time person.<sup>42</sup>

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<sup>40</sup> In 2008 and 2009 the New York State office of Real Property Services funded studies in almost all New York State counties to consider alternative approaches to assessment. A list of these may be found at <file:///G:/County%20Intergovernmental%20Collaboration/County%20Assessment%20Studies%20-%20studypractices.cfm.htm>.

<sup>41</sup> David W. Briggs. *Ulster County Centralized Property Tax Program Assessment Study*, January 12, 2009, p. 18. Hereafter cited as the Briggs Study. Note that there are internal differences in some of the data reported in this study that must be reconciled.

<sup>42</sup> Briggs Study

Though this agency does no assessing, it is at the center of a collaborative process for establishing the county's real property tax base. The agency maintains Ulster County's tax maps and common assessment data base, produces assessment rolls and tax bills for all towns and some school districts, provides full disclosure assessment notices to citizens and is the locus of training and information dissemination for this function in the county.

The state encourages assessment at full or "true" value, so that equity in taxation is achieved and taxpayers may better understand the basis for their bills. However, state law does not require this; it requires only that all parcels within an assessing jurisdiction are assessed on the same basis. In 2009, full value assessment was completed by The City of Kingston and the towns of Esopus, Marlborough, New Paltz and Rosendale. At the opposite extreme, the town of Wawarsing assesses at 1.57% of value, Denning at 17.25% and Shawangunk at 17.5%.

Of the three Villages in Ulster County, only Ellenville does its own assessing. Within Wawarsing, the Village of Ellenville assesses at a much greater proportion of full value (7.09%) than does the town. According to the village mayor, neither Ellenville nor Wawarsing have comprehensively revalued properties within them since at least the 1950's. More than a half century ago the village was the vital economic and social center of the community; properties in it, with relatively extensive municipal services, were valued at a premium when compared to those in the town. Now, after decades of social and economic change, the relative value of village properties compared to those in the town outside the village has declined significantly. But the absence of systematic revaluation has left village residents with a greater proportion of the tax burden than they would have to bear if there were a more equitable valuation of village and town outside the village properties.

The differential effect of the state-mandated veteran's real property tax exemption further compounds the problem. State law specifies a \$5,000 maximum exemption, based upon *assessed value*, for municipal taxes on real property owned by a qualifying military veteran. Under the partial assessment practices in Wawarsing outside the village – assessment at 1.57% of true value - a property owned by a veteran with a *full value* of \$318,500 in the market would be entirely exempt. In Ellenville, which assesses at 7.09% of true value, a veteran whose property was worth the same amount would enjoy a 22% exemption.<sup>43</sup> Both Ellenville and Wawarsing employ the same assessor, but Ellenville must retain its own assessment role, the mayor says, to avoid the entire removal of a much higher proportion of veteran- owned properties from its tax base.

Assessments established at the town (or city) level are used by all municipalities and special districts supported by property tax. Since the basis of these assessments are not the same from town to town, and since some of these jurisdictions – the county itself, the school districts – contain all or part of several towns, assessments must be equalized to assure equal treatment of properties of the same value in different jurisdictions. This is done by the State Office of Real Property Tax Services (ORPS). Assessment on a consistent basis by a level of government that includes all (or most) overlapping jurisdictions would vastly reduce the need for equalization, and thus the costs of this function. If this were done, savings realized at the state level might be returned to cover the local costs of assessment.

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<sup>43</sup> For an explanation of this exemption provided by the Office of Real Property Tax Services see <http://www.orps.state.ny.us/pamphlet/exempt/vets.htm#eligible>

Periodic reassessment supports fairness in taxation by assuring that all properties within the assessing jurisdiction are valued at the same time and therefore under consistent market conditions. Fifteen of Ulster County's 21 assessing jurisdictions have had a reassessment within the last five years. Those that have not are Denning (1974), Hardenburgh (1999), Shandaken (1978), Shawangunk (1995), Wawarsing (1960's) and Ellenville (1960's). Kingston, Esopus and Rosendale are reported in the Briggs Study as doing annual reassessment. Hurley, Kingston, Marletown, Olive, Ulster and Woodstock report a commitment to reassessment on a regular cycle, usually every 3-5 years. Lloyd, New Paltz, Plattekill, Rochester and Saugerties report planning a reassessment within the next two years. Marlborough had a reassessment two years ago, and has recently signed a contract to reassess each year for the next 6 years (2009-2014).

In addition to continuation of the status quo, the 2009 study considered four alternatives: moving assessment to the county level, contracting by towns individually with the county for assessing services, creating cooperative assessing agreements among towns or the creation of consolidated assessing units. In general, annual costs of all alternatives are shown in this study to exceed those of continuing with the status quo. Moreover, one time startup costs for all alternatives – in particular, for the countywide system, a countywide reassessment to put all properties in the county on an equal footing – are shown to present a major barrier.

Altering assessment practices is very controversial. Though some local officials are in favor of alternatives, as the Ulster County study confirms, most people with roles in the current system – many of them very talented, committed and long-serving public servants -- are predisposed to the status quo. Moreover, many citizens believe that the result of any change that requires revaluation will be higher taxes. About a third of them are probably correct; experience suggests that revaluation to increase fairness reduces the taxes on one third of the parcels in a community, leaves then about the same for another third, and increases for the last third. A further difficulty is that those who are potentially disadvantaged by revaluation tend to be the longer settled or more influential in the community. Nonetheless, a review of the summary analysis in the Ulster County "Centralized Property Tax Administration Program Study" suggests that the benefits of alternative approaches to assessment may be under estimated, while the costs are over estimated.<sup>44</sup> Studies sponsored by the state Office for Real Property Services (ORPS) and completed in fifty-one counties provide a rich basis for comparison.<sup>45</sup> Reconsideration may be prudent. There appears to be little rationale for continuation of the assessment function in the Village of Ellenville.

*Sales Tax Sharing.* Because Kingston may levy the sales tax independently under the law in New York State, the county must reach agreement with the city to levy this tax uniformly within its boundaries. (In fact, in 2006 there were 22 New York Cities that taxed sales at different rates than the counties in which they were located.) Kingston, with an historically declining sales base, periodically seeks in negotiations with the county to obtain a level of sales tax revenue that would exceed what it might obtain if it separately levied at that same rate, or even perhaps a higher rate, on its own base. The current five-year sales tax sharing agreement between the county and the city expires in February of 2011.

Both the proportion of the county sales tax provided towns and the formula for its distribution were highly criticized in an interview for this study with the Town of Ulster supervisor. This is not surprising; because of its many malls, a large portion of the county's retail sales occur in Ulster. The Supervisor argued that town

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<sup>44</sup> (Briggs, 2009, pp. 62-63)

<sup>45</sup> These studies may be found at <http://www.orps.state.ny.us/cptap/studypractices.cfm>

government costs increase in his town because of the police and other services required by retailers in the major shopping areas along Ulster Avenue, and that therefore a greater proportion of sales tax should come back to it.<sup>46</sup> However, towns have no right to levy a sales tax under New York State law. The county is therefore under no legal obligation to share any of this revenue with the towns, and does so at its own discretion. New York counties' sales tax sharing practices vary extensively from jurisdiction to jurisdiction. Some are more generous than Ulster; others share none of these resources.<sup>47</sup>

*Civil Service and Human Resources Management.* The Ulster County Personnel Director must oversee all human resources functions for the county. Administration of the civil service systems for both Ulster County employees and most other general and special purpose governments in the county, one of the Personnel Department's several responsibilities, is achieved with the assistance of one deputy and a three person clerical staff. As previously noted, there were 5,517 persons in civil service positions administered by the county in 2007. In addition to performing routine daily operations and human resource records maintenance, this staff annually audits payrolls of all covered local governments for compliance with civil service requirements. By one measure, the reduction in the percentage of covered public employees in provisional positions, the county personnel department has made remarkable progress in recent years. In 1995, 12.4% of covered public employees in Ulster County were provisionally appointed, compared to an average of 4.9% statewide. Ulster's proportion of provisions in that year was the fifth highest in New York State. By 2007, Ulster's proportion of provision employees (3.0%) had dropped by more than three-quarters, and was below the state average.<sup>48</sup>

County personnel seek to keep towns informed of the workings of the civil service system through regular interaction and periodic site visits, and to administer it with sensitivity to local needs and priorities. However, turnaround time in meeting local requests is significant; it takes the county about a month, for example, to classify a job once a request is made by a locality to create it. The system permits localities to limit hiring to community residents. But canvassing the civil service list to fill a position is done by ordinary mail, and is time consuming.

Both county personnel and town supervisors indicate that satisfaction varies at the municipal level with the administration of the civil service system. Some town leaders resist the constraints it places upon their control of local personnel decision making, while others function comfortably within it. County personnel officials assert that state requirements – for example, an unwillingness to accept electronic signatures on documents – are a barrier to achieving greater efficiency. However, it does seem possible to further automate county civil service operations, which are now almost entirely paper-based, as other counties within New York State have achieved it or are in the process of doing so.

For example, the Albany County Department of Civil Service MERIT system allows local appointing authorities to access current files, electronically submit personnel change forms, run reports, and link to

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<sup>46</sup> Some activists in the Town of Ulster have even advocated its merging with the City of Kingston, to create a city with greater leverage in sales tax negotiations with the county.

<sup>47</sup> See Office of the State Comptroller, Division of Local Government Services and Economic Development. *Local Government Sales Taxes in New York State: Description, Trends and Issues* (Albany, Office of the Comptroller, March, 2006) pp. 31-34.

<sup>48</sup> Data provided by the Ulster County Personnel Department, e-mail of Brenda Bartholomew to Gerald Benjamin on Aug. 31, 2009.

current county Civil Service information and examination announcements.<sup>49</sup> Cattaraugus County, less than half Ulster's size in population, is now implementing a personnel software system designed by a private vendor specifically to support local civil-service human resource administrations in New York State. When fully operational, the system in Cattaraugus promises to bring greater efficiency to county operations, and will allow electronic integration of financial and human resource management.<sup>50</sup>

As earlier noted, the City of Kingston maintains a separate Civil Service Commission to meet its needs and those of other covered jurisdictions within the city. Yet there is no clear rationale for there being two civil service agencies operating in Ulster County. As a general matter, the State Department of Civil Service finds that smaller local agencies lack sufficient professional personnel and expertise to effectively implement the law. Though they assert the value of local control in seeking to retain their civil service agencies, smaller localities in fact pass much of this type of professional decision making upward to state officials.<sup>51</sup>

The New York State Commission on Efficiency and Competitiveness recommended the abolition of all civil service commissions in jurisdictions with fewer than 100,000 people.<sup>52</sup> Such commissions have recently been closed in Glens Falls, Jamestown and Olean; the city commission in Corning was scheduled to close in November of 2009. Such a step should be considered by the City of Kingston.

The Kingston Civil Service Commission reported a single staff member and budget of \$69,750 in 2007, with offsetting revenues of \$46,962 gained from \$3,000 in exam fees and charge backs to the Kingston School District in the amount of \$43,942. Closing the city agency would increase the persons covered by the Ulster County Department of Personnel by between 10% and 14%. Moreover, unlike cities, counties may not charge back school districts (or any other municipalities) for the costs of administering the merit system. Thus, though costs for the city would be reduced with a transfer of function to the county, revenues would not follow.

Consolidating Ulster County's civil service activities at the county level, and mechanizing them to improve system performance, would require a significant investment and additional staffing. The state requirement that the county assume the entire cost of the administration of the local civil service system is not equitable. If this cost must be mandated, and will not be assumed by the state, consideration should be given to distributing it equitably among the municipalities and school districts that must use it.

*Collective Bargaining.* Currently in Ulster County workers in all but two municipalities are represented by labor unions. In Saugerties there are five separate labor contracts in force. The state Commission on Local Government Efficiency and Competitiveness recommended regional collective bargaining for school pay and benefits. In municipalities, like in school districts, organized workers bring statewide expertise to the

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<sup>49</sup> See Albany County. *Merit Employee Records and Information Tracking System (MERIT)* <https://access.albanycounty.com/dcs/meritz/>

<sup>50</sup> Interview, Gerald Benjamin with David Moshier, Personnel Director, Cattaraugus County, August 24, 2009. The Vendor for this system is PS Tech.

<sup>51</sup> Interview, Gerald Benjamin with Richard Ciprioni, Director, Office of Commission Operations and Municipal Assistance, NYS Civil Service Department, August 24, 2009.

<sup>52</sup> New York State Commission on Local Government Efficiency and Competitiveness. *21<sup>st</sup> Century Local Government* (Albany: the Commission, 2009) pp. 19-21.

bargaining table, while localities (with the exception of the county government), if they seek such expertise, must incur additional costs to retain it. Moreover, relatively large numbers of smaller negotiations likely have the effect of ratcheting up costs in adjacent jurisdictions. Consideration should be given to permitting the creation of a county-wide resource for use in public employee labor negotiations, as part of an effort to reduce both consulting fees and the rate of increase in growth of local government labor costs. Such expertise might be part of a circuit rider program under the aegis of a Council of Governments recommended for consideration elsewhere in this report, and be funded from resources currently expended by municipalities to obtain consulting services to deal with labor relations issues.

*Fire Districts and Towns.* Fire district property taxes, like the county's levy, are collected by the towns. (Kingston collects the county tax within the city.) In interviews for this study, some Ulster County town supervisors expressed frustration at their inability to exercise oversight over fire budgets forwarded to them for collection, or more generally the fiscal practices of fire districts. In sum, effective oversight of fire district financing and governance appears to be needed. A change in state law that would allow towns to review and alter fire districts budgets, as they do levies for highways, might be one salutary step to increase accountability. To the degree possible, collaborative contracting to purchase equipment might also produce economies.

*Sanitation.* General purpose government spending for sanitation services in Ulster County totaled \$17.7 million in 2007. Additionally, \$15.8 million was spent by the Ulster County Resource Recovery Agency (UCRRA), a public authority established in 1986 to develop, finance and implement a comprehensive solid waste management program in the county.<sup>53</sup> Thus, combined spending in the county on sewers, storm sewers and solid waste exceeded spending on police (given below).<sup>54</sup> All these services were fee-based, though the RRA reported a payment from the county of \$1.89 million in 2007 to offset its deficit. It is the agency's intention under its current management to become financially self sufficient, in accord with the goal when it was established in 1986.

A data base compiled by the *New York Times* for a study published on September 22, 2009 documented 218 violations by municipal waste water facilities in Ulster County during the July 2006 to June 2009 period. Inquiry of the New York State Department of Environmental Conservation revealed that none of these were regarded as major; no fines or penalties were levied.<sup>55</sup>

The Marlborough Sewer Treatment Plant was built in the year 2000, the same year in which the New Paltz Village facility was updated. Lloyd's Sewer Extension #1 was built in 1999 and Shandaken's – built by the New York City Department of Environmental Conservation – in 1996. Others in the county date to the 1970's and 1980's. New Paltz is operating under a consent order with the State Department of Environmental Conservation because of storm water infiltration in its system. Ellenville recently received \$7 million in federal stimulus funds to upgrade its plant. There remains extensive capital needed for this purpose

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<sup>53</sup> Chapter 936 of the Public Authorities Law (1986).

<sup>54</sup> The RRA reported \$1,887,678 in subsidies from municipal governments in 2007. To avoid double counting and assure comparability, this amount should be subtracted from the total when the comparison to police spending is made. Still, total solid waste spending ranks ahead of that for police in the county.

<sup>55</sup> "Toxic Waters, A series about the worsening pollution in American Waters and Regulators' Response" Water Pollution Finder, Sept. 22, 2009. *New York Times Online*. <<http://projects.nytimes.com/toxic-waters/polluters/new-york>>. Additionally, there were 31 violations recorded in the City of Kingston Water Plant.

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throughout the county.<sup>56</sup> Abundant water is Ulster County's primary economic development resource for the 21<sup>st</sup> century. A collaborative effort led by the county government to find these funds, and funds to improve and extend municipal water systems, might be considered.

*Sludge.* The City of Kingston, the three villages and eleven of the towns maintain twenty-one waste water treatment plants (some quite small) and reported a total of \$9.39 million in spending on sanitary sewers. Nine towns had no sanitary sewer systems. Almost all spending on storm sewers in 2007, \$522,156 of a total of \$658,582, was in the Town of Lloyd. The Town of Hurley had significant spending in 2007 to deal with drainage problems.

In 2007, the City of Kingston entered into a fifteen year agreement with Aslan Environmental Services to build a system that used methane generated by its sewage treatment plant to dry sludge and convert it into pellets that may be used as fertilizer or fuel. (Since the Kingston plant serves parts of the towns of Ulster and Esopus, this agreement had an intergovernmental dimension.) Significant savings arise from eliminating the need to transport sludge, still 80% water, to distant facilities licensed to receive it for disposal. In accepting an award for this innovation from the New York Water Environment Association in December, 2008, plant manager George Cacchio noted, "to date, Kingston taxpayers have saved \$100,000 and eliminated more than 4,500 tons of sludge in landfills as a result of implementing this system."<sup>57</sup> Because there is not yet a viable market for the pellets produced through this process, they are distributed to those interested in using them and who will pick them up. The Town of Saugerties has used these pellets to fertilize its sports fields, providing an additional saving for that municipality.

Anticipating the prospect of growth, the Kingston sludge treatment facility was built to accommodate twice the capacity of the Kingston sewer treatment plant. Some communities in the county have already committed to other alternatives to deal with their sludge, for example the use of reed beds. But the Ulster County Resource Recovery Agency must still transport 2,500 tons of sludge annually to the Seneca Falls facility, outside of Buffalo, at a cost of approximately \$100/ton. The Executive Director of that agency, Michael A. Bemis, estimated in an interview that half this sum might be saved if this sludge could be brought to Kingston.<sup>58</sup> Front end costs are a barrier; special truck beds must be designed and built that would allow the Kingston facility to receive the sludge. But the capital cost recovery period should be rapid, and saving continuous over time. Discussions are already under way with Highland and Ulster to explore this option.

*Storm Sewers.* In 2007, Ulster County discovered serious problems regarding compliance by the county and many municipalities within it with federal regulations regarding storm water discharges from Municipal Separate Storm Sewer Systems (MS4) in urbanized areas. There are fourteen such areas in the county. In response, under the leadership of then County Administrator (now the County Executive) Michael Hein, the county developed an innovative approach to pooling municipal resources to meet MS4S regulatory requirements. Eleven jurisdictions agreed to participate. A first step involved collaboration in education and outreach, information gathering, needs assessment and response to regulators. There followed a collaborative

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<sup>56</sup> . This is a national problem. See Charles Duhigg. "Saving Municipal Water Systems Would be Costly" *The New York Times* March 14, 2010, p.1. <http://www.nytimes.com/2010/03/15/us/15water.html>

<sup>57</sup> "Aslan Environmental Services Wins NYS Award for Environmental Excellence. " <http://www.reuters.com/article/pressRelease/idUS173729+18-Dec-2008+BW20081218>

<sup>58</sup> Michael Bemis phone interview with Gerald Benjamin, August 21, 2009.

integrated mapping effort to detect and eliminate illegal discharges within municipally-owned drainage systems.<sup>59</sup> According to one estimate, this collaborative effort saved participating governments a total of \$600,000. State regulations have recently been revised to allow collaborative reporting and action in the area of storm water management. County government will seek funding in support of the development of a formal intermunicipal agreement in this area. This will open the way for cost-saving collaborative action in reporting, equipment acquisition, mapping and the education of citizens, community leaders and key local government personnel.

*Solid Waste.* As a result of federal and state actions dating to onset of the environmental movement in the late 1960's and early 1970's, the disposal of solid waste, long a town and or city function in New York State, became a county responsibility. As noted, to meet this responsibility Ulster County created the Ulster County Resource Recovery Agency (UCRRA), a public authority. After a long and sometimes contentious debate, under state mandate and with some state financial assistance, municipal landfills were closed and the service delivery model now utilized was put in place. Municipalities maintain transfer stations for residential and commercial drop off. The UCRRA handles the flow of waste from the transfer stations and arranges for recycling or disposal.

For most residents in the county who do not take their own waste to transfer stations, solid waste pickup is by private carter. The exception is the City of Kingston, which spent just over \$2 million on its municipal sanitation department in 2007. In the mid-1980's, in accord with state mandates, town landfills in Ulster County were closed, and responsibility for solid waste was assumed at the county level by the aforementioned UCRRA. Eighteen towns maintain transfer stations. Towns spent \$2.6 million on refuse and garbage disposal, with the highest spending in Wawarsing, Rochester and Ulster. Woodstock reported no expense in this category.

The New York State Comptroller's 2009 Annual Report on Local Government notes: "In localities where residents contract individually with private refuse haulers, numerous audits and reports indicate that local governments can realize substantial savings for their residents by contracting for refuse collection on their behalf." The Comptroller estimates that "...if all municipalities statewide contracted for refuse collection, the savings to residents could be as much as \$100 million."<sup>60</sup>

Pursuant to this idea, groups of Ulster County towns might join together regionally to contract with a single private carter for roadside pickup of solid waste. An incentive for recycling might be built into this contract, as it has been with success in other communities. (e.g. a significant charge per bag for waste; a lesser charge, or no charge, for recyclables). Carters could then take the waste directly to one of the two UCRRA regional transfer stations in New Paltz or Ulster, eliminating most of the need for town stations, and the transportation costs now incurred by towns. Town stations might still be maintained for the convenience of citizens that still wished to dispose of their own waste, but operated at a much reduced schedule at far lower cost.<sup>61</sup>

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<sup>59</sup> See: [http://www.co.ulster.ny.us/downloads/stormwater/MS4\\_pooled\\_resources.pdf](http://www.co.ulster.ny.us/downloads/stormwater/MS4_pooled_resources.pdf)

<sup>60</sup> Office of the New York State Comptroller. Division of Local Government and School Accountability. *2009 Annual Report on Local Governments*, p. 6. <http://www.osc.state.ny.us/localgov/datanstat/annreport/09annreport.pdf>

<sup>61</sup> Bemis interview, August 21, 2009.

An early model of collaboration -- the 1995 solid waste agreements among the Towns of Woodstock, Saugerties and Shandaken -- arose out of a unique combination of circumstances. In that year, municipalities in Ulster County and throughout the state were still closing municipal landfills. The availability of state aid and resources available from the creation of the UCRRA presented the opportunity for some communities to reconsider the role that their municipalities played in solid waste management. The Town of Woodstock decided to get out of the solid waste management business. To do so, it entered into a collaboration with the Town of Saugerties that allowed its residents to drop-off their refuse and recycling at the Saugerties transfer station. The Town of Shandaken, which theretofore was contracting with Woodstock to use its transfer station, perforce sought also to enter into an agreement with the Town of Saugerties.

Woodstock had a population in 1990 of 6,290. The population of Shandaken was 3,013. Both are largely residential. Saugerties, with 18,467 people and a substantial sized facility, saw an opportunity both to upgrade its transfer station and cover its operating costs with only a modest increase in demand. In connection with signing intergovernmental agreements for the use by its neighbors of its solid waste transfer facilities, Saugerties received an initial payment of \$17,401 from Shandaken, \$2,500 for the last quarter of fiscal 1995, and \$10,000 per year thereafter. Woodstock agreed to pay up to \$40,000 at the onset, \$5,000 for the last quarter of fiscal 1995, and \$20,000 per year thereafter. Additionally, residents of both Shandaken and Woodstock were required to pay the same residential drop off rates as residents of Saugerties. An added provision allowed the Town of Woodstock to drop off a maximum of 5,000 bags per calendar year of rubbish and trash obtained from the municipal offices and public litter baskets at no additional charge. (Any refuse beyond the 5,000 bag cap must be paid for by Woodstock at the standard residential rate per bag.)

In following years Woodstock and Shandaken took different approaches to using the money they saved with this new system. Shandaken converted its transfer station into a recycling center. Woodstock simply cut its budget. By 2001, when the full affects of these changes were complete, Woodstock had cut spending on garbage and refuse by 462%. All officials in the participating towns interviewed for this study in 2009 expressed enthusiasm for these intermunicipal agreements. They have reduced and made more predictable the costs of solid waste management for all three municipalities. In particular, Saugerties was able to offset its spending on garbage and refuse with the payments from other governments, and reduce its total spending despite its increase in population and serving other municipalities. Saugerties spending on refuse and garbage in 2007 (\$427,246) was at the same level as in 1999 (\$417,157), and 29.3% below the peak spending level reached in 2001 (\$590,327). In 2007, revenues at the Saugerties transfer station exceeded expenses by \$102,953.

Our review of town budgets in the southern and southwestern parts of Ulster County indicated that their solid waste transfer stations operate at a loss. (Map II) In all cases, though to varying degrees, revenues do not cover expenditures. There is a special problem in jurisdictions that lack the facilities to weigh construction waste, and therefore must charge to receive it on the basis of volume. (Tables XV and XVI) We sought to test, therefore, whether intermunicipal collaborations similar to the ones entered into by Woodstock, Shandaken and Saugerties might produce savings for other municipalities.

The model we propose, however, does not directly replicate the one in place in the northeast of the county. It takes advantage of two facts. Because dealing with solid waste is a "traditional governmental function," the courts have found that municipalities may franchise collection to a single provider without being found in

violation of the interstate commerce clause of the U.S. Constitution. <sup>62</sup> Second, the vast majority of Ulster County residents already contract with a private carter for waste removal. (Remember, because transfer stations operate at a loss, these residents, through the tax rolls, at the same time subsidize the operation of municipal transfer stations.)

#### Proposed Model (See Chart XIV)

- 1) In municipalities with particularly low rates of residential drop off, and in which the transfer stations operate at a loss, establish an intermunicipal agreement similar to the one between Woodstock and Saugerties to provide for the participating jurisdictions' use of one transfer station. Close the other transfer stations.
- 2) Have the collaborating municipalities get bids for residential pickup from all households in community, and award the contract a single successful bidder, who will be paid by the municipality. (Since commercial haulers effectively operate their own transfer stations and either deal with the UCRRA directly, or haul solid waste out of state at their expense, as determined by what makes best economic sense, there will be no need for the contracting municipalities to maintain their own transfer stations.)
- 3) Have municipalities charge households an annual fee for solid waste service for a specified level of usage.
- 4) Invest if necessary to assure that the remaining transfer station is properly equipped with necessary scales to fairly charge for construction debris and other waste that is not from household sources.
- 5) Establish a permit for landfill drop-off and per unit costs for delivered waste at the remaining transfer station in accord with a realistic estimate of the cost of the service.
- 6) Allow citizens who wish to opt-out clause to receive a credit from the municipality that in whole or in part offsets the solid waste fee.

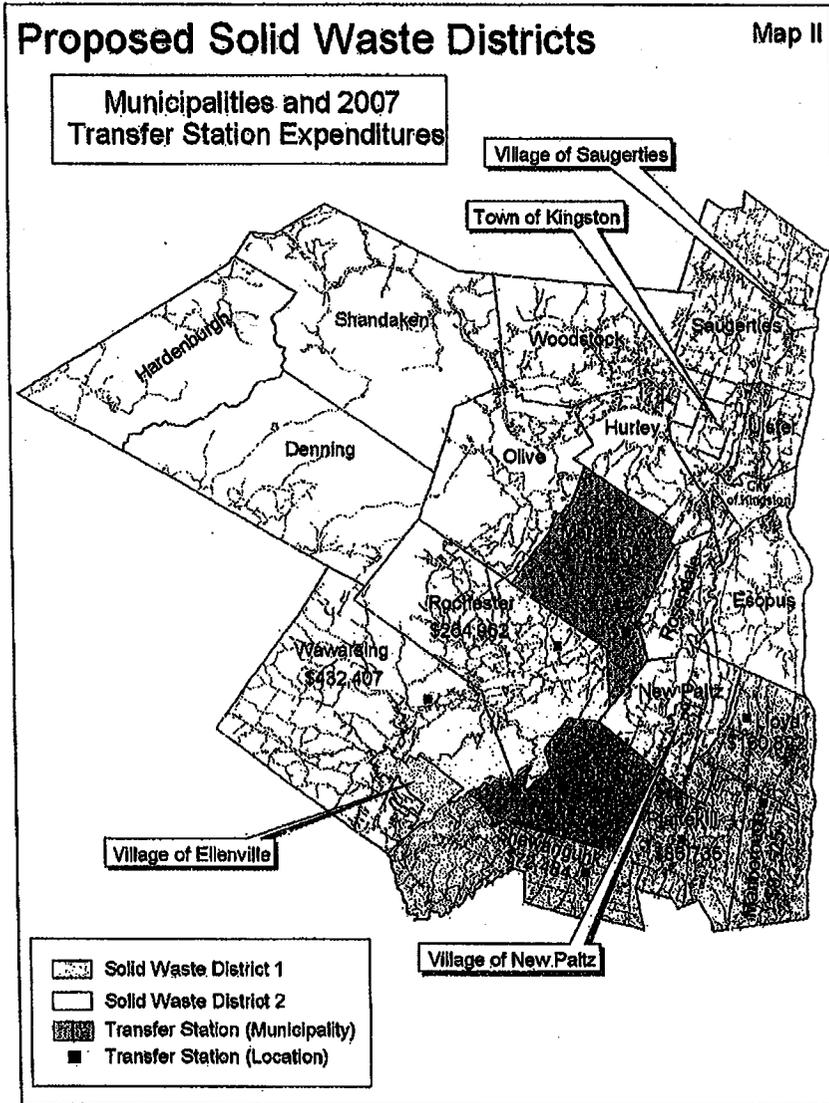
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<sup>62</sup> In 1994, in the case of *C & A Carbone v. Town of Clarkstown, New York*, 511 U.S. 383 (1994), the US Supreme Court declared that a municipal ordinance requiring that all garbage collected in Clarkstown first go to the town-owned transfer station before any further processing unduly burdened interstate commerce, and were therefore unconstitutional. However, in *USA Recycling, Inc. v. Town of Babylon*, 66 F.3d 1272, 1276 n.1 (2d Cir. 1995), The United States Court of Appeals, Second Circuit upheld the town's right to contract exclusively with a private contractor for commercial garbage and refuse pickup, with that contractor disposing of the waste in the town owned incinerator for free. This was a result of steps that the Town of Babylon took to distinguish its actions from the Carbone case<sup>62</sup>:

- Districting: Babylon created a commercial garbage service district, and let bids for the franchise contract within the district
- Bidding: since the contract for exclusive rights for pickup was awarded to the lowest bidder, and out of state companies were able to bid, the arrangement did not interfere unfairly with interstate commerce
- Free Use of the Incinerator: by providing the use of the town owned incinerator for free, the town was effectively able to control the flow of solid waste by allowing the economics of the situation dictate the result, rather than by mandating a disposal location.
- Taxing: the town imposed an annual benefit assessment on each parcel of commercial property in the district to pay for the contract

In Ulster County, the concern is not so much with flow control as it is with the legality of contracting exclusively for garbage pickup. Here the law is very clear. Since garbage pickup is traditionally a local government function, the creation of a solid waste district replaces town-owned infrastructure with a contract with a privately owned company.

- 7) Note that under current practice each municipality pays the RRA tipping fees and transportation costs. Under the proposed plan, these costs would largely be paid by the contracted private company.



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| Transfer Station Operating Costs |              | Table XV  |           |
|----------------------------------|--------------|-----------|-----------|
|                                  | Expenditures | Revenues  | Loss      |
| Wawarsing                        | \$432,407    | \$204,329 | \$228,078 |
| Rochester                        | \$264,962    | \$257,600 | \$7,362   |
| Marbletown                       | \$144,608    | \$125,000 | \$19,608  |
|                                  | \$841,977    | \$586,929 | \$255,048 |

| Transfer Station Operating Costs |              | Table XVI |           |
|----------------------------------|--------------|-----------|-----------|
|                                  | Expenditures | Revenues  | Loss      |
| Lloyd                            | \$160,822    | \$70,000  | \$90,822  |
| Marlborough                      | \$82,525     | \$40,000  | \$42,525  |
| Plattekill                       | \$86,735     | \$81,134  | \$5,601   |
| Shawangunk                       | \$72,484     | \$36,337  | \$36,147  |
| Gardiner                         | \$93,058     | \$67,500  | \$25,558  |
|                                  | \$495,624    | \$294,971 | \$200,653 |

| Transfer Station Utilization |       | Table XVII |       |
|------------------------------|-------|------------|-------|
|                              |       |            |       |
| Wawarsing                    | 1,051 | 5,821      | 18.1% |
| Rochester                    | 1,800 | 3,750      | 48.0% |
| Marbletown                   |       | 2,846      |       |
| Marlborough                  | 20    | 3,176      | 0.6%  |
| Lloyd                        | 904   | 3,818      | 23.7% |
| Plattekill                   | NA    | 3,888      | NA    |
| Shawangunk                   | 493   | 3,754      | 13.1% |
| Gardiner                     | 750   | 2,255      | 33.3% |

\* This % is inflated by households that buy permits for more than one vehicle, and households that buy a permit, but only use it for tires, refrigerators, etc.

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This plan would:

- Reduce the cost of residential pick up for those who already contract for service, by achieving economy of scale for a single provider through the franchise process. Provide families that do not now use residential pickup an opportunity to have this service, likely at a lower price than now available.
- Reduce expenditures on solid waste management for some contracting municipalities by eliminating the need to staff and operate transfer stations.
- Retain the drop-off options for families that wish to use it.
- Open up a revenue stream for the municipality that retains the transfer station, offsetting its operating costs and increasing the prospect of its operating in the black.
- Make solid waste management costs for communities and citizens predictable and stable over time.
- Reduce the waste management carbon footprint by eliminating travel through the same neighborhoods by the trucks of multiple providers.

#### Testing the Model - Solid Waste Districts 1 and 2

Municipalities with larger and denser populations tend to have higher garbage and refuse expenditures (the Town and Village of New Paltz are notable exceptions; there is a regional RRA transfer station in New Paltz.) In order to maximize potential savings, and minimize costs per household, it makes sense to consider this model in towns with larger populations and therefore greater waste management expenditures. As seen from **Tables XV and XVI**, towns with higher expenditures have larger net losses. Also, since they contain more households, they have more bargaining power when acting collaboratively.

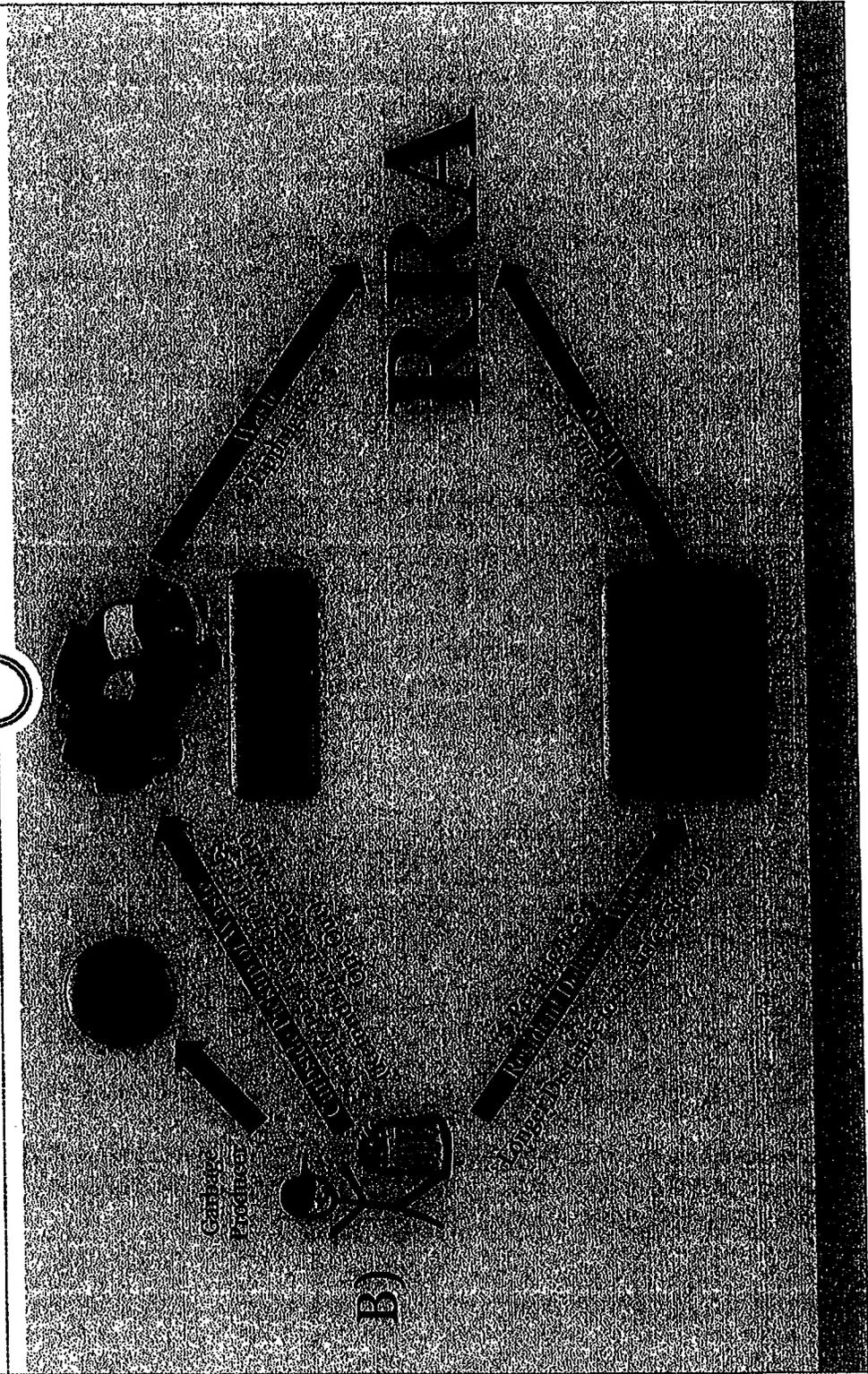
#### *Proposed Solid Waste District 1*

The Town of Wawarsing Transfer Station operated at a \$228,078 loss in 2007; it received \$204,329 in fees and an additional \$4,309 from the Village of Ellenville for municipal waste disposal. It spent \$122,407 on personal service, and an additional \$310,000 for contractual expenses. In addition, most residents in the town paid for curbside pickup; only 18% of households utilized the transfer station for drop-off. (**Table XV**)

The Town of Rochester, though in better shape than Wawarsing, also operates its transfer station at a loss. According to its 2007 audited budget, Rochester spent \$73,436 on personal service and \$191,526 on contractual expenditures, for a total of \$264,962. There was \$257,600 in revenues, creating a net annual deficit of \$7,362. In Rochester, 48% of households utilize the transfer station for drop-off.

Expenses in the Town of Marletown for operating its transfer station in 2007 were \$36,608 for personal service, and \$108,000 in contractual expenses. In 2007, the transfer station received \$125,000 in revenues. It therefore operated at a \$19,608 net loss.

# Proposed Model



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A proposed solid waste district transfer station might be located in Marletown. The town might benefit both from the revenue streams it would realize from its partners under contract, and from their initial capital contribution (perhaps spread over several years, and funded out of savings) for equipment to assure that proper fees for services were levied upon users.<sup>63</sup>

#### *Proposed Solid Waste District 2*

In southeastern Ulster County the towns of Shawangunk, Plattekill, Marlborough and Lloyd present another opportunity in that they are in close proximity, are well connected by road (The presence of the Shawangunk mountain range in the middle of the county presents an obstacle to collaboration among some towns in this area of policy), have mid-level garbage and refuse costs, and serve citizens likely to support less expensive curb side pickup of refuse. (Table XVI)

The Town of Lloyd operated its transfer station in 2007 at a loss of \$90,822. Costs were \$44,771 in personal service, \$76,377 in fees to the RRA and an additional \$39,674 in contractual expenditures. These were offset by \$70,000 in revenues. In addition to this, 76% of households currently contract for curbside service. The Town of Lloyd Transfer Station no longer accepts construction and demolition debris.

In the same year, the Town of Marlborough operated its transfer station at a \$42,525 per year loss. Spending included \$24,225 for personal service, and \$58,300 in contractual expenditures; there were \$40,000 in offsetting revenues. Fewer than 1% of households in the town utilized the transfer station for drop-off of residential trash bags. (Table XVII) However; more used it for disposal of tires, appliances, lawn waste, etc.

The Town of Plattekill has recently seen a huge growth in its solid waste expenditures. From 2007 to 2008 the actual expenditures for the transfer station grew from \$4,383 to \$86,735. This later year total was offset by \$81,134 in fees. Thus, the annual loss was small: \$5,601. The tremendous increase in solid waste expenditures and revenues in Plattekill is a bit misleading. The scale of operations did not change. Previously the Town contracted with a private individual to run its transfer station, charge fees, and pay expenditures to the RRA. But the contractor did not pay the RRA, leaving the Town to foot the bills. The contract was summarily terminated, leaving Plattekill in an immediately awkward position of having no operating transfer station. Initially residents who disposed of their own solid waste needed to go to the regional transfer facility run by the RRA in New Paltz. The Town of Gardiner then agreed to allow Plattekill residents to utilize its transfer station until the Plattekill station could reopen a few weeks later. As a consequence, there is no accurate record of the number of residential permits issued in Plattekill in a recent year; to this date the town of Plattekill does not sell residential permits, opting to charge for household waste disposal by the bag. The transfer station charges for debris by the yard.

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<sup>63</sup> The Executive Director of the Ulster County Resource Recovery Agency, Michael Bemis, indicated in an interview that one major reason transfer stations operate at a loss is the inequity inherent in charging by volume for construction debris and waste. By upgrading an existing facility with scales, the transfer station may assure that the fees are charged by weight, and are therefore accurately assessed. The proposed intermunicipal agreements would be written to assure that the operating transfer stations have the proper equipment to accurately assess the fees for construction debris and waste.

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The Town of Shawangunk did not list any personal service in its budget for its transfer station. (In the 2009 budget there is \$12,000 designated for a part time employee.) In 2007, Shawangunk spent \$72,484 in contractual expenditures which was offset by \$36,337 in revenues. In net terms the transfer station operated at a \$36,147 yearly loss. The Shawangunk transfer station measures debris by the yard. 13.1% of households utilize it for drop-off.

The Town of Gardiner recently spent \$400,000 in renovations and upgrades to its transfer station site and bonded to pay the bill. Instituting a collaborative plan, and designating a solid waste district in which neighboring towns would contract with the Town of Gardiner to dispose of municipal waste could help Gardiner to repay its bond more quickly, relieving the financial burden on the residents of Gardiner. Approximately 33% of households in the Town of Gardiner use the transfer station for residential drop-off.

Under the models proposed, people who already contract for pickup (a vast majority of households) would likely save money annually because of the economy of scale offered a single franchisee under a contract negotiated by the town government. The towns will save money because they will no longer have to pay to operate a transfer station, and will incur minimal costs to dispose of municipal government waste. Substantial savings are likely over time from current operating costs, net of short term transitional expenses and possible capital costs to upgrade the facilities that would remain open. A precise calculation is not possible without knowing the costs of the contracts each town would reach with its partners in a regional venture and with private carters after competitive bidding. Trucks from multiple companies would cease to ply the same routes, with concomitant reduction in pollution and an energy savings increase. Meanwhile, citizens who now dispose of their own waste would have a reduced financial incentive to do so, but could continue with this practice if they so wished.

*Social Services.* One consequence of the unique provision of our State constitution that makes "The aid, care and support of the needy... public concerns..." is that public assistance is required under a Safety Net program in New York for persons whose eligibility has expired or who were never eligible under federally subsidized programs.<sup>64</sup> State funds pay half this bill; localities must cover the other half. Historically in New York poor relief was a local community responsibility. When federal and state welfare programs were developed during the Great Depression and after, New York was unusual among the states in retaining partial fiscal responsibility for these at the local level (This practice in New York remains controversial). In Ulster, unlike in other counties in New York State where the remaining local responsibility for public assistance has been shifted to the county level, towns and the City of Kingston cover this local share.

One effect of this practice is that the burden of the Safety Net is greatest in the City of Kingston and in towns with villages, places in which less expensive housing and public transportation are more available, and where low wage employment is more likely to be found.<sup>65</sup>

Though the city and towns may have welfare officers to administer this responsibility, many do not. Sometimes this is an additional duty for Supervisors. Proponents of continuing this practice argue that retaining administrative responsibility at a very local level helps assure that claims are legitimate. But the county government, as an agent of the state, determines the eligibility of person for assistance and establishes

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<sup>64</sup> New York State Constitution. Article XVII. Section 1.

<sup>65</sup> Interview with former Ulster County Social Service Commissioner Glenn Decker, August 27, 2009.

where he or she lives for the purpose of determining the locality required to provide assistance. Moreover, it is no longer the case that the town must issue a check to individual recipients of benefits. Rather a debit card is now issued by the county, with costs charged back to the town or city. This is one of several instances in the intergovernmental relationships in Ulster county, like those between the state and its counties, in which decisions are made by one government that impose costs on another, and in which a sorting out should be considered.

### **Choosing to Deliver Services Together**

The New York State Constitution provides that local governments may "agree... to provide cooperatively, jointly or by contract any facility, service, activity or undertaking which each participating local government has the power to provide separately."<sup>66</sup> In accord with this authorization, and its intention, adjacent and overlapping municipalities in Ulster County already collaborate formally and informally in the delivery of services, and in the use of facilities. By size of budget and numbers of employees, the provision and maintenance of highways is the most significant function shared by all of Ulster's municipalities. As detailed in Special Study A, there is already extensive cooperation, most informal, in this area: great potential remains to achieve even greater efficiency through enhanced collaboration.

As noted above, a number of towns in Ulster County share assessors. Additionally, Supervisors report significant collaboration in the area of animal control. It is not uncommon for communities to publicize county programs in town halls, and even provide space for other governments in order to ease access to services, or enhance service levels, for community members. For example, there is an office for the Federal Department of Housing and Urban Development in the Saugerties Town Hall. Another example: Gardiner's built its new Town Hall with space for a substation for the New York State Police.

The mobile unit of the Ulster County Clerk's Office travels to Marlborough, New Paltz, Saugerties, Ellenville and Shandaken weekly to make itself more accessible to citizens seeking to process Drivers Licenses and Learners Permits, obtain Non-Driver Identification, process registrations and obtaining plates for Passenger, Commercial, Trailers and Motorcycles, keeping receipts for these services in the county.<sup>67</sup> The County Department of Social Services staffs its Food Stamps program on a scheduled basis in the Saugerties Town Hall.<sup>68</sup>

*Highways.* Highway and road construction, operation and maintenance is a responsibility of all general purpose local governments in Ulster County, and is the largest area expenditure for most. Total spending for highways in the county in 2007 was \$41,540,711. Close to an additional \$3 million was spent for transportation facilities, miscellaneous and ancillary transportation expenses; much of this was likely highway related.

Highway spending as a proportion of the total local budget was highest in 2007 in Denning and Hardenburgh, the county's most rural, least populous jurisdictions. The proportion was lowest in the Village of New Paltz and the City of Kingston. Though highway costs constituted only 7.4% of the county

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<sup>66</sup> Article IX, Section 1.c.

<sup>67</sup> <http://www.co.ulster.ny.us/countyclerk/dmvmobile.html>

<sup>68</sup> See <http://saugerties.ny.us/HUD/hud.html>

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government's 2007 budget, the level of spending for highways was \$17,047,554<sup>69</sup> (Importantly, the county's fiscal discretion in this policy area is greater than in many others.) The property tax for highways is separately levied by towns, but not for the county, the city or the villages. Unlike their counterparts in the county, the city or the villages, town highway superintendent are elected officials. Extensive recommendations for intergovernmental collaboration to substantially reduce costs of highway maintenance are a major focus of this report, incorporated as Special Study A.

*Police.* Spending for police by local governments in Ulster County in 2007 totaled \$26,084,096, not including benefits.<sup>70</sup> Of the sixteen police departments in the county, one each were maintained by the county and city governments, two by village governments and twelve by towns. The remainder of towns had no police departments. Saugerties has both village and town police departments. In New Paltz, police services are provided in the village by the town. Wawarsing has no police department, while the Village of Ellenville, within its boundaries, maintains one. The departments in Plattekill, Olive and Rosendale are made up entirely or almost entirely by part-time officers.

The County Sheriff, an elected official, heads a department with a 2007 budget for police of \$5.73 million. Police costs equaled or exceeded those for highways in four Ulster County localities: the City of Kingston, the towns of New Paltz and Ulster and the Village of Saugerties. (In March, 2010 village voters approved the merger of its police department with that of the Town of Saugerties, where police require 10.9% of the town budget.) In 2007 in the Town of New Paltz the police function required almost a quarter of the budget (24.3%), in the Town of Ulster 17.9%, in the City of Kingston 16.55% and in the Village of Saugerties 15.7%. This pattern of service delivery regularly raises issues of equity in the distribution of cost and benefits.

According to the New York State Division of Criminal Justice Services, Ulster County's local governments reported employing 317 people full time and 213 part-time in 2007 in their police departments.<sup>71</sup> Of the full-time personnel, 266 were sworn officers; of the part-time staff, 155 were sworn officers. A survey by the International City and County Management Association done in 2006 shows that in the United States there are, on average, 2.12 police officers per 1,000 people in localities with populations between 10,000 and 24,999.<sup>72</sup> Counting full-time sworn officers only, this ratio was exceeded in 2007 Ulster County by the City of Kingston (3.27), and the Towns of New Paltz (3.07) and Ulster (2.23). This suggests that there may be opportunities for savings from a review of staffing in these communities.

The Ulster Regional Gang Enforcement Narcotics Team (U.R.G.E.N.T.) is the principle example of intergovernmental collaboration in law enforcement in Ulster County. Organized under the leadership of the Sheriff's Office in 2007, URGENT includes participation by several national and state police and law enforcement agencies and the local police departments of the City of Kingston, the Village of Ellenville, and

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<sup>69</sup> This total does not include \$2,672,035 in facilities costs and \$114,249 in ancillary costs, as these may, in part, support other transportation spending.

<sup>70</sup> Totals do not include expenditures for the State Police, Department of Environmental Conservation police or SUNY New Paltz campus police, as these are state agencies, not local governments. Nor do these totals include police expenditure by New York City on security for its watershed properties in the county.

<sup>71</sup> Ulster County Planning Department. *Data Book* (2008) "Ulster County Law Enforcement Personnel by Police Department, 2007" <http://www.co.ulster.ny.us/planning/ucpb/dema/databooks/Police%20Officers.pdf>

<sup>72</sup> *Sourcebook of criminal justice statistics Online* <http://www.albany.edu/sourcebook/pdf/t1642006.pdf>

the towns of Ulster, Woodstock and New Paltz. This program reported some success in combating drug trafficking and gang violence in the county in its first two years of operation. The Sheriff wrote in his department's 2007 annual report: "URGENT is a cooperative effort, an experiment on how a regional police community made up of many individual parts can interlock – and also use fast-changing technology – to fight a difficult and dangerous societal problem."<sup>73</sup>

The New Paltz Police Department has two certified Drug Abuse Resistance Education (DARE) instructors who teach an awareness program in the New Paltz Central School District, but at the town's expense. In another example of collaboration, the Kingston Consolidated School District contracts with the City of Kingston for police services in its schools. This second model, contracting for services from an overlapping or adjacent jurisdiction, is a common pattern across the country for reducing costs while leaving control of the level of service with the contracting locality. In this way, a service may be "provided" without being "produced" by that entity.

*Water.* In New York State, all water systems serving five or more homes or facilities are regarded as "public," and must be inspected by the County Department of Health, acting as an agent of the state, to assure that they meet health and safety standards. Ulster County has four municipal systems – the City of Kingston and the three villages – and fourteen that are organized as special districts within towns. In addition, Hurley is served by a private water company. One Village mayor said in an interview that "the most important thing we do is provide water under the law."

Built at a time when the city and village populations were larger, the four municipal water systems have capacity beyond their needs, and have therefore sought to extend service to adjacent communities as they became more densely settled. Another village mayor described his village's water system -- the ability it provides to generate revenue -- as "our salvation." There is already intergovernmental collaboration in place in the provision of water in the county's communities: the Golden Hill and Ulster Water Districts (City of Kingston), the Glasco Water District (Village of Saugerties), and the Town of New Paltz Water District (Village of New Paltz). A recent intergovernmental agreement further extended the availability of Kingston City water in the Town of Ulster. Marlborough contracts for water from the Town of Newburgh, in Orange County.<sup>74</sup>

A 1970 study proposed the development of six integrated water supply areas to meet projected needs for Ulster County.<sup>75</sup> In a following study, completed for Ulster County in 1989, the prospect was raised of integrating existing water systems in two sub-regions of the county, the southeast (New Paltz, Lloyd, Marlborough, Newburgh) and along the Thruway corridor (Kingston, Ulster and Saugerties). Both steps would provide participating towns with multiple sources of water. Kingston and Saugerties have independent systems. New Paltz now draws upon the NYC Catskill system, Highland on the Hudson River and Marlborough (through Newburgh) on the NYC Delaware system. These regional approaches would be most

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<sup>73</sup> Ulster County Sheriff's Department. *2007 Annual Report* (Kingston: Office of the Sheriff, p. 6). Ulster County Legislature. "Ulster Regional Gang Enforcement Narcotics Team (URGENT)" Press Release of March 1, 2007. See also the Sheriff Departments 2008 Annual Report, p. 7.

<sup>74</sup> See the remarks of the Mayor at <http://www.ci.kingston.ny.us/content/62/66/default.aspx>

<sup>75</sup> NYS. Department of Health. *Comprehensive Water Supply Study for Ulster County* (July, 1970)

valuable if one or the other source goes off line, as will happened when New York City sequentially closes its Delaware and Catskill systems for rehabilitation.

Additionally, the 1989 study identified potential long-term water supply issues in Gardiner, Shawangunk and Plattekill, three fast growing towns in the southern part of the county in which most places rely upon individual wells. In this case, however, there is no easily envisioned regional approach that might be connected to substantial municipal systems in place.

In all three cases, regionalization of water systems would be extremely costly. However, growth makes long-term reliance on individual wells problematic, and the availability of ample water and sewer capacity is an essential economic development resource. As a first step, this argues for a need to update the countywide study completed two decades ago.

*Emergency Medical Services.* Emergency Medical Response in Ulster County is in the midst of evolving from a largely volunteer to a largely paid service, with local governments assuming a significant role for covering costs. Most recently, the volunteer service in Marlborough was decertified, requiring the town to enter into a contract with a private provider. There are two basic factors driving these changes. First, there is the well known shortage of volunteers. Second, even when volunteers can be found, it takes considerable time to fully train each one to meet state standards, and to have him or her comfortably serve in response to emergencies.

The Marlborough contract provided for 12 hour per day coverage, Monday to Sunday. If the person who summons it is insured, the ambulance service's first claim for payment is to that company. The town's obligation is for uninsured person or charges beyond those covered by insurance, up to the limit of its agreement with the company.

Some communities in Ulster County have no recent experience with volunteer ambulance services. Highland also contracts with a private provider. In the City of Kingston and the Town of Ulster, emergency response has long been provided by private companies only. Hardenburgh and Denning are too thinly populated to sustain such volunteer efforts.

Payment is also used to augment volunteer service to elevate the level of care available from emergency responders. Of the sixteen community-linked ambulance corps in the county, eleven are staffed by EMT's who can provide basic life support. Just five -- in Ellenville, New Paltz, Shandaken, Woodstock and Saugerties -- offer more advanced Para-Medic services. In the Saugerties area, the Diaz Ambulance Service, a not-for-profit organized in 1978 and named for its original benefactor, employs paid staff. The ambulance services in New Paltz and Woodstock, staffed primarily by volunteers, pay paramedics to maintain this higher level of service. Shandaken provides ambulance response as a municipal service, paying part-time personnel on a per call basis. Ellenville First Aid and Rescue is another example of a volunteer staff supplemented by a paid paramedic.

Volunteer services are paid for, in part, by billing costs back to insurance companies whenever this is possible. A disincentive to the continuation of companies like Hurley and West Hurley within their current governmental structure is that state law prohibits such billing. Town governments may make payments or provide in-kind services (e.g. gasoline, vehicle maintenance) to cover such costs. Given the recent trend described above, the total cost of emergency medical services to local governments is likely to increase substantially in the years ahead.

Ulster is within the Hudson Valley EMS Region. It must maintain a county EMS Council and coordinator, and develop an EMS plan for state approval. Beyond this, the county's government's modest involvement with Emergency Medical Services is linked to general responsibility for emergency dispatch and preparedness. But this service is highly valued by citizens; it is literally life-saving.

With volunteerism diminishing and costs increasing, contracting with one or more private providers may make sense. But at the same time it, may make little sense to simply contract town-by-town - to continue service delivery within traditional town government boundaries - without considering regional alternatives. The Town of Marlborough unsuccessfully sought to collaborate with the Town of Lloyd in contracting with Mobile Life for ambulance service. Examining the reasons for this outcome might help further identify the potential value of such an approach, and the barriers to it. It may be timely, too, for the county to take the lead in developing a plan through which Ulster's communities can together assure and pay for essential emergency medical response services for its citizens, delivered efficiently and effectively and paid for fairly.

*Emergency Dispatch.* All police, fire and emergency medical calls made to 911 are received and responders dispatched by the county Emergency Dispatch Center.<sup>76</sup> The volume of such calls has been steadily increasing in recent years. In 2008, this center received a total of 84,766: 41,884 for police, 17,991 for fire and 24,891 for emergency medical services.<sup>77</sup> The County Sheriff's department, the State Police, the Police and Fire Departments in the City of Kingston (separately for police and fire, until this year) and towns with 24 hour police services maintain their own dispatch services for calls directly received. However, the town of Woodstock recently decided to turn all fire and EMS calls over to county dispatch.

A number of counties in New York State maintain a single dispatch center for all police, fire and EMS calls.<sup>78</sup> This alternative has been discussed for Ulster County both within the county government, and in some municipalities. Severe budget pressures in 2009 again brought this option to the fore in some jurisdictions, for example the Town of New Paltz and the City of Kingston. Such a step is resisted by employee organizations because jobs would be lost, and by departments that wish to maintain autonomy and control. Additionally, a shift in responsibility for this function would require the county to hire additional personnel at a time that it also must reduce staffing. Thus consolidating dispatching, though it would likely result in overall savings, has not been pursued. In this, as in other areas, a fair solution may be to centralize service delivery at the level at which greatest efficiency may be achieved, while charging back some or all costs to communities actually demanding and receiving dispatch services.

*Records Management.* The New York State Archives is responsible for providing guidance to local governments on the management of their records.<sup>79</sup> By Local Law in 1986, the County Legislature gave responsible to the County Clerk, an elected official, for Ulster's records management. A state grant received in 1999 financed the completion of MARC descriptions for approximately 930 cubic feet of records and their entry into a

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<sup>76</sup> For a discussion of the establishment of the 911 collaboration in Ulster County see Gerald Benjamin and Richard Nathan. *Regionalism and Realism* (Washington: Brookings Institution Press, 2001) pp. 209-212.

<sup>77</sup> See data reported for the past four years at <http://www.co.ulster.ny.us/emergencyservices/communications/stats.html>

<sup>78</sup> In fact, Allegany, Steuben and Schuyler Counties are considering creating a shared, multi-county regional emergency response center. See <http://www.eveningtribune.com/news/x1692321930/Consolidation-of-some-911>

<sup>79</sup> See Thomas D. Norris. "The Seven Attributes of an Effective Records Management System" (Albany: New York State Education Department, State Archives, Records Management Services, 2002) [http://www.archives.nysed.gov/a/records/mr\\_pub61.pdf](http://www.archives.nysed.gov/a/records/mr_pub61.pdf)

Primary Archival Database.<sup>80</sup> At the conclusion of the grant cycle, Ulster County created a position in the budget and hired an archivist as a permanent full time employee.

In ensuing years, the creation of this position has resulted in the county being a center of expertise in the region for record preservation and management. The office of the Clerk reports that it assists both County departments and municipalities within the county with "assessment, processing and storage, retrieval and re-file of records, full micrographic services, records management consultation, general records storage and disaster planning."<sup>81</sup> Relationships have been established with county, city, and town historians. Recently, assistance was provided to the Town of Ulster Police Department with a Records Inventory and Planning Project, and to the library in that same town with the accessioning of the "Crosby Collection" into the Hall of Records for temporary storage.

The State Commission on Efficiency and Competitiveness recommended in its final report that the management of vital records, now handled at the city, village and town level, be moved to the county level. When interviewed, several town officials argued for the retention of this function at the town level for the convenience of citizens. The state county clerk's association has not been supportive of moving this function.

There appears to be significant additional potential in the County Clerk's office for advising and coordinating records management in Ulster's municipalities, with possible financial savings and more efficient space utilization.

*Recreation.* Interviews for this study revealed a major commitment by the county's municipalities to recreation programs for citizens, and especially summer camp recreation for children. Total municipal spending on recreation in Ulster County in 2007 was \$8.4 million. Of this, 10.9% (\$914,196) was county spending. Among other municipalities, spending levels ranged from \$2 million in the City of Kingston and \$1.1 million in Saugerties to \$210 in Hardenburgh and \$1,020 in Denning. The highest spending per capita (\$93.70) was in the City of Kingston. Among the towns, highest spending per capita jurisdictions were in New Paltz (\$47.81) and in Saugerties (\$32.13). (Chart V)

Recreation is an area where taxpayer costs are substantially diminished through the collection of fees for service. Total Spending in 2007 was offset by a total of \$1.45 million in fees collected (17.3%). Additionally in that year, state aid for recreation totaled \$1.47 million, leaving 65.2% (or 17.5%) of the overall costs to be borne by the general tax levy. Reliance upon fees has increased substantially over time. In 1996 fees (\$511,820) constituted 12.9% of the total cost of recreation (\$3,955,675); 6.9% was covered by state aid (\$248,102).

Facilities vary enormously from community to community. County facilities – the pool in New Paltz, for example – benefit residents of both the host community and surrounding towns. Rosendale's pool is a major town resource. In an example of collaborative service delivery, New Paltz, the Town and Village share the expense of the Moriello pool and surrounding park. The Town of New Paltz maintains a BMX track and has built a new sports and recreation facility. Saugerties's commitment to recreation programming is extraordinary. Its facilities include: 11 baseball fields (five lighted); 4 regulation size soccer fields (two lighted); 1 Olympic size enclosed refrigerated ice rink; 4 lighted tennis courts; 4 pavilions (two with full service kitchenettes); 1 conference center; 1 senior citizen's multi-function recreational center; 3 basketball courts; 3

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<sup>80</sup> Ulster County Clerk. *Ulster County Clerk's Office Records Management Program: Overview of Programs services and Outreach*, Communication to Gerald Benjamin of September 4, 2009.

<sup>81</sup> See the Clerks' website at <http://www.co.ulster.ny.us/countyclerk/recordsmgmt.html>

playgrounds (including small world playground); 1 covered band stage; 2 covered grandstands; and 8 horseshoe pits.<sup>82</sup>

Summer programs for children, though occasionally criticized as an unnecessary expense, are strongly supported in most communities. Where they have been cut back, as was the case in the town of New Paltz, there are active discussions about their restoration. In general, towns make their summer recreation program and pools available to their residents first and then to residents of adjacent communities on a space available basis, at an increased fee.

Often one town has facilities for its program – for example, a swimming pool – that another may not. Additionally, there are likely personnel associated with the summer or year round program in one town that have skills that might be useful to a neighboring community. However, there were no reports of collaboration at the governmental level between or among programs. In these circumstances, the facilities in one town might be made available on a collaborative or exchange basis with those in another, either enriching programs or reducing the cost of renting facilities or hiring specially skilled staff on a fee basis.

### **The County's Local Governments as Customers - Collaborating in Meeting Common Needs**

A third distinct area of intergovernmental collaboration is that in which the municipality is the customer. As conventionally understood, a local government is a customer when it deals with an outside vendor to obtain goods and/or services – ranging from road materials to legal advice. But also, one part of the local government that provides services directly to citizens may be seen as the internal customer of another that supports it; thus a local highway department becomes the “customer” of maintenance or clerical personnel who do not directly fix the roads, but support those who do.

*Purchasing.* Collaboration in purchasing of some goods and services, “buying off the county bid,” is a well-established practice. This may also be done statewide, using the state bid. The state associations of local governments led in the establishment of the New York Municipal Insurance Reciprocal (NYMIR) through which 600 jurisdictions now purchase their insurance.<sup>83</sup> In Ulster County, Denning is the sole current municipal participant in NYMIR; two jurisdictions have participated in the past, but have ceased to do so.

The Ulster County government participates in the Municipal Electric and Gas Alliance (MEGA), a non-profit consortium established to aggregate buying power so as to reduce gas and electric costs to local governments in the state.<sup>84</sup> Both the county government and the City of Kingston are members of the Hudson Valley Purchasing Group, a commercial initiative of the Bidnet Company.<sup>85</sup> This effort is described on its website as “a group of municipal agencies located in New York's Hudson Valley Region that joined forces in March 2002 to create this Regional Bid Notification System to notify businesses of bid and contract opportunities.”<sup>86</sup>

In 2009 fourteen municipalities in Westchester County passed resolutions to join the Northern Westchester Energy Action Coalition in order to become eligible for U.S. Department of Energy grants seeking to

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<sup>82</sup> See the Town website at: [http://saugerties.ny.us/parks\\_recreation/parks.html](http://saugerties.ny.us/parks_recreation/parks.html)

<sup>83</sup> See the NYMIR website <http://www.nymir.org/>

<sup>84</sup> See the MEGA website at <http://www.megaenergy.org/>

<sup>85</sup> *Interactive Procurement Technologies by Bidnet* <http://www.iptbybidnet.com/Overview/>

<sup>86</sup> See the Hudson Valley Municipal Purchasing Group website at <http://www.govbids.com/scripts/hvmpg/public/home1.asp>

promote conservation and efficiency that are not available to smaller jurisdictions. A first initiative is to seek resources that would allow participating jurisdictions to provide low-interest loans to homeowners, to be paid back from home energy cost savings.<sup>87</sup>

There is some predisposition among local officials to purchase goods and services locally whenever legally possible, to support community businesses/taxpayers. Some supervisors argue that such an approach not only produces good will, but results in the timely delivery of quality service, at competitive prices. Town Supervisors in Ulster say they use the county bid for purchasing selectively, because, they say, in some particular circumstances the county does not get the best price. One idea offered is to allow any county municipality to take advantage of the county bid, or a price below that bid obtained by another local government within the county. However, such a change in practice would provide a disincentive to vendors seeking the county bid; it would also likely require changes in state law.

*Medical Insurance.* The 2008 Report of the State Commission on Local Government Efficiency and Competitiveness identified employee health insurance benefits as a major local government cost driver.<sup>88</sup> In Ulster County, the total cost of employee health insurance coverage for the county, City of Kingston, towns, villages and school districts in 2008 was \$95,542,813. (Chart VI) The overall increase between 1996 and 2008, driven both by higher premium costs and increased numbers of persons covered, was 211%. The greatest aggregate percentage increase was experienced by school districts; the smallest by villages. For the county, the city, towns and villages, medical insurance costs in the county were about 6% of all spending in 2007, a significantly lower proportion than that reported by the state commission for local governments statewide.

Local government leaders have struggled in recent years to reign in health insurance costs, seeking less costly alternative providers and employing techniques recommended by the state Comptroller and others.<sup>89</sup> A particular issue statewide, a survey by the State Civil Service Department showed, is that a significant number of local jurisdictions in New York require no employee contribution to covering the costs of their health care coverage. Moreover, where contributions are required they average only 10% of total costs.<sup>90</sup> From a review of the limited number of labor contracts in Ulster County provided to us by municipal governments, we found that a number of communities still pay a 100% of medical benefit costs for police, and other active employees. With few exceptions full time elected officials - town supervisors, clerks and highway superintendents -- receive medical benefits concomitant with those provided unionized employees. Health benefits are also provided to town justices in fifteen of the twenty Ulster County towns, county legislators and town board

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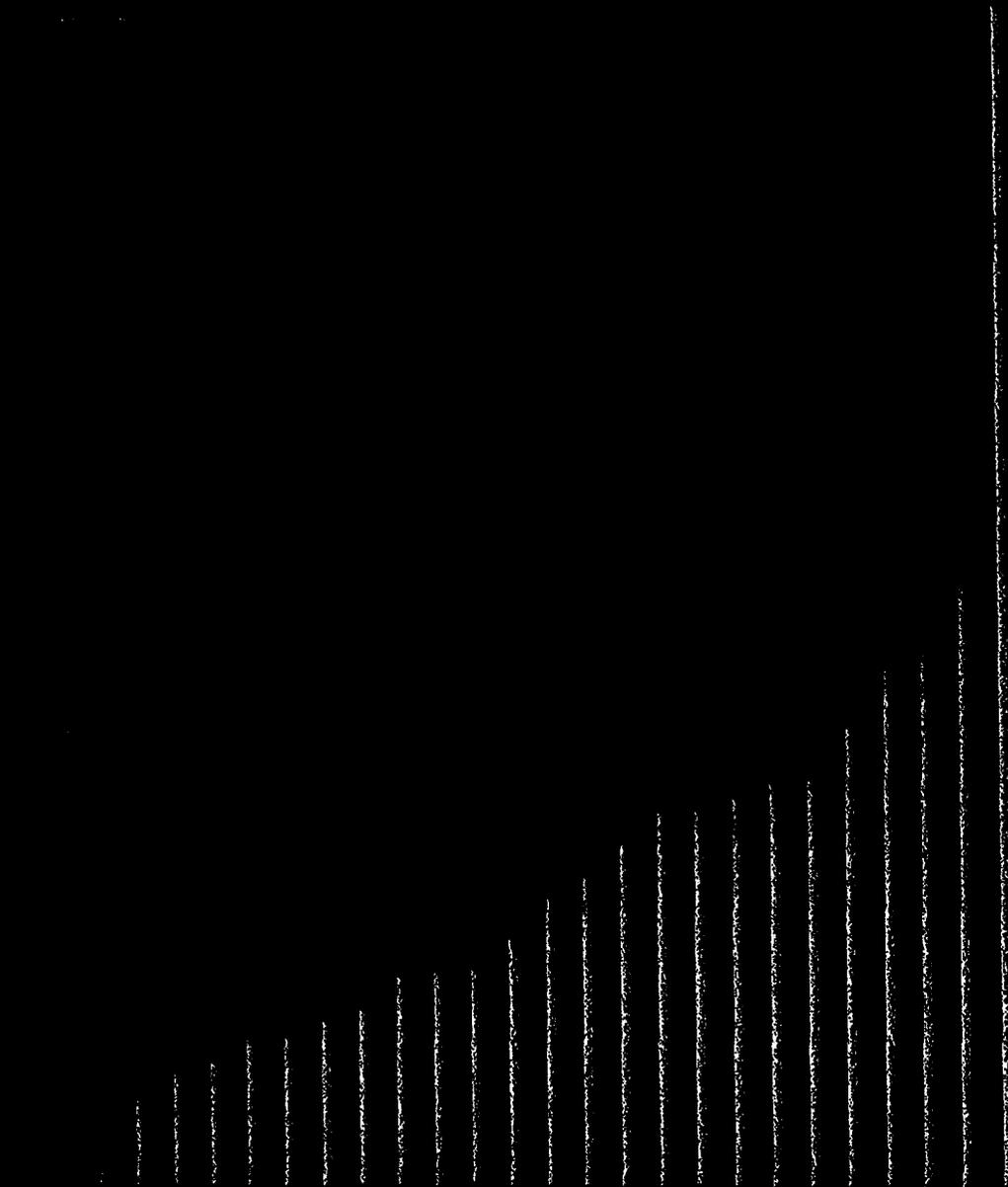
<sup>87</sup> . Martin Wilbur. "Coalition Targets Federal Grants for Residents to Save Money" *The Examiner*, December 15-21, 2009, p. 6.

<sup>88</sup> Sate Commission on Local Government Efficiency and Competitiveness. *Public Employee Health Insurance Contributions*. [http://www.nyslocalgov.org/pdf/Municipal\\_Employee\\_Health\\_Insurance\\_Contributions.pdf](http://www.nyslocalgov.org/pdf/Municipal_Employee_Health_Insurance_Contributions.pdf)

<sup>89</sup> Office of the New York State Comptroller. Division of Local Government Services and Economic Development. *Containing the Cost of Employer Provided Health Insurance Benefits* (October, 2003. # 2003-Mr-5) <http://www.osc.state.ny.us/localgov/audits/swr/2003mr5.pdf>

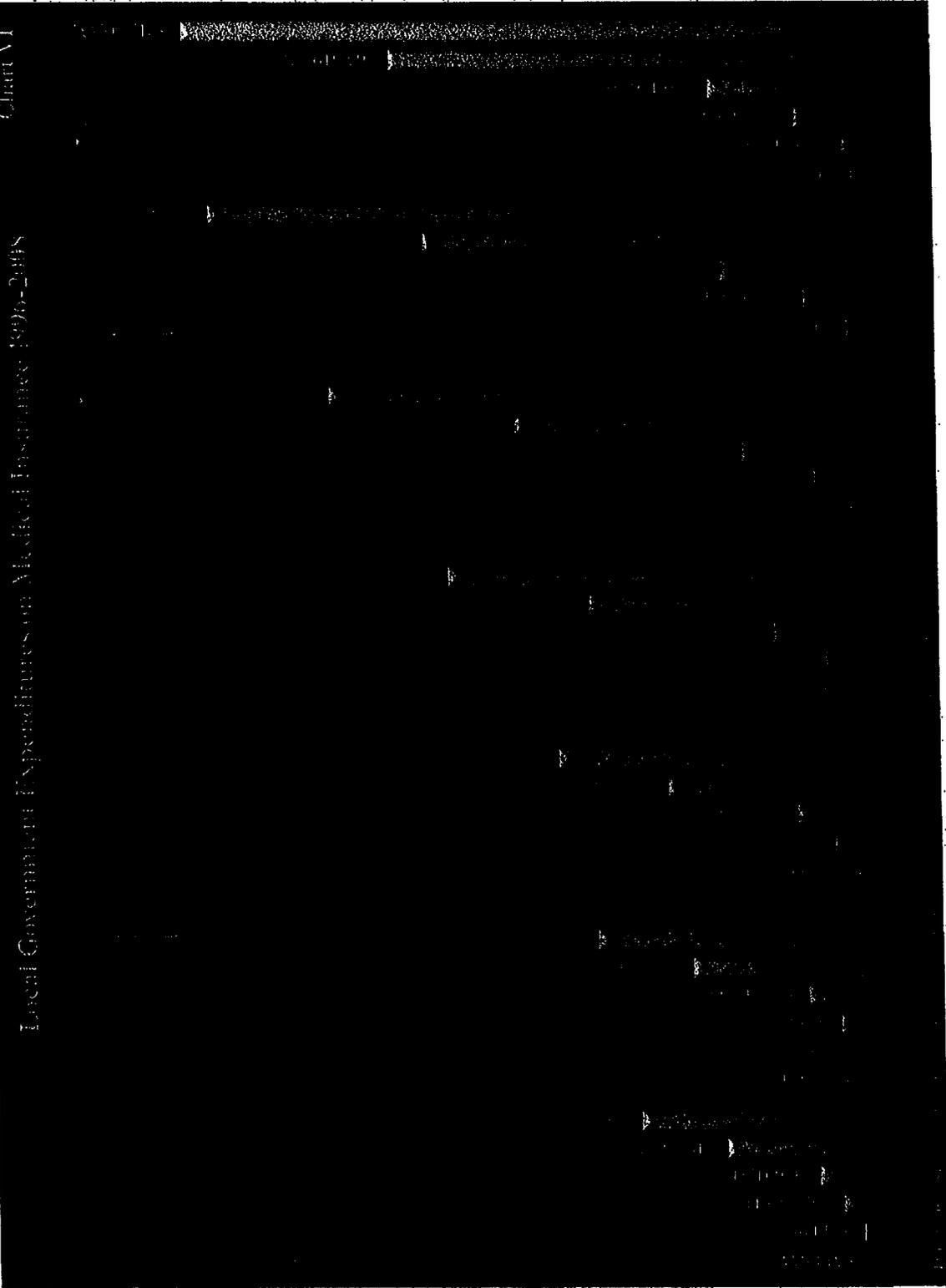
<sup>90</sup> Cited in [http://www.nyslocalgov.org/pdf/Municipal\\_Employee\\_Health\\_Insurance\\_Contributions.pdf](http://www.nyslocalgov.org/pdf/Municipal_Employee_Health_Insurance_Contributions.pdf)

Average (1996-2007) Resident Expenditure Per Capita



254

Local Government Expenditures on Medical Insurance 1996-2005



256

members in eleven towns.<sup>91</sup> Years of service required by elected officials for continued provision of medical benefits range from ten (Wawarsing, Shawangunk, New Paltz) to twenty-five (Denning).

There has been some effort and limited success in some towns to require greater health insurance co-payment from more recently hired employees, and retirees.<sup>92</sup> Reconsidering the range of those covered, and achieving a higher level of co-payment for health insurance, must be a priority for local governments in Ulster County.

An additional looming problem is the unfunded liability facing local governments in New York for health care coverage for local employees when they retire. The United States General Accounting Office identifies "the growth in health-related costs... as the primary driver of the fiscal challenges facing the state and local government sector," and takes particular note of "the cost of health insurance for state and local employees and retirees."<sup>93</sup> According to a policy brief published in 2009 by the Regional Institute of the University of Buffalo, based upon an analysis of selected local governments in western New York, "Retiree health care and other non-pension benefits will create potentially catastrophic strains as leaders struggle to cover long-standing commitments to increasingly long-lived workers while reinvesting in critical assets and services."<sup>94</sup>

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<sup>91</sup> Data compiled on January 14, 2009 provided by James Quigley on December 8, 2010.

<sup>92</sup> Health Insurance Agreements with Municipal Employees in Towns Providing Labor Contracts to this Study:

Lloyd

- PBA: MVP 20+ Plan, Town pays 85% of Premium, Part Time Employees can buy in at full cost.
- CSEA: Same Plan, Town Pays 82% of Premium plus a Health Reimbursement Account to cover co-pays and deductibles.
- PBA Dispatch: Same as PBA.

Marlborough

- PBA: Town pays Full Premium.
- PBA Dispatch: Same as PBA, but with a \$2000/year opt-out incentive.
- UPSEU (United Public Service Employees Union): MVP Health Plan NY Co-Plan 20 (w/vision). Hired prior to 2006: Town pays full premiums, after: town pays 90%. Annual buy-out incentive of \$2000 (must be covered by other insurance). Retirement: prior to 2006 hires, town pays premiums on a sliding scale ranging from 50% for 10 yrs service to 100% for 20 yrs. After 2006 hires: Town pays sliding scale from 50% for 10 yrs to 90% for 20 yrs.

New Paltz (Town)

- PBA: NYSHIP, town pays full premiums, full premiums paid at retirement after 10 years service.

Olive

- AFL-CIO: Town pays full premiums; employees who retired prior to 1984 are grandfathered into full retirement coverage, after 1984: sliding scale where employee pays 100% for 1-5 yrs, 75% for 5-10 yrs, 50% for 10-15 yrs, 25% for 15-20 yrs, and 0% after 25 yrs of service.

Saugerties

- PBA: MVP 20 w/ no reimbursement for co-pays. Hired prior to July 2002, employee pays 5%, after, employee pays 10%. Retirees after 10 yrs of service receive \$10,000 towards insurance premiums. After 15 yrs service, town pays 60% of premiums until the retiree is eligible for Medicare.
- Highway Dept: same as PBA.
- Highway Dept (Teamsters): Same as PBA.
- Non- Represented Employees: Hired prior to 1997: town pays 100% of premiums, after: town pays 90% of premiums. \$1000 annual buy-out incentive.
- CWA: same as PBA, but with \$1000 annual buy-out incentive.

<sup>93</sup> United States Government Accountability Office. State and Local Governments. *Growing Fiscal Challenges Will Emerge during the Next 10 Years* (Washington: GAO, January 2008, GAO-08-317) <http://www.gao.gov/new.items/d08317.pdf>

<sup>94</sup> University of Buffalo Regional Institute. *The End of Local Government As We Know It?* (Buffalo, the Institute, Policy Brief, January, 2009) [http://www.regional-institute.buffalo.edu/Includes/UserDownloads/UBRI%20Policy%20Brief\\_Jan02.pdf](http://www.regional-institute.buffalo.edu/Includes/UserDownloads/UBRI%20Policy%20Brief_Jan02.pdf)

Success in achieving change has been limited. Budgeting by localities to meet future unfunded liabilities is impractical in the current fiscal environment. In almost all Ulster County's municipalities, health care costs have been subject to collective bargaining, and employee representatives fiercely resist diminution of benefits or sharing the costs of coverage. A recommendation by the State Commission on Local Government Efficiency and Competitiveness that the state mandate a minimum employee contribution for health care coverage has thus far received no support in the legislature.

Local governments have been able to join the New York State Health Insurance Program (NYSHIP) since the year after its founding. According to the state Civil Service Department, by 2008 about 800 had done so.<sup>95</sup> However, local leaders in Ulster indicated in interviews that this was not always the least costly option for them. A survey done for the Connecticut state legislature indicated that joining this program was more likely for New York's localities in the higher cost, downstate region.<sup>96</sup> In 2009 in Ulster County, the City of Kingston, two villages, six towns, four school districts, the Kingston and Ellenville Housing Authorities and the Kingston Water Department were participants in NYSHIP.<sup>97</sup>

Intergovernmental municipal self insurance consortia that allow stabilizing or reducing costs and sharing risk are permitted under state law in New York, but until recently all ten active in New York State served school districts and BOCES, not general purpose governments, and were created before the passage in 1994 of the financial reserve, minimum size and minimum number of participating municipality requirements now found in Article 47 of the Insurance Law. Moreover, New York Insurance Law required that any municipality with fewer than 50 employees, or any "Multiple Employer Trust" that included such a small municipality, have a "community rated" rather than a less costly "experience rated" health plan.<sup>98</sup> However, with a 2007 grant from the SMSI Program in the Secretary of State's Office, and the cooperation of the State Insurance Department, Tompkins County's 17 municipalities, working through the County Council of Governments, undertook to establish a health benefits consortium. This not-for-profit consortium seeks to maintain benefits for all participants while spreading risk, lowering administrative costs, avoiding commissions, gaining benefits from the investment of funds in reserve accounts, and making cost increases smaller, more predictable and more timely (referent to local budget processes). The consortium, governed by a board made up of local government officials and administered under contract by a third party, began operations in January 2010.<sup>99</sup>

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<sup>95</sup> New York State Department of Civil Service. *New York State Health Insurance Program*. <http://www.cs.state.ny.us/nyship/nyship.cfm>

<sup>96</sup> John Moran and Ryan F. O'Neil. "Impact of Pooling State and Local Employee Health Insurance in Other States" Connecticut General Assembly, Office of Legislative Research, OLR Research Report, (2008-R-0463) August 29, 2008. [search.ega.state.ct.us/dl2008/rpt/doc/2008-R-0463.doc](http://search.ega.state.ct.us/dl2008/rpt/doc/2008-R-0463.doc)

<sup>97</sup> The villages were New Paltz and Ellenville. The towns were Lloyd, New Paltz, Wawarsing, Shawangunk, Hardenburgh, and Ulster. The school districts were New Paltz, Highland, Wallkill and West Park.

<sup>98</sup> See NYS commission on Local Government Efficiency and Competitiveness. "Cooperative Health Insurance Purchasing: Article 47 Impediments" [http://www.nyslocalgov.org/pdf/Cooperative\\_Health\\_Insurance\\_Purchasing.pdf](http://www.nyslocalgov.org/pdf/Cooperative_Health_Insurance_Purchasing.pdf)

<sup>99</sup> Michael Koplinka-Loehr "Vision: Create One Cost-efficient Inter-municipal Shared Health Benefits Plan Without Diminishing Benefits" *NYSAC News* (Spring, 2009) [http://www.nyslocalgov.org/pdf/Cooperative\\_Health\\_Insurance\\_Purchasing.pdf](http://www.nyslocalgov.org/pdf/Cooperative_Health_Insurance_Purchasing.pdf) see also. Office of the New York State Comptroller. Division of Local Government and School Accountability. *Shared Services Among New York's Local Governments* (November, 2009) p. 11.. <http://www.osc.state.ny.us/localgov/pubs/research/sharedservices.pdf>

Ulster County has been gathering three years of experience data to inform consideration of becoming self-insured for the provision employee health insurance benefits. Unfortunately, the lack of availability of similar data for the county's other local governments blocks their inclusion in the planning for such an option. But changes in state insurance law passed in special legislative session in November of 2009 lowered from five to three the minimum number of municipalities needed to establish a cooperative health benefit plan and required insurers to provide three years of claims experience to any such jurisdiction seeking it, if that place is considering creating or joining such a plan. Also, the state insurance department was directed by law in 2009 to study two key matters: the impact on the community-rated health insurance market of letting municipalities with 50 or fewer employees join with larger places to buy experience rated policies; and the actual impact of municipal health cooperative health benefit plan reserve requirements.<sup>100</sup>

The expenditure of nearly \$100,000,000 annually for insurance premiums by governments in the county suggests the potential value of exploring the possibility of a cooperative health benefit plan based upon actual claims experience for all the county's local governments. In this, as in a number of other areas of policy reviewed in this report, the presence in the county of a well established entity -- similar to the Tompkins' County Council of Governments -- appears desirable as a place for the collective consideration of change, and a catalyst for action.

*Workers Compensation.* Under state law passed in 1976, at a time that obtaining coverage was difficult and expensive, state law authorized a county to self insure for workers compensation, so long as at least one other municipality within its borders joined with it. All cities, towns and villages within the county might join. The law also provided that "any contract agency or contract association with the approval of the county government and any other public corporation" might participate in the plan except those excluded by local law or regulation.<sup>101</sup>

Ulster County passed a local law in March of 1979 to take advantage of this opportunity.<sup>102</sup> Currently all general purpose local governments in the county, seven school districts, thirty fire districts, the Ulster County Community College and Ulster County Office Employment and Training participate in this self-insurance plan. This makes self-insurance for Workers Compensation the most participatory, comprehensive collaborative program in Ulster County. Costs are allocated to participating governments based upon a formula that takes into consideration both a community's loss experience and the assessed value of the property within its boundaries. Each participating government is obligated by law to pay annually into program reserves until the required reserve fund equals the plan's claim liabilities. In March, 2008 the reserve fund was \$14,614,466.30; total outstanding liabilities were \$26,854,962.<sup>103</sup>

Any participating government may withdraw from the workers compensation self-insurance plan by stating its intention to do so by the first of July antecedent to the fiscal year in which the withdrawal would become effective. According to two town supervisors, their town's involvement in this program is more costly than if it obtained workers compensation insurance on the private market. (They did not, however, provide quotations or other data to support this argument.) Withdrawal from the self-insurance plan requires payment of a municipality's unfunded portion of the claim liabilities in a lump sum, unless the County Executive

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<sup>100</sup> Senate Bill #2, Assembly Bill #2, November 10, 2009. See also Bill Memorandum, Governor's Program Bill #95 of 2009.

<sup>101</sup> Workers Compensation Law, Article 5, Section 62.

<sup>102</sup> Currently *Ulster County Administrative Code*, Section A44-3.

<sup>103</sup> Memorandum of Paul J. Hewitt, Ulster County Commissioner of Finance to Chief Fiscal Officers of Participating Governments, March 30, 2009.

approves partial payments in installments. The lump sum requirement is a significant barrier to participating government leaving the plan.

In recent years five fire districts seeking to leave the plan entered into litigation with the county government. They argued that the county's original local law provided for fire district coverage through towns, not through their direct participation in the plan. This direct participation later solicited by the county, they said, resulted in "double billing" for fire district coverage. The county demonstrated to the satisfaction of the courts, however, that though direct participation by fire districts was indeed not authorized in the local law, double billing did not in fact occur. Negotiated settlements resulted in four fire districts ceasing their participation in the county plan. Settlement of litigation undertaken by the Port Ewen Volunteer Fire Department is still pending.<sup>104</sup>

The County's Insurance officer is responsible for administration of all programs and activities having to do with insurance, including the Workers Compensation plan. The Ulster County plan is self-administered, unlike some other county plans that rely on a third party administrator and that have recently come under considerable criticism by the state Comptroller.<sup>105</sup> Participating governments' payments cover all administrative costs. The county reports that claims are thoroughly considered by its staff of four full-time examiners, and all state requirements and deadlines for actions and payments are met. New software, specially designed to support public workers compensation programs, is currently being installed to improve the efficiency of operations.

*Technology and Information Services.* There is a growing movement for the county government to become the provider of information and support services for municipalities within it. This is already the practice, as noted, for the maintenance of property tax records and property tax billing. With seed funding from State Senator John Bonacic, Marbletown approached the county to enhance its GIS capability. The result is an Internet-based system that incorporates data supporting a range of studies submitted to the town for real time use in a multiplicity of areas, including planning, zoning and highway management. Efforts are under way to extend the inter-municipal agreement between the county and Marbletown for GIS services, provided at a modest fee, to other Ulster municipalities. This would provide a cost effective response to a felt need: for example, GIS support was requested in our interview with the Supervisor of the Town of Marlborough.

The county Criminal Justice Coordinating Council has been seeking funding for the development of a common database for all governments and agencies involved in the county's criminal justice system. Police agencies within the county are meeting on the establishment of a shared data base supported by the county. Clearly, other back office support functions now provided by localities themselves, or contracted to private providers – e.g. check writing, bookkeeping, electronic record keeping – could be done by contract with the county. Towns' supervisors are interested in a common budgetary format and data base that would allow them to improve management by making inter-jurisdictional comparisons of program costs. There are other possibilities in areas ranging from vehicle repair and maintenance to the provision of professional support for labor contract negotiation.

Contracting for a range of services with and through the county might reduce the costs of all governments involved by gaining the benefits of standardization and efficiencies of scale. Participating municipalities might

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<sup>104</sup> Telephone interviews by Gerald Benjamin with Howard Raab, September 15, 2009, Attorney for the Fire Districts and Michael Catellinotto, Jr., October 6, 2009 Attorney for the County.

<sup>105</sup> Office of the New York State Comptroller. Division of Local Government and School Accountability. *Policies and Procedures of County Self-Insured Workers' Compensation Plans, 2007-MR-3* (December, 2007)

gain in other ways. Through intergovernmental contracting, costs of services beyond the short term might become more predictable, making planning easier. Time and effort would be saved if many localities were relieved of the need to prepare RFPs and go through a bidding process. Internal controls might also be enhanced. Responsiveness to local needs might improve over that provided by a distant vendor, and thus system downtime reduced.

In fact, there is a model in place in the relationship between Boards of Cooperative Educational Service (BOCES) and their member school districts. The Mid-Hudson Regional Information Center at Ulster BOCES provides technological services for 48 school districts and three other BOCES in the region, including work in such areas as accounting and payroll management. Through BOCES Instructional Technology, member districts may access "basic service desk support, troubleshooting, computer repair/maintenance, technical assistance for maintaining infrastructure, technology purchasing, hosting applications that support districts' networks and integration and support of IP phone technology. Internet related services... are also available."<sup>106</sup> A recent survey of her constituents in Westchester County done by Assemblywoman Sandra Galef showed that citizens there were most supportive of BOCES serving municipalities as well as schools.<sup>107</sup> However, there are legal and regulatory impediments to such a step that may only be addressed at the state level.

If the county assumes the role with general purpose municipal governments that BOCES performs for member school districts, there might be some concern among potential partners about loss of local control, and excessive centralization. But support services may be centralized, while decision making and service delivery remain decentralized. This is already true for property tax administration. Indeed, this kind of thinking might result in further decentralization of some functions from the county to the city, towns and villages – for example, voter registration.

*Shared Space.* Esopus, Saugerties, Gardiner and Hardenburgh all have recently built town halls; Shawangunk has just broken ground for new facilities. However others – Rosendale, Marlborough, Marbletown and the Town New Paltz - face severe office space needs. Some are being quite creative in seeking to meet this need. For example, the Town of Rosendale is encouraging the inclusion of a "new town hall with small conference room facility" in developers' proposal for the Creek Locks Commons Redevelopment.<sup>108</sup>

Individual governments almost always consider office space requirements (and other space requirements as well, for example salt sheds and vehicle repair facilities) without coordination with overlapping or adjacent jurisdictions. Additionally, the county government rarely co-locates its regional activities with town facilities – if for no other reason than for lack of space. A county-wide survey of space needs and master plan, periodically updated, would allow the identification of areas for potential collaboration and co-location, easing the financing and development of needed new facilities, reducing overall capitol costs, and potentially creating regional "government centers" within the county to facilitate one-stop citizen access to governmental services.

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<sup>106</sup> Ulster BOCES. *Proposed Budget, 2009-2010*, pp. 28 and 32. Quote on page 28.

<sup>107</sup> Assemblywoman Sandra Galef. "Results of Shared Services Questionnaire" (September 8, 2008) [http://assembly.state.ny.us/member\\_files/090/20080902/](http://assembly.state.ny.us/member_files/090/20080902/).

<sup>108</sup> Town of Rosendale. "Town of Rosendale Request for Statement of Interest and Qualifications, Creek Locks Commons Redevelopment" (November 14, 2006, typescript) p. 6.

## Summary and Recommendations

DRAFT: March 21, 2010

### Intergovernmental Collaboration in Ulster County:

#### Patterns, Principles, Recommendations

*Existing Collaborations:* Currently, intergovernmental collaboration in Ulster County is both formal and informal. Our inquiry revealed that collaboration between and among municipalities through formal intergovernmental agreements was less extensive than we expected. For highways, the service area in which agreements were most numerous (discussed in detail in Special Study A) informal agreements prevailed. Intergovernmental collaboration was far more frequent between two jurisdictions than among more than two. Nested jurisdictions – villages within town, towns within the county – were more likely to work together in a number of ways than were side by side jurisdictions. Collaboration between municipalities and school districts is minimal.

*Towns and Villages:* Apart from the “required collaborations” between the county government and Ulster’s other general purpose governments discussed in this report, the most structured local municipal interactions are between villages and the towns in which they are located. There is some shared delivery of services. However, in all three cases each institutional party in these interactions reports ongoing tensions, based upon clashing values, different priorities, conflicting constituencies or interpersonal differences.

- **The proposed study on the relationship between the town and village of New Paltz, jointly applied for by both governments and funded by the Secretary of State’s office, but has not yet been initiated. It should be expeditiously launched.**
- **There was interest expressed in potential areas of collaboration by leaders in both the Town of Wawarsing and the Village of Ellenville. These two jurisdictions might consider seeking state funding for a study similar to that being undertaken by the Town and Village of New Paltz. The successful New Paltz application provides a ready template for such an application.**

*The County Role:* For collaboration to work in the future as a broad scale strategy,

- **The county government must come to understand itself as not only a service provider, but as facilitator of connections and efficiencies for all governments within the county.**

Initiatives that the county has already undertaken under current leadership, for example in the areas of storm water management, indicate that this fundamental change is, in fact, already occurring.

*Proper Allocation of Costs and Functions:* In required collaborative intergovernmental relationships,

- **The costs and revenues connected with the service, function or activity should be reasonably shared among the participating governments. Determining the proper allocation of costs and revenues across functions for which responsibility is shared is a major, needed, cost accounting task.**

Cost shifting from one government to another results in no real savings and must be avoided. The allocation of duties among the collaborating governments should be done to assure economic, efficient, effective performance of the function or delivery of the service. Bigger is not always better. In considering change, the *net benefits* for citizens must be sought.

*Collaboration Required in the Routines of Government:* The county government is, in fact, at the center of a complex collaborative web as it conducts its daily business both as an agent of the state and an autonomous actor. For example, the administration of both the property tax and sales tax is clearly collaborative. So is the process for the delivery of sanitation services. As noted, the County Civil Service department oversees the operations of civil service in nearly all local governments within the county. The county planning board is comprised of representatives of municipalities. Ulster County is unique in that its towns and city have financial responsibility for a portion of the social services safety net. Towns must collect taxes for fire and library districts. Fire coordination, police dispatch, disaster planning and emergency medical services at the county level are all collaborative in structure and operation.

*Assessment:* Assessors are town, city or (for Ellenville) village employees. The costs of doing and defending assessments are borne by the governments that employ the assessors, even though all who use the resulting tax rolls benefit from the work. A 2009 study of assessment in Ulster County considered continuing the status quo and four alternatives. In general, annual costs of all alternatives were shown in this study to exceed those of continuing with the status quo. Moreover, one time startup costs for all alternatives are shown to present a major barrier.

- **A review of Ulster County suggests that the benefits of alternative approaches to assessment may be under estimated, while the costs are over estimated.**
- **Current assessment practices in Wawarsing seriously disadvantage property owners in the Village of Ellenville. If equity in assessment were achieved in the town, there would be no reason for the continuation of the assessment function in the Village of Ellenville.**

*Sales Tax Sharing:* Because The City of Kingston may levy the sales tax independently under the law in New York State, the county must reach agreement with the city to levy this tax uniformly within its boundaries. However; the county is under no legal obligation to share any of this revenue with the towns, and does so at its own discretion. Counties' sales tax sharing practices vary extensively from jurisdiction to jurisdiction. Some are more generous than Ulster; others share none of these resources.

*Civil Service and Human Resources Management:* The Ulster County Personnel Director must oversee all human resources functions for the county. Both county personnel and town supervisors indicate that satisfaction varies at the municipal level with the administration of the civil service system.

- **There is no compelling case for the continuance of the Kingston City Civil Service Commission.**
- **Consolidating Ulster County's civil service activities at the county level, and mechanizing them to improve system performance, is desirable.**

However, this would require a significant investment and additional staffing. Therefore:

- **State law and regulation should be changed so that the costs of the county civil service system should be distributed equitably among the municipalities and school districts that use it.**

*Collective Bargaining.* Currently, in Ulster County, workers in all but two municipalities are represented by labor unions. Organized workers bring statewide expertise to the bargaining table, while localities must incur additional costs to retain it. Moreover, relatively large numbers of smaller negotiations likely have the effect of ratcheting up costs in adjacent jurisdictions.

- **Consideration should be given to permitting the creation of a county-wide consortium to provide expertise for local governments in public employee labor negotiations. Such an initiative might both reduce consulting fees and the rate of increase in growth of local government labor costs. This expertise might be made available as part of a circuit rider program under the aegis of a Council of Governments recommended for consideration elsewhere in this report.**

*Fire Districts and Town Oversight:* Fire district property taxes, like the county's levy, are collected by the towns. Effective oversight of fire district financing and governance appears to be needed.

- **A change in state law is needed that would allow towns to review and alter fire districts budgets, as they do levies for highways.**
- **Collaborative contracting to purchase equipment might also produce economies.**

*Sanitation Services:* General purpose government spending for sanitation services in Ulster County totaled \$17.7 million in 2007. Additionally, \$13.7 million was spent by the Ulster County Resource Recovery Agency (UCRRA), a public authority established in 1986 to develop, finance and implement a comprehensive solid waste management program in the county.

*Sludge:* In 2007, the City of Kingston entered into a fifteen year agreement with Aslan Environmental Services to build a system that used methane generated by its sewage treatment plant to dry sludge and convert it into pellets that may be used as fertilizer or fuel. Anticipating the prospect of growth, the Kingston sludge treatment facility was built to accommodate twice the capacity of the Kingston sewer treatment plant. The Executive Director of that agency, Michael A. Bemis, estimated in an interview that

- **\$125,000 per year might be saved if investments were made that allowed sludge from other jurisdictions now take elsewhere could be brought to Kingston.**

*Storm Sewers:* Under the leadership of the then county administrator (now the county executive) in 2007, Ulster County developed an innovative approach to pooling municipal resources to meet MS4S regulatory requirements. According to one estimate, this collaborative effort saved participating governments a total of \$600,000.

- **County government intends to seek funding in support of the development of a formal intermunicipal agreement in storm water management. This will open the way for cost-saving collaborative action in reporting, equipment acquisition, mapping and the education of citizens, community leaders and key local government personnel.**

*Solid Waste:* When all expenses are included, solid waste transfer stations in Ulster County generally operate at a loss. The 1995 solid waste agreements among the Towns of Woodstock, Saugerties and Shandaken provide an early model that all participants regard as successful. The New York State Comptroller's 2009 *Annual Report on Local Government* notes that: "In localities where residents contract individually with private refuse haulers, numerous audits and reports indicate that local governments can realize substantial savings for their residents by contracting for refuse collection on their behalf." Pursuant to this idea,

- **Groups of Ulster County towns might join together regionally to contract with a single private carter for roadside pickup of solid waste. An incentive for recycling might be built into this contract, as it has been with success in other communities. Carters could then take the waste directly to one of the two UCRRRA regional transfer stations, eliminating most of the need for town stations and the transportation costs now incurred by towns. Town stations might then be operated at a much reduced schedule at far lower cost.**

Cost-saving models are proposed for two groupings of towns: Wawarsing, Rochester and Marbletown and Shawangunk, Plattekill and Marlborough.

*Social Services:* In Ulster, unlike in other counties in New York State where the remaining local responsibility for public assistance has been shifted to the county level, towns and the City of Kingston cover this local share. The county government, as an agent of the state, determines the eligibility of a person for assistance and establishes where he or she lives.

- **Safety net administration and financing is another instance in which decisions are made by one government that impose costs on another; a sorting out should be considered, with the county assuming this function as part of an overall readjustment of responsibilities.**

### **Delivering Services Together**

Collaborative delivery of highway and justice court services is the focus of two major reports done in connection with this research.

*Highways:* Highway and road construction, operation and maintenance is a responsibility of all general purpose local governments in Ulster County. Total spending for highways in the county in 2007 was \$41,540,711.

- **Extensive recommendations for intergovernmental collaboration to substantially reduce costs of highway maintenance are a major focus of this report, and are separately summarized below as part of Special Study A.**

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*Justice Courts:*

- **Extensive recommendations for intergovernmental collaboration in the local justice system are a major focus of this report, and are separately incorporated in Special Study B.**

*Planning and Economic Development:* Two primary recommendations are made in the focused report for these areas. They may be adopted as discrete alternatives, or together as a comprehensive approach to integrating planning and economic development in Ulster County. Drawn from Sepcial Study C, they are further summarized below.

- **Create "Circuit Riders" for planning and/or code enforcement services.**
- **Implementing *Ulster Tomorrow* through a coordinated Economic Development System using a Council of Governments**

*Police:* Spending for police by local governments in Ulster County in 2007 totaled \$26,084,096. Of the sixteen police departments in the county, one each were maintained by the county and city governments, two by village governments and the rest by towns. The remainder of towns had no police departments. Saugerties has both village and town police departments. This pattern of service delivery regularly raises issues of equity in the distribution of cost and benefits. A survey by the International City and County Management Association done in 2006 shows that in the United States there are, on average, 2.12 police officers per 1,000 people in localities with populations between 10,000 and 24,999. Counting full-time sworn officers only, this ratio was exceeded in 2007 Ulster County by the City of Kingston (3.27), and the Towns of New Paltz (3.07) and Ulster (2.23).

- **There may be opportunities for savings from a review of police staffing in the City of Kingston, and the Towns of New Paltz and Ulster.**
- **A merger of the town and village police departments in Saugerties has now been approved by voters.**
- **Contracting for police services from an overlapping or adjacent jurisdiction, is a common pattern across the country for reducing costs while leaving control of the level of service with the contracting locality, and might also be considered.**

*Water:* Water is a regional resource; it is not constrained by municipal boundaries, nor amenable to proper management within them. It is, therefore, a natural candidate for intergovernmental collaboration. In a time of growing scarcity across the world, New York's rich water resources, especially in the Hudson Valley, are central to our environment heritage and the key to our future economic viability. Ulster County, a custodian of a main part of the NYC water system, has within it four municipal systems – the City of Kingston and the three villages - and fourteen that are organized as special districts within towns. In addition, Hurley is served by a private water company. Considerable inter-jurisdictional collaboration for the use of water is already in place. Yet aging infrastructure needs attention. A 1970 study proposed the development of six integrated water supply areas to meet projected needs for Ulster County. In a 1989 study, the prospect was raised of integrating existing water systems in two sub-regions of the county, the southeast (New Paltz, Lloyd,

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# Recommendations for Solid Waste Disposal in Ulster County

- Dated: September 21, 1998
- Authored: Ulster County  
Environmental Management  
Council & Mid-Ulster League of  
Woman Voters Solid Waste Task  
Force

RECOMMENDATIONS FOR SOLID WASTE DISPOSAL IN ULSTER COUNTY,  
NEW YORK  
1998-2003

Ulster County Environmental Management Council/Mid-Ulster League of  
Women Voters Solid Waste Task Force

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September 21, 1998

RECOMMENDATIONS FOR SOLID WASTE DISPOSAL IN ULSTER COUNTY,  
NEW YORK  
1998-2003

Ulster County Environmental Management Council/Mid-Ulster League of  
Women Voters Solid Waste Task Force

**INTRODUCTION**

Both of our groups have long recommended maximizing recycling as well as waste reduction and reuse of materials instead of 'throwing away'. The goal is to minimize the weight and volume of the 'throw aways'. We have also strongly supported sanitary landfilling under §360 of the Environmental Conservation Law as the best means of disposing of that which must be 'thrown away'. This is because this method of disposal has the least environmental impact compared to other means of disposal (primarily incineration).

The Ulster County Resource Recovery Agency was set up as a public benefit corporation by New York State in 1986 at the request of the Ulster County Legislature. Since that time the UCRRA has floated a \$40 million bond issue used to close all community landfills in Ulster County, built solid waste transfer stations at each of these landfills, initiated a strong education program supporting recycling along with an effective recycling capability at each transfer station and at UCRRA facilities with the capability of extending the recycling to other materials which could be diverted from the waste stream, built a Household Hazardous Waste disposal facility which, unfortunately, is now operated only 1-2 times per year, and carried out preliminary planning for a large §360 landfill in Ulster County.

Since 1997, all 'throw away' solid waste has been exported to landfills outside Ulster County. There isn't anything wrong with this policy, though the distant transport has negative environmental effects as well as significantly increasing the costs of solid waste disposal for Ulster County businesses and residences. In the long run (after 2003), the County will have to have its own landfill(s) if it is to control the costs of solid waste disposal. Planning for such is an important part of the mid-term effort by the County in solid waste disposal.

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However, in these recommendations we are concerned with the following questions:

1. Who should be responsible for solid waste disposal in Ulster County?;
2. How can recycling be increased?;
3. How should the disposal effort be funded?; and
4. How can the County fund planning and building of its own landfill(s)?

Due to the very short time-line for preparation of these recommendations(2 weeks), though we have been discussing the questions since last April, this must be considered an outline. With more time it might be possible to make fairly realistic budget recommendations.

### **WHO SHOULD BE RESPONSIBLE FOR SOLID WASTE DISPOSAL IN ULSTER COUNTY?**

The Ulster County Legislature Environment and Community Affairs Committee asked UCRRA to consider four approaches for supporting solid waste disposal:

- a. net service fee as at present;
- b. user fee as proposed by UCRRA;
- c. a franchise operation where franchisee would take over solid waste disposal charging costs plus profit to Ulster County businesses and residences;
- d. disband the agency with its functions transferred to County government.

The present funding structure, (a), based on tipping fees charged back to generators doesn't provide adequate support for recycling, HHW, or capital costs. These functions are essential and additional funding must be found for them. The current per bag/can or per ton fee could be increased to cover the other costs. This would provide the public with an incentive to reduce 'throw away' solid waste. This would be good! But, it threatens the security of funding for these 'non-

tipping' fee activities. People might reduce their 'throw aways' still further lowering the gross revenues of the agency. Furthermore, increases in the tipping fee for UCRRA disposal of 'throw away' waste could price the agency out of the market with haulers disposing of the wastes they collect privately at a lower price. Depending solely on the current tipping fee supplemented by a net-service fee to support all UCRRA activities isn't feasible.

The User Fee proposed by UCRRA has a fatal flaw. It would discourage recycling. If the User Fee collected with the County Real Property taxes, and really nothing more nor less than an additional tax(the UCRRA plan is to have the agency bill each household using data from County Real Property; but this would be much less efficient than simply adding the tax to the County tax bill), were instituted to cover all expenses of UCRRA, the public would have no incentive to recycle. Their annual User Fee would cover 'throwing...everything...away'. The current system at Town transfer stations of a per bag fee does provide an economic incentive to 'throw away' less. The goal of maximizing recycling would be accomplished if the haulers also charged their customers on a 'per bag' basis. The simple residential User Fee appears to discriminate against the small family of 1-3 people who would end up subsidizing the large families in the system at least in regard to UCRRA costs of operation.

UCRRA stoutly maintains that the mandatory recycling law requires Ulster County businesses and residences to recycle. But this law won't have the desired effect unless it is enforced. UCRRA doesn't presently enforce the mandatory recycling law and they don't request a budget for or describe a mechanism for enforcing the mandatory recycling law in their User Fee proposal. Unless bags/cans containing recyclables are rejected by haulers, transfer stations; and UCRRA many(not all) citizens would put everything in their bags/cans since their costs would remain constant. The UCRRA User Fee proposal is a poor one. We do not recommend it.

The franchise idea is interesting. The County could put out a Request for Bids which might be made by large companies like Browning-Ferris or Waste Management or their subsidiaries. The highest bidder would have the sole right to pick-up and process Ulster County solid waste. The County could require recycling pickup in the contract but the County could have no assurance that the recyclables would be recycled and the County would lose control over the costs to be charged Ulster County businesses and residences.

A second franchise approach would be to bid each Town including its transfer station. Citizens could still avoid pickup charges by self-hauling their 'throw aways' and recyclables to the transfer station. Smaller hauling companies might be able to handle one or more small Towns when they couldn't bid on a County-wide contract. But the problem of costs and assurance of recycling would still be lost to the County and variable costs across the County might well result from Town by Town bidding.

Should we disband UCRRA? It would be complicated. Since UCRRA is a State agency, in effect, only the State could disband it. And if that happened, what would the County put in place of UCRRA? "Nothing" is out of the question. UCRRA has contracts with the Towns and with bondholders which contracts the County would have to fulfill. The public demands solid waste disposal as an essential government service. And if no solid waste disposal system existed in Ulster County, property values would plummet. The franchisee approach has serious problems as pointed out above. The Towns have been out of the solid waste disposal business for years. The only substitute for UCRRA would have to be a part of County government. In the last analysis, the Ulster County Legislature through one of its agencies would be responsible for solid waste management. Why not UCRRA? The Legislature controls its income through appropriations, and its Board of Directors by power of appointment, and its functioning through the power of laws passed by the Legislature. We do not recommend disbanding UCRRA.

### HOW CAN RECYCLING BE INCREASED?

There are really only two ways to increase recycling once a system is in place:

1. make the per bag/can fee now charged self-haulers at Town Transfer stations universal and increase the per bag/can fee for burying solid waste;
2. provide an enforcement mechanism for the mandatory recycling law which would apply both to citizens and to haulers.

The per bag/can fee can't be unreasonably high or we will stimulate roadside dumping rare in the County with present fees. (2) is reasonable particularly for haulers using UCRRA disposal. For this reason we propose an enforcement mechanism.

Ulster County already has one of the highest recycling rates in New York. Many people source separate and recycle out of good feeling and established habit in addition to controlling their costs of solid waste disposal. Others who don't recycle at all (the non-cooperators) might establish the habit as well if they were fined, say, \$25 plus costs for the first offense and \$250 plus costs for each subsequent offense disobeying the mandatory recycling law. Haulers who won't be bothered to pick up recyclables may have third or fourth thoughts about the subject when they are fined and their truckloads are rejected by UCRRA. What of those haulers with their own landfills? The citizen would still have to choose and pay the non-recycling hauler and, in addition, still pay UCRRA under our plan (see below). If UCRRA can collect the tipping and transportation costs for solid waste disposal from generators ahead of collection, then they will, in fact, get all the 'throw aways' and all the recyclables generated in Ulster County. The commercial haulers will provide a service to their customers transporting their 'throw aways' plus their recyclables to UCRRA; their charge should be for pickup and transport since the disposal cost will have been paid UCRRA in advance.

So, with both an economic incentive to recycle- a true user fee represented by a per bag/can charge- plus enforcement of the mandatory recycling law, Ulster County might approach the 70-80% maximum recycling which EMC staff, Nancy Beard found possible in 1986 (her report available on request) and which is in the Ulster County Solid Waste Management Plan.

## **HOW SHOULD THE SOLID WASTE DISPOSAL EFFORT BE FUNDED?**

UCRRA has two types of cost in disposing of Ulster County solid waste:

1. operational costs, principally transport of solid waste and tipping fees;
2. fixed costs including administrative, recycling operations and recycling education, HHW, debt service, and future capital costs.

It is reasonable, then, to propose two funding mechanisms, one each for these cost types. We propose that operational costs be paid on a per bag/can basis and that fixed costs be paid by a User Fee/tax.

The per bag/can fee is well established in Ulster County for self-haulers. It stimulates recycling and provides a means for the citizen to minimize his

disposal costs by minimizing what gets 'thrown away'. As is universal at Ulster County Transfer Stations, the per bag/can fee should apply only to 'throw away' solid waste to be buried; recyclables should be free. Some have observed that the collection and disposal of recyclables isn't really free. They maintain that the free pickup of recyclables is subsidized by the per bag/can 'throw away' fee. This isn't the whole story, however. The 'avoided cost' of burying the recyclables may pay for the free pickup and disposal of recyclables taken as a group.

The method of collecting the per bag/can fee is the 'wheel'; it doesn't have to be reinvented. The existing scheme for self-haulers- a ticket purchased in advance is of the correct form. However, the ticket could not cover 'throw away' garbage in curbside collection. In order to cover both types of collection, the UCRRA could have bags with distinctive color including the County logo manufactured and distributed to the public by sale in a wide variety of retail establishments including supermarkets, convenience stores, and drugstores. UCRRA would establish the list price and sell bags to the retailer at, say, 5% below the list price to provide a profit margin for the retailer. There would be nothing to prevent the retailer from having a "sale" on the bags in order to attract customers to the store; UCRRA would get its set fee.

Alternatively, UCRRA could sell distinctive tags to close bags, or different ones to attach to cans. This is the method used in Tompkins County(see Appendix A). If the Committee desires, the EMC will arrange a bus tour to Ithaca so that a first-hand examination of the Tompkins County system can be made.

There are two possible ways of funding UCRRA fixed costs:

1. a User Fee similar to that proposed by UCRRA which would be the same for each dwelling unit and the same with some possible variation for each business;

2. an *ad valorem* tax on both businesses and residences.

The EMC/LWV Solid Waste Task Force is divided on this question; there are strong points for both (1) and (2). (1) is simple! UCRRA would submit its budget with division of fixed costs and operating expenses and the County Legislature would divide the fixed costs by the number of dwelling units in the County to arrive at the annual dwelling unit fee. Businesses could be handled the same way though, in all likelihood, the County Legislature would establish a different User Fee rate for businesses possibly based on business area, business type, number of

employees, etc..

The simple User fee for fixed costs proposed here is fairer than the User Fee proposed by UCRRA. The latter would cover both operational and fixed costs. Our proposal would cover fixed costs only so it wouldn't be open to the criticism that it discriminates against small households or businesses since the fixed costs would correlate more closely with generating units being served rather than the amount of solid waste generated by each unit.

The very existence of a means of disposing of 'throw away' solid waste adds immeasurably to property values in Ulster County. If there were no system in place, the urban areas would rapidly look like New York City during a Sanitation workers strike with garbage bags piled 6-8ft high all over. The rural areas would suffer the same fate more slowly due to lower population density. Animals such as rodents and insects would multiply greatly since they would have a food source not normally available. And property values would fall. An *ad valorem* tax to maintain property values can be justified to cover UCRRA fixed costs.

Such an *ad valorem* tax would be as simple as the dwelling unit fee. The County, Town, and school Real Property taxes are already calculated based on assessed valuation. Many other taxing districts (e.g, library, lighting, fire dept., etc.) are also collected based on property values.

Whichever basis for the User fee/tax is chosen, UCRRA must have some protection from politically-based changes in the tax structure such as reductions in election years. This tax is to cover the reasonable fixed costs of UCRRA. Since it is a tax, the County Legislature must appropriate the money annually. The Legislature might be tempted to lower the tax and appropriation in an election year in order to gain favor with the voters. To protect UCRRA against this possibility, we propose that reductions in the UCRRA fixed cost budget require a 2/3 affirmative vote by the County Legislature. In this way the public would be protected against serious overestimates by UCRRA and the agency would be protected from severe budget shortfalls which it couldn't control.

### **HOW CAN THE COUNTY FUND PLANNING AND BUILDING ITS OWN LANDFILL(S)?**

The EMC has long recommended multiple small landfills to serve the solid

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EMC/LWV Recommendations Re Solid Waste Disposal, 1998-2003

waste disposal needs of Ulster County. Such regional landfills would reduce transportation costs and produce less traffic disruption to the communities in which they are located. UCRRA has spent millions of dollars for planning a megadump in Saugerties. As part of that work they have prepared a Generic Environmental Impact Statement covering landfill impacts in general terms. What remains is the selection of 3-4 approx. 100 acre sites, preliminary site evaluations, preparation of site-specific environmental impact statements including detailed plans, followed by public hearings and comment periods and adoption of Final, Site-Specific, Environmental Impact Statements. Construction could then be undertaken. This is a necessary activity of UCRRA over the next five years if Ulster County is to establish a solid waste disposal system where costs can be controlled.

It remains for the County Legislature, the EMC and others concerned with the environment, and other citizen groups to persuade the public that County landfills are needed and that they will not be a detriment to the communities in which they are located. What we recommend can be a long term solution to the solid waste disposal problem. A megadump such as proposed for Saugerties would have a lifetime of about 20 years based on our present production of 'throw aways'. The regional landfill approach would provide nearly 3 times the area of the megadump so they would last 60-70 years at present rates of garbage production. If Ulster County follows the recommendation for a compost facility and if even higher levels of recycling are achieved, the County would have its solid waste disposal needs solved for about 100 years even with an increasing population.

The planning which must go on over the next five years cannot cost the millions spent on the Saugerties site; the County cannot afford it. But use of the User Fee/tax designed to cover capital costs and planning would provide reasonable budgets for such planning. If at all possible the planning effort should be done on a 'pay as you go' basis. When it came time to construct the regional landfills, the same cost category would apply- capital costs. Bonds would again be floated for construction but this time they could be the lower interest General Obligation type since they would be backed by the full taxing power of the County.

UCRRA insists that the User Fee is a user fee, not a tax: The EMC/LWV Solid Waste Task Force believes that it is so close to a tax that it should be called a tax, and a justifiable one at that. User fees as part of tax bills don't have to be paid as we understand them, so UCRRA would have to spend thousands of dollars each year in sending out bill to property owners. If it were admitted as a tax, it could be

an additional computer-generated line on the County tax bill sent out a no cost to UCRRA. Agency books could be kept by the County Treasurer like other County agencies, again saving expenses. There are many advantages to calling the User Fee a tax which it really is (particularly if it should be charged *ad valorem* so why not just do it?

### SUMMARY RECOMMENDATIONS WITH JUSTIFICATIONS

1. Operating costs of UCRRA should be paid from a fund accumulated by a per bag/can fee. The fee will be collected from retailers who will in turn sell the distinctively colored bags or tags to the public. These bags or tags will be required for the 'throw away' portion of solid waste whether self-hauled to transfer stations or collected by commercial haulers. The per bag/can fee will be based on the average transportation and tipping fees. The price of the bag/tag will change with changes in tipping fees and transportation costs. This per bag/can fee will provide an important incentive to recycle.
2. Businesses should be charged on per dumpster fee schedule analogous to the residential per bag/can fee as proposed by UCRRA. The fee for businesses will be collected monthly and will be calculated based on the size of the dumpster and the number of weekly pickups.
3. The UCRRA budget should include salaries for enforcement officers. These officers would enforce the law by
  - a. making sure haulers actually pick-up recyclables and
  - b. ensure that haulers provide consumer education and
  - c. spot check business and residential 'throw away' loads.

If recyclables are found in a load or loads, the hauler will be warned with rejection of loads if recyclables are found subsequently. Haulers have the final responsibility of seeing that recyclables are not 'thrown away'; they will have to know their customers and speak to those who aren't recycling. If necessary, they will have to decline the non-recycling customer's business in order to avoid load rejection.

4. Town transfer stations should

- a. collect only per bag/can fee. There should be no permit fee as some Towns now impose for use of the transfer station.
- b. UCRRA should provide a per capita fee to Towns for operation of the transfer stations. This fee would be funded from the per bag/can fee operating fund.

(a) would allow an Ulster County resident to bring his 'throw aways' and recyclables to any transfer station. This could benefit people in the large western Towns who live far from their transfer stations and closer to other Town transfer stations. (b) would make UCRRA financially responsible for operation of all transfer stations which would enable uniform standards for personnel and uniform operation throughout the County.

5. The EMC/LWV Solid Waste Task Force recommends that Ulster County establish a User Fee to cover UCRRA fixed costs. This should be either a uniform dwelling unit fee collected with Real Property taxes or an *ad valorem* tax collected similarly. The recommended fees should be applied to the UCRRA budget as follows:

| <u>per bag/can fee</u>   | <u>User Fee</u>                  |
|--------------------------|----------------------------------|
| transport of solid waste | recycling incl. public education |
| disposal of solid waste  | administrative costs             |
| monitoring/enforcement   | Household Hazardous Wastes       |
|                          | run monthly                      |
|                          | debt service                     |
|                          | capital costs                    |

6. Haulers should be required to make at least 2 recyclable pickups per month.

7. UCRRA should establish a composting facility(a capital cost- see #5) so that organic wastes including food scraps, vacuum cleaner bag contents, and yard wastes plus Ulster County STP 2<sup>0</sup> sludge can be processed by UCRRA. A fee schedule for composting sludge will have to be worked out. The product compost may be used agriculturally so any 2<sup>0</sup> sludges processed must be tested to be free of heavy metal and organic toxicants. With a composting facility on line, another class of recyclables, organic wastes which, in the summer, may make up to 50% of the total solid waste load, would be created. Like other recyclables, organic/yard

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wastes/sludge will be processed without charge by UCRRA. The compost produced may have a local market. Town and County Highway Departments should be required to use UCRRA compost when they need compost. The compost product should be made available for sale to Ulster County farmers and homeowners and outside the County if supplies permit.

7. Three other classes of waste which make up part of our solid waste load need further study:

- a. construction-demolition debris;
- b. rubber tires;
- c. scrap metal from CD and discarded appliances.

The EMC/LWV Solid Waste Task Force recommends that UCRRA be responsible for these categories of solid waste and that they establish waste reduction/disposal pathways for these categories. We understand that scrap metal was eliminated from the County Solid Waste Plan through lobbying by the scrap metal industry and that it remains a Town responsibility. Towns presently pay to have their scrap metal removed. UCRRA, dealing with a much larger supply, might do much better as a marketer of these recyclables. If possible the EMC/LWV Solid Waste Task Force recommends that (c) be taken over by UCRRA.

8. UCRRA should be responsible for working with conditionally exempt small quantity generators of hazardous materials to prevent disposal of these materials with business solid waste or into wastewater systems. These materials should be handled through the existing HHW facility (Sawkill Rd.); UCRRA should work with the New York Environmental Facilities Corporation and the Dept. of Environmental Conservation concerning Best Available Technology for handling each such wasteload. UCRRA should establish a reasonable fee schedule for this service.

9. UCRRA should start planning 3-4 regional \$360 landfills in Ulster County to go on line 2003-2005 where the agency would dispose of our 'throw aways' over the next 100 years or so. The planning effort should be funded from the User Fee/tax while construction funding should come from a future bond sale principal and interest of which, like debt service on the existing bonds, would come from the User Fee/tax. UCRRA should use its existing Generic Environmental Impact

Statement and prepare site-specific DEISs.

10. The Ulster County Legislature should appoint a Citizens Advisory Committee to advise the UCRRA Board. This CAC should consist of:

- a. one member recommended by the Ulster County Environmental Management Council;
- b. one member recommended by the Mid-Ulster League of Women Voters;
- c. one solid waste hauler;
- d. one member recommended by the Ulster County Chamber of Commerce;
- e. one member recommended by the Legislature majority;
- f. one member recommended by the Legislature minority; and
- g. the UCRRA Board Chairperson.

The purpose of the CAC would be to act as liason between the community, the UCRRA Board and the Environmental and Community Affairs Committee of the Ulster County Legislature; to offer advice to UCRRA on request; to seek expert testimony concerning new technologies affecting solid waste disposal; to bring the concerns of the community to the UCRRA Board.

**Estimation of Fixed and Disposal User Fees to Finance Solid Waste Management  
Report to the Environmental and Community Affairs Committee of the Ulster County Legislature**

**Ulster County Environmental Management Council/ Mid-Ulster League of Women Voters Solid  
Waste Task Force** **10-26-98**

**Introduction:**

The EMC -LWV task force proposed in its recommendations of September 21, 1998 that the solid waste management system be funded by two mechanisms: a fixed fee to cover non-disposal fixed expenses and a bag/bin fee for disposal costs. The advantages of this system includes 1) provides financial support for a total waste management system including providing incentives and adequate funding for recycling and waste reduction without dependence on tipping fees; 2) does not discriminate against smaller households and businesses that have less 'throw away' waste; 3) continues the bag fee already in place at town transfer stations 4) eliminates the need to cover non-disposal fixed costs with disposal fees, i.e. does not pay for solid waste management system by a fee on what is thrown away.

**Assumptions:**

To estimate the values of the fixed and disposal user fee it is necessary to divide the solid waste management budget into these categories. The draft version of the 1999 UCRRA budget listed as "proposed user fee alternative budget" and dated 9/9/98 was used. We can not presume to know all the intricacies of the budget, so have made assumptions as to how to divide the budget (see the attached budget table). Costs and revenues related to transport of solid waste and to disposal were placed in the "bag/bin fee" (disposal) budget. Expenses and revenues related to administration, recycling operations and recycling education, household hazardous waste (HHW); landfill maintenance and debt service were put in "fixed fee" budget. The table shows the assumptions of what fraction of expenses for personnel, transportation and vehicle and equipment maintenance were allocated to disposal and non-disposal. "Deposit to operating reserve" was allocated equally to both categories. Revenues related to recycling or from grant reimbursement have been allocated to the fixed fee category. Revenues related to disposal have been allocated to the disposal category. We have included all budget items used in UCRRA budget. An additional line for bag program startup has *been added*. Some budget lines have been *increased* to reflect a greater emphasis on composting and on recycling education, operations and enforcement. Some items such as sludge handling could be excluded from the budget as this could be considered an extra service of the UCRRA, but they were left in. Based on these assumptions it is determined that the estimated user fee revenues needed for the fixed fee are \$5,792,000 and for the disposal fee \$5,092,500.

**Estimation of bag/bin disposal fee:**

Under the bag/bin fee system, households and small businesses would pay for waste disposal with a bag fee. The term bag fee is used here for simplicity, it could mean either special bags or special tags or stickers that could be affixed to either bags or garbage cans. Large businesses would pay for disposal expenses through a bin (dumpster) fee based on the size (volume) of the bin. Private waste hauling companies would charge customers for collection and recycling services only.

The bag/bin fees are calculated based on the estimated bag/bin fee revenues needed (see attached fee calculation table). Assuming 104,700 tons of waste expected (UCRRA figure) then approximately \$48.64 per ton would have to be charged for disposal to generate the needed revenue of \$5,092,500. This \$48.64/ton figure is used to estimate the following bag/bin fees. The estimated bag fee for a thirty gallon bag weighing from 15 to 30 pounds would range from 40 cents to 75 cents. The cost of bag production and distribution would be added to the bag fee. Also, as most transfer stations have a bag fee of \$1 to \$2

already in place, it could be possible to increase the bag fee so that a portion could go directly to towns to help offset transfer station costs.

Using a range of garbage weights of 150 to 200 pounds per cubic yard, the bin fee would range from \$3.70 to \$5.00/ cubic yard. Before implementation, a sampling survey of bags, cans and garbage bins would have to be conducted in order to obtain more precise conversion factors, that is, the weight of waste per gallon or cubic yard.

#### **Estimation of Fixed Fee:**

Determining the value of the fixed fee depends on how it will be financed. The LWV/EMC proposes two ways to generate the estimated \$5,792,000 revenue needed to cover the fixed costs: 1) a fee per dwelling unit or business or 2) an *ad valorem* tax on real property. The fee calculation table presents these options and others in order to get a ballpark estimate of the fee. An *ad valorem* tax would amount to about \$1.02/\$1000 valuation. Assessing every property (exempt and taxable) parcel uniformly, the fixed fee would be about \$70 per parcel. Uniformly assessing just taxable properties, the fixed fee would be about \$73/parcel.

Assessing residential and commercial/institutional properties differently, assuming that half the waste is generated by residents and half by businesses, the fixed fee would be about \$53/household and \$293/business parcel. It is probably fairer to establish a non-uniform fixed fee for businesses based on business type, number of employees, size of building (square feet) or the estimated waste generated. Other communities have established non-uniform fixed fees. For example, Tomkins County uses building area, see attached. More research would have to be done to develop a range of fees that would work for Ulster County. The figure of \$293 can be thought of as a reference point for this range. Information regarding what other communities have done can be obtained, if interested.

Another way to fund the fixed costs is to add them to the County budget. Adding \$5,792,000 to the 1998 budget would result in a 2.8% increase.

#### **Conclusions:**

The existence of a comprehensive solid waste management system which provides a means of disposing of 'throw away' waste and provides waste diversion opportunities adds immeasurably to property values and benefits the entire community. The fixed fee provides stable funding for the non-disposal costs of the waste management system such as landfill closure and maintenance, recycling, composting, HHW and debt service. The bag/ bin fee provides for the cost of disposal to be borne directly by the generator of waste and provides an economic incentive to recycle and reduce waste. Reducing waste will help hold down costs. Enlisting the community in good solid waste behavior can only benefit our county as a complete solid waste management system is developed.

*For more information or questions call Environmental Management Council at 687-0267*

| REVENUES   | FIXED FEE          | BAG/IN FEE (DISPOSAL) | TOTAL               | ASSUMPTIONS  | UCRRA Alter. User Fee |
|--|--------------------|-----------------------|---------------------|--|-----------------------|
| Solid Waste Tipping Fees                         |                    | \$600,000             | \$600,000           | Proposal numbers have been rounded to simplify                               | \$600,000             |
| Sewage Sludge Tipping Fees                       |                    | \$352,500             | \$352,500           |  | \$352,500             |
| Waste hauling Service Fees                       |                    | \$140,000             | \$140,000           |  | \$140,000             |
| Recycling Service Fees                           | \$2,000            |                       | \$2,000             |  | \$2,000               |
| Sales of Recyclables                             | \$400,000          |                       | \$400,000           | 50% fixed, 50% disposal, not sure of source of revenue                       | \$400,000             |
| Misc. Revenue                                    | \$35,000           | \$35,000              | \$70,000            |  | \$70,000              |
| Debt Service Earnings                            |                    |                       |                     |  |                       |
| HHW Operating Grant User Fee                     | \$30,000           |                       | \$30,000            | Additional HHW grant reimbursement \$10,800,000 projected by RRA, see below  | \$16,500              |
| <b>Total Revenues</b>                            | <b>\$467,000</b>   | <b>\$1,127,500</b>    | <b>\$1,594,500</b>  |  | <b>\$1,581,000</b>    |
| <b>EXPENSES</b>                                  |                    |                       |                     |  |                       |
| Personnel  | \$875,000          | \$875,000             | \$1,750,000         | 50% fixed, 50% disposal, additional monies for recyc & enforcement personnel | \$1,701,108           |
| Agency Administrative SAC (recycling) Operations | \$825,000          |                       | \$825,000           | additional \$25,000 for recycling education & promotion                      | \$800,000             |
| Transfer Station Operations                      | \$200,000          |                       | \$200,000           | increased to reflect increased recycling                                     | \$177,469             |
| Household Hazard. Waste Operations               | \$60,000           | \$135,000             | \$195,000           |  | \$138,598             |
| C & D/Composting Operations                      | \$10,000           |                       | \$10,000            | HHW operations increased by about 2 times                                    | \$34,500              |
| Transportation System                            | \$66,000           |                       | \$66,000            | C&D operations increased to reflect increase diversion/recycling             | \$2,500               |
| Vehicle & Equipment Maintenance                  | \$91,000           | \$134,000             | \$225,000           | 33% fixed fee, 67% disposal  | \$200,000             |
| MSW Private Hauling Contracts                    |                    | \$184,000             | \$184,000           | 33% fixed fee, 67% disposal  | \$275,000             |
| Solid Waste Disposal Costs                       | \$575,000          | \$1,000,000           | \$1,575,000         |  | \$1,020,210           |
| Sludge Disposal Costs                            |                    | \$2,800,000           | \$2,800,000         |  | \$2,840,000           |
| CLF Maintenance & Monitoring                     |                    | \$250,000             | \$250,000           |  | \$249,100             |
| Compliance                                       |                    | \$2,000               | \$2,000             |  | \$575,000             |
| HCB Payments                                     | \$50,000           | \$140,000             | \$190,000           |  | \$2,000               |
| Bag program start-up                             | \$20,000           |                       | \$20,000            | Cost for bag implementation  | \$139,875             |
| Operating Contingency                            |                    |                       |                     |  | \$20,000              |
| <b>Total Expenses</b>                            | <b>\$2,772,000</b> | <b>\$5,520,000</b>    | <b>\$8,292,000</b>  |  | <b>\$8,175,360</b>    |
| Net Expenses                                     | \$2,305,000        | \$4,392,500           | \$6,697,500         |  | \$6,594,360           |
| Debt Service                                     | \$2,787,000        |                       | \$2,787,000         |  | \$2,787,319           |
| Sum of Expenses + Debt Service                   | \$5,092,000        | \$4,392,500           | \$9,484,500         |  | \$9,381,679           |
| Deposit to Operating Reserve                     | \$700,000          | \$700,000             | \$1,400,000         | 50% fixed, 50% disposal  | \$1,418,321           |
| <b>User Fee Revenues Needed</b>                  | <b>\$5,792,000</b> | <b>\$5,092,500</b>    | <b>\$10,884,500</b> |  | <b>\$10,800,000</b>   |

BASED ON DRAFT UCRRA 1999 PROPOSED USER FEE ALTERNATIVE BUDGET 9-9-98

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|  |                   |   |
|--|-------------------|---|
| MSW tonnage projected  |                   | 104,700 from UCRRRA budget  |
| <b>Bag/Bin Fee Revenue Needed</b>                            |                   | <b>\$5,092,500</b>  |
| Bag/Bin Fee/ton  |                   | \$48.64   |
|  | <b>conversion</b> |   |
| Bag Fee for 30 gal bag                                       | lb/bag            |   |
| 15 pounds  | 15                | \$0.36  |
| 20 pounds  | 20                | \$0.49  |
| 30 pounds  | 30                | \$0.73  |
| Bin Fee per cubic yard                                       | lb/cy             |   |
| @150 lb/cubic yard   | 150               | \$3.65  |
| @175 lb/cubic yard   | 175               | \$4.26  |
| @200 lb/cubic yard   | 200               | \$4.86  |
| <b>Fixed Fee Revenue Needed</b>                              |                   | <b>\$5,792,000</b>  |
| Total Valuation of County<br>cost per \$1000                 |                   | \$5,887,228,711 from UC Real Property Dept.<br>\$1.02                               |
| Property Parcels<br>fixed fee cost/parcel                    |                   | 83,000<br>\$70 from UC Real Property Dept.  |
| Taxable Parcels<br>fixed fee cost/ taxable parcel            |                   | 79,000 from UC Real Property Dept.<br>\$73  |
| Residential Parcels<br>Residential fixed fee cost/parcel     |                   | 55,000 vacant parcels not included<br>\$53 assume 50% trash from residential sector |
| Commercial/Inst. Parcels<br>Comm./Inst.fixed fee cost/parcel |                   | 9,900 vacant parcels not included<br>\$293 assume 50% trash from comm/inst. sector  |
| 1998 County Budget   |                   | \$199,500,000   |
| Cty budget + fixed fee cost                                  |                   | \$205,292,000   |
| percentage of budget   |                   | 2.8%  |

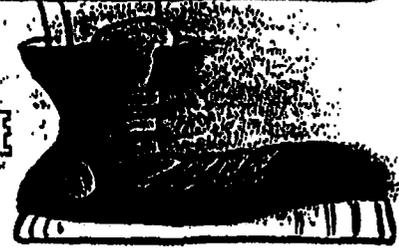


# Playing Trash Tag in Tompkins County

| Haulers   | Tag colors      | Pounds per tag   | Landfill Charge | Collection fee<br><small>Senior Citizen rate may be available</small> | Collection included | Administrative charge per sheet | Sales tax | Total cost sheet of trash tags<br><small>Includes sales tax if applicable</small> | Where available   |
|---|-----------------|------------------|-----------------|---|---------------------|---------------------------------|-----------|---|---|
| Casterline  | blue            | 20 lbs           | 62¢             | \$11.00/mo  | billed separately   | \$1.00                          | 7%        | \$9.00  | Casterline office   |
| Collins   | green           | 20 lbs           | 60¢             | \$ 1.22/tag   | yes                 | none                            | 7%        | Disp-\$ 7.70<br>Coll-\$15.70  | Collins office  |
| Doug's  | orange<br>green | 25 lbs<br>15 lbs | 78¢<br>47¢      | \$8.00/mo   | billed separately   | \$1.00                          | 7%        | \$11.09<br>\$ 7.10  | Doug's office<br>Grotom/Western Auto  |
| City of Ithaca  | orange<br>peach | 35 lbs<br>20 lbs | \$1.08<br>62¢   | \$1.00/tag*<br>57¢/tag  | yes                 | 28¢                             | none      | \$13.00**<br>\$ 7.00  | City Hall, Tops, Wegman's,<br>Greenstar & Eddy, St. Coops,<br>P & C, The Corner Store, C.U.<br>Campus Store, Triangle Books   |
| <p>** Total cost to the City for collection and disposal of 35 lbs is \$2.11. A 1990 surplus of \$170,000 has enabled the City to reduce the 1991 charge to \$1.08 per tag.</p> |                 |                  |                 |   |                     |                                 |           |   |   |
| S & S   | red             | 20 lbs           | 62¢             | \$ 8.00/mo  | billed separately   | \$1.80                          | 7%        | \$ 9.76   | S & S office  |
| Superior  | orange          | 20 lbs           | 62¢             | \$ 8.00/mo  | billed separately   | 66¢                             | 7%        | \$ 8.67   | Benjamin's, O'Day's, Reynolds,<br>Varies, C. Holton's,<br>Pharmacy, The Store,<br>Park, Grocer,<br>Park,<br>Bridge, Mace, Edcano, Jones, P.<br>Stop, Jim, Tobie, Home Ofc.,<br>A&P (Trip), Vama Inn |
| Valley  | pink            | 20 lbs           | 41¢             | \$ 8.00/mo  | billed separately   | \$1.25                          | 7%        | \$ 6.60   | Valley office, Spencer, Top 40 Video,<br>Spencer Village  |



For further information about trash tags, call the above haulers or call the Solid Waste Management Division at 273-6632



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# COMMENTS ON CASHIN/CAHILL STUDY OF UCRRA

- Dated: May 11, 1999
- Authored: Authored: Ulster  
County Environmental  
Management Council & Mid-  
Ulster League of Woman Voters  
Solid Waste Task Force

**David Straus  
1018 Old Ford Rd.  
New Paltz, New York 12561**

May 11, 1999

Ulster County Legislature  
Box 1800  
Fair Street  
Kingston, NY 12401

Dear Ulster County Legislator:

Enclosed are the detailed comments which the Ulster County Environmental Management Council - Mid-Ulster League of Women Voters Solid Waste Task Force have researched concerning the Cashin-Cahill Study of UCRRA. We agree with much of the Consultants work but strongly disagree about the 2nd tier of their proposed funding of UCRRA. We recommend legal flow control rather than Consultants economic flow control. Our comments cover our reasons for this change in detail. We hope you find them useful. We would be happy to present our findings to the Gerentine Committee or any other committee of the Legislature or the Legislature as a whole.

Sincerely yours,

David Straus, Ph.D.  
Chairman EMC-LWV  
Task Force

*attachment*

EMC-LWV COMMENTS ON CASHIN/CAHILL STUDY OF UCRRA, April, 1999  
INCLUDING RECOMMENDATIONS

The Study was most interesting containing a number of recommendations with which we agree as well as some with which we strongly disagree. In the following we will take up these points with brief discussion. In our Phase 2 recommendations(10/98) we strongly support a two-tier funding system for UCRRA. We refer to UCRRA as the agency which handles solid waste in Ulster County though some other body may finally have that responsibility. We use "bag/bin" to refer to any unit-based system of measuring solid waste; it could be a colored bag, a distinctive tag, or a bin(dumpster) of known volume.

Let's start with the Cashin & Cahill Conclusions and Recommendations, Section 10.0. In order:

1. We agree.
2. We agree, longer-term contracts for disposal of solid waste would allow more careful planning and could insure a lower price.
3. We agree; see #2.
4. Yes, UCRRA should reduce expenses as much as possible. However, more detailed and careful consideration is needed before staffing decisions are made. A composting facility for yardwaste and kitchen foodwaste should be established at the earliest opportunity after a stable funding source for the Agency is established. Depending on the season this will reduce the solid waste load to be buried significantly.
5. We agree that funding for UCRRA could be through a two-tier system based on an *ad valorem* real property tax or alternative to cover fixed expenses(not precisely those listed by Consultants). The added user fee Special Benefit Assessment recommended by Consultants does not provide any incentive to recycle. For this we recommend a second tier disposal funding system providing an incentive to recycle such as a bag/bin system. Recycling education and household hazardous waste disposal should be funded from the first tier. All disposal costs should be based on a 'per bag' user fee for residential and some small business customers and on a volume basis for for larger commercial, institutional, and industrial customers. This two-tier system provides for a strong economic incentive to recycle.
6. If the Legislature accepts this recommendation, we agree that the stable funding source should

be established with a 1-year phase-in. More data should be collected in year-1 to refine waste generation figures. UCRRA fixed costs (somewhat different than Consultants list of costs to be covered by the *ad valorem* real property tax) should be covered by such a real property tax. Consultants real property tax plus per household living unit fee provides a disincentive for recycling which will probably result in a greater tonnage being landfilled at a greater cost to everyone.

7. We agree with most of this recommendation. Recycling services should be included in the 2nd tier. Note: this a change from our Phase 2 recommendation, 10/98. UCRRA should handle all Ulster County solid waste without a tipping fee except for the special categories of C&D waste and STP sludges, but recycling education and Household Hazardous Waste should be included in services funded by the *ad valorem* tax (1st tier).

8. We agree with this recommendation in that all funds collected for solid waste should go to the agency. Any funds not spent in the year of collection would go into a reserve fund to cover those years when expenses exceed income. If the County Legislature deems it necessary, UCRRA can be required to submit a budget each autumn which can go through the normal appropriations process. However, this would make the agency very much like a Department of County government rather than a Public Benefit Corporation with its independent funding mechanisms.

9. We agree with this recommendation but we would go farther. As we discuss below, the County should take over the collection of solid waste, define districts open to competitive bidding by the private sector for collection of solid waste at specified prices. This option should be carefully examined by the Legislature. We strongly agree that control over the collection process either by contract, as we recommend, or by licensing, as Consultants recommend, is needed.

10. We agree with this recommendation but Town drop-off centers should remain. Further consideration of financing transfer station operation and transport of recyclables and solid waste from Town transfer stations to the UCRRA transfer station should be undertaken.

11. We agree with this recommendation; however, the recycling educational activities should be increased and paid from the *ad valorem* tax (1st tier).

12. We agree with this recommendation except that consideration should be given to serving areas with a population density too low to attract private sector bids for collection services (Denning, Hardenburgh, Shandaken).

13. We agree with this recommendation.

14. We agree with this recommendation(see our Phase 2 recommendations) especially enforcement of recycling.

15. We agree with this recommendation.

16. We agree with this recommendation. This would only apply to the 1st tier if the County adopted our recommended bag/bin fee.

**How Could UCRRA Be Funded to Carry Out These Responsibilities?-** There are a variety of funding mechanisms for supporting UCRRA which would meet our strong recommendation for providing an economic incentive to the public for recycling. We present four such mechanisms for your consideration.

**#1. Two tier system with *ad valorem* tax for fixed costs and a bag/bin fee for disposal costs.-** This is the alternative that we recommended in our Phase 2(10/98) report to the County Legislature. It is similar to the system proposed by Consultants except that their household living unit user fee to support disposal would be replaced by the bag/bin fee. Overall, this system provides a strong economic incentive to recycle; it provides a direct means of charging generators(the public) for the volume of solid waste they discard; and it eliminates any need for a second billing system for non-residential generators. In fact, the Consultants proposed 2nd-year non-residential volume based fee is similar to this bag/bin fee. Residential and non-residential generators should pay at the same rates per volume of solid waste thrown away.

**#2. All UCRRA costs paid through a bag/bin fee.-** The charge per bag, bin, or tag would be approximately twice as high as under our preferred system but there would be no *ad valorem* tax or household living unit fee.

**#3. Fund UCRRA as at present through the County General Fund for fixed costs and the bag/bin fee for disposal costs.-** The agency would submit a budget to the County each year and the County would appropriate funds to cover reasonable fixed costs including ~~de~~ service and also establish the bag/bin fee to cover disposal costs.

**#4. Ulster County takes over the collection of solid waste; divides the County into districts and puts collection in each district to the private sector for bid.-** The County would be the collector contracting with the private sector with specific contractual requirements consistent with the County's goals. Such goals as separate pickup of recyclables; delivery of non-recyclable waste to the UCRRA transfer station; and even a requirement to pick up senior citizens' bags at the door rather than the curb could be included in the contract. The bag or bin fee charge for collection would be easiest to institute using this system. Costs of collection would be paid to the County through the bag or bin fee; the County would

reimburse the hauler for pickup. This proposal allows the County to specify and control all aspects of collection. It meets current U.S. Court of Appeals criteria for legal flow control.

We have already recommended that UCRRA's fixed costs including debt service, administrative costs, real property maintenance, servicing closed Town landfills and the three consolidation landfills, recycling education, and similar charges be paid through an *ad valorem* real property tax. Consultants essentially agree with our earlier recommendation though they have a somewhat different list of costs to be included in this funding category. Despite the fact that this is a tax it can easily be justified since UCRRA provides an essential service to all County citizens which increases the value of their property. Furthermore, they are already paying this tax through the Net Service Agreement.

But the Consultants recommend an added fee to cover actual disposal costs for solid waste. Consultants do not use an *ad valorem* tax but a living unit fee. This is unfair! It favors those with large families who don't recycle and discriminates against those, such as seniors, with only one or two living in the unit who don't consume very much and who recycle thoroughly. Consultants claim that their approach is "simple". Simple collection, maybe, but not simple assessment. Consultants' estimates of living unit fees are nearly guaranteed to be in error for most people. Contrary to Consultants recommendations (§8.7, pp 53-55), the Ulster County EMC-League of Women Voters Task Force strongly recommend use of the bag or bin system. This system is inherently fairer in that you pay for the volume of solid waste you throw away. Volume is a much better measure of how much we throw away than any of the 'estimates' used by Consultants in §8.8 and 8.9. The bag system is not new in Ulster County; all self-haulers in the County use it.

Consultants question whether the vertically integrated 'biggies' with their own disposal facilities would participate in the bag/bin user fee system. Wouldn't they collect their customers' garbage in the cheap brown plastic bags bypassing the UCRRA system? Such actions would be illegal following our recommendations (see #4 above). Also the economic flow control recommended by Consultants might actually be in effect. However, the last is a real question. Only with the County serving as collector would we be assured of making the entire system, from collection to disposal, function.

The enforcement phase for mandatory recycling was taken up in our phase 2 recommendations, 10/98. UCRRA should budget 2-3 enforcement personnel to ascertain whether a contractor was picking up recyclables and not mixing them with bag/bin solid waste. We are pleased to see that Consultants also recommend enforcement personnel. It was unclear from their report whether they would impose penalties for failure to follow the Ulster County mandatory recycling law. We recommend that if a hauler brings in 'brown bag' waste he will be warned the first time, fined substantially the second time, and lose his contract the third time. We expect

compliance from haulers. The County Local Law should specify that haulers may only pick up garbage at curbside if it is in the appropriate colored bag or has the appropriate tag. Enforcement personnel should spot check hauler loads, using the same fine schedule, to enforce the mandatory recycling law. Non-residential collection wouldn't use the distinctive bags or tags but rather be based on the volume of the bin(dumpster). For this reason we recommend separate residential and non-residential collections.

Consultants raise the red herring of citizens discarding 'brown bag' waste at the side of the road. This is truly a red herring. All Towns in Ulster County have had per bag fees for the last 10 years at the Town drop-off centers and there has been very little side of the road dumping. On the whole Ulster County citizens are law abiding and they have accepted the per bag fees throughout the County. It isn't something that we would have to educate the public about. All self-haulers know it already and those using contract haulers would learn it easily.

In their last paragraph(p 55) in §8.7 Consultants reraise the problem of what they say would be the largest bag/bin program in New York. In response, the per bag fee is already accepted in Ulster County and the program would be comparable in size to a similar program already established in Tompkins County.<sup>1</sup> Ulster County could be innovative and show that the bag/bin fee system can work on a fairly large scale. The bag or "unit-based" fees are used in urban and some rural areas already(some 10% of the U.S, population).<sup>2</sup> If our recommendation is followed, Ulster County could extend the system to rural areas.

The Consultants are also guilty of what we might call "cost manipulation". The Tables on p 54 for the per bag/bin system and on p 57 for the flat fee system differ by \$68,000 per year. Consultants don't explain this difference in Agency Expense Budget lines. We surmise that they have added the startup costs for the residential bag system which we addressed in our Phase 2 recommendations, as a continuing annual expense. This is not correct! The \$68,000 would be estimated startup costs for the residential bag system only present the first year. Purchasers of the bags would pay the full cost of disposal of their solid waste.

Finally, the question of non-residential user fees deserves comment. Small businesses with little solid waste could use the bag system. Those with large enough waste loads requiring bins (dumpsters) and/or more frequent pickups should be handled differently. They should pay at the same rate as residences but their fee should be based on the total volume of their bins/dumpsters. Non-residential generators usually have hauler contracts and it would be reasonable to have the hauler report the number and type of dumpsters he picks up at each business and compare those numbers with the truck volume and weight to determine the accuracy of the hauler's record. The agency could then bill the businesses on a bimonthly basis for disposal services based on the total volume of waste contributed by the business. This is the Tulsa-Smithtown system for non-residential solid waste(not the Smithtown residential system briefly discussed by Consultants).

Businesses already pay by volume- the number of full dumpsters they have picked up each week- so the phase-in the Consultants recommend would be simple. The current system of paying haulers for both collection and disposal would change. Businesses would pay the County for collection and disposal with reimbursement of the hauler for collection only. Thus businesses, like residences would pay for each tier of the 2-tier system. Both residential and non-residential solid waste would come to the UCRRA transfer station or disposal facility without a tipping fee. The County could separate residential and non-residential collection contracts to make these unit(volume)-based fees simpler to administer and enforce.<sup>3</sup>

**Legal Considerations in Accomplishing Flow Control.-** We think legal flow control is better than economic flow control on the basis of review of three flow control court case studies.

Consultants provide a most interesting review of case law in the Federal system(U.S. Court of Appeals, 2nd District) in regard to the infamous *Carbone*<sup>4</sup> decision of 1994 outlawing simple flow control ordinances nationwide. This review(\$6.2, 6.3, pp 35-37) covers two cases on Long Island and one in Connecticut; there may be others elsewhere in the U.S. The three decisions reviewed seem to provide means by which communities can legally exercise flow control. Of course, any or all of these precedents may be overturned by the Supreme Court when they, inevitably, review the lower court decisions. But it seems the better part of wisdom to follow as many of these precedents as possible in order to insure flow control in Ulster County in the future.

The New York cases involving Smithtown and Babylon on Long Island were rather different. The Smithtown case<sup>5</sup>, involving residential collection only, allowed the community to direct four contractors to move solid waste to the Town facility. The Town was the 'collector'(as in a great many communities in the U.S.) and they had the right to direct their contractor. As Consultants point out, Smithtown was found to be a "market participant" not a "market regulator" thereby not under the *Carbone* precedent which applies only to "market regulators". Babylon<sup>6</sup> formed a solid waste collecting 'district' including its incinerator and contracted both residential and non-residential collection to a single contractor; all private haulers but one were put out of business in Babylon- the Town was "evenhanded" which is all the Supreme Court required in *Carbone*.

The Connecticut decision involving the Town of Stonington<sup>7</sup> built on the Long Island decisions. The Court of Appeals approved the Stonington district plan for residential collection which was similar to Smithtown except that Stonington divided the Town with a separate contract for each fire district- a variety of private sector haulers- with a bag fee covering all costs(see #2 above). The Stonington bag program has been underway for over a decade and is considered successful by its operators. The U.S. Court of Appeals for the 2nd District has determined that Stonington meets the requirements of the *Carbone* decision. Communities such as Stonington,

Smithtown, or Babylon are probably amenable to hosting Ulster County Legislators or visiting Ulster County to make a presentation of their system.

Ulster County doesn't have a disposal facility like Babylon so that case has less significance for us. However, from the other two Court of Appeals decisions it appears that as long as the community is the collector it can contract for the collection of solid waste to either one(Babylon) or many(Stonington and Smithtown) haulers and may also direct the contractor(s) to dispose of the collected waste where and how the community wants. In these cases the waste generator or the whole community, through taxes, would pay for both collection and disposal. In the first case citizens would pay the hauler for collection and either the community or the private hauler for disposal. In the second case citizens would pay the municipality for collection and disposal with the hauler being paid for his services by the municipality. The hauler would provide a service to the citizen, transporting solid waste from his house or business to the municipality's transfer station or disposal facility if the latter existed. Citizens should also have the choice of "self-hauling" as a significant number of Ulster County citizens do now outside of Kingston; Stonington specifically allows self-hauling in their successful system.<sup>8</sup>

The Consultants assert(p 38) that "Ulster County's waste policy differs in that it seeks to provide an exclusive public disposal system, while leaving a variety of collection practices undisturbed." In fact, there is no County policy regarding collection practices. We emphatically suggest that the County either take over collection or that it set up collection districts and allow the private sector to contract with the County for collection by competitive bid. In our opinion, the second collection method is preferable since Ulster is rural and we should support our small business people in the hauling industry. We also suggest(see Recommendations) that a cap be placed on the fee for such collection service in each district depending on the distances the haulers would have to travel and other factors to be determined such that 1)the hauler would make a reasonable profit; and 2)the County Local Law directs the hauler to bring collected solid waste and recyclables to an UCRRA facility, either a transfer station or an actual disposal facility. Consultants discuss this idea in §7.2, pp 39-40. In our research, we have determined that hauling costs have decreased in communities adopting the district system which we recommend due to economies of scale in the 'guaranteed' set of residences or non-residences.<sup>9</sup>

But what if Waste Management or BFI or both were the only bidders? Even so, the County would be the collector and those 'biggies' would still only be performing a collection service and they would be legally required to deliver the solid waste to wherever UCRRA directed. As part of the suggested County Local Law, a given company could be restricted as to the number of districts they could successfully bid on. The 'biggies' might also bid on the Consultants recommended five year hauling contract to transport waste from the UCRRA transfer station to ultimate disposal. The 'biggies' might even offer a lower price for landfill space. From an economic point of view that

would be fine. From an environmental point of view it might not be so fine. We suggest that any ultimate disposal site meet the requirements of §360 New York Environmental Conservation Law even if out of state. Becoming dependent on the 'biggies' is a problem particularly if there are only one or two because, though initial long term contracts might be satisfactory, subsequent ones might be much higher since there would be little if any competition.

Without the County assuming collection duties County-wide, we don't meet the standard set by the 2nd District U.S. Court of Appeals for flow control. We urge the County to examine the legal basis for setting up economic or other flow control in light of *Carbone* as well as the more recent interpretations of the *Carbone* decision. We recommend that the County Attorney be consulted on this matter as soon as possible.

Consultants recommend economic flow control. If disposal costs were paid by the generator, tipping fees at the UCRRA transfer station could be eliminated. This would tend to cause haulers, not under County contract, to take their solid waste to UCRRA rather than to some other landfill either their own or independent where a tipping fee(cost) would be involved. But Consultants shoot down their own idea when they recommend against a bag fee payment method. In §8.7, p 55

"Even with added revenues from *ad valorem* benefit assessments, the Agency's per ton cost of \$59.40 would remain substantially higher than disposal costs available to private haulers, particularly those haulers who are owned and operated by vertically integrated companies with in-house landfills."

The vertically integrated hauler like BFI could take his collection anywhere in those cheap brown plastic bags and undercut the UCRRA price. But, the Consultants might say, it doesn't matter since residences(but not businesses you should note) will have paid their user fee with their taxes. Consultants estimate the user fee for the average residential waste generator at \$64.71 per year(p 57). Waste Management or BFI could "subsidize" their routes now charging \$16.50 per month for seniors and \$20 per month for others<sup>10</sup>(\$198 - \$240 per year) and put UCRRA into bankruptcy within a year. With Consultants' plan, non-residential collection doesn't require an 'up front' user fee and it seems questionable that UCRRA could survive solely on residential collection.

With the 'biggies' buying out the small business haulers we will, in fact, have the situation feared by Consultants. In our opinion, economic flow control may not work! So, why take a chance? Why not establish legal flow control by County collection contracted to the private sector? This would insure UCRRA's needed waste stream and allow the County to specify, among other things, maximum fees, mandatory recyclable pickup, and the site where solid waste is to be taken. None of these latter conditions could be mandated under the "free" collection system Consultants recommend.

**Recycling.-** Ulster County has had one of the most successful recycling programs in New York but it is now deteriorating due to lack of funding and support by UCRRA. We are still a little behind the State goal of 50% of solid waste being recycled and we are far behind the County Solid Waste Management Plan goal of 72% reduction in solid waste load and from the possible 80% recycling rate. The recycling rate could be rapidly increased if all haulers collected recyclables. This would occur if our recommendations re contract collection were put into effect. Recycling education has a very small budget at present; we would increase that budget through the *ad valorem* tax. Finally, and most importantly, we would continue the present economic incentive to recycle through the bag/bin system. Quoting Consultants(p 64)

“We recognize that there is an economic logic which favors recycling activities when waste revenues are raised through gate fees and bag systems. The logic is that an individual will tend to recycle more when he or she sees the waste bill decrease as less garbage is thrown away.”

The system proposed by Consultants would not provide this economic incentive to recycle. Recycling would probably decrease under the Consultants' system. This would be contrary to State policy and it would inevitably increase disposal costs for the citizen. The per bag/bin fee system provides the incentive and provides immediate evidence of the saving. The bag/bin system also provides a firm financial backing for UCRRA's disposal system.

UCRRA has frequently stated their desire for a “simple” funding system. In their minds, a tax collection system is “simplest”. A different simple system would be to have all UCRRA expenses paid through the bag/bin system(see funding source #2, above). From our estimates(see Phase 2 Recommendations), a \$2.00 per bag fee for homeowners with an equal unit(volume) charge for businesses would provide more than \$10 million annually for the UCRRA budget and it would provide an even greater economic incentive to recycle. The bag/bin fee which we estimated under our recommended two-tier system would be \$1.00 or slightly less. The one advantage to Ulster County Legislators of the all-bag/bin funding system is that real property taxes wouldn't have to be raised; they could be lowered since no Net Service Fee would be necessary. However, we still recommend the two tier system; it is a more rational approach to meet UCRRA's funding requirements.

**Household Hazardous Waste.-** The current UCRRA budget of \$12,000 for a once per year Household Hazardous Waste collection is too little. Household Hazardous Wastes will end up in the garbage to be landfilled if we don't provide pollution prevention education and a more frequent means for citizens to dispose of this type of waste properly. We recommend six collections per year with a budget of at least \$60,000 funded through the *ad valorem* tax. Consultants don't discuss it but HHW disposed of by landfill can subject the generator, here UCRRA, to the costs of the CERCLA(Superfund) law. Keeping HHW out of landfills protects groundwater and surface waters and is a general benefit to the citizens of Ulster County, New York, and the entire United

States. Small quantity generators of hazardous wastes (small businesses) should also be able to use the agency's HHW facilities paying the full cost of disposal. These generators frequently are below the limits of State and Federal control but their hazardous wastes can still poison ground and surface waters and if disposed of as solid waste can subject the County to Superfund charges.

**Ultimate Disposal Facilities.-** Currently landfill space in the northeast is a buyers market. But when Fresh Kills is closed for good and the gigantic New York City solid waste load is put on the market landfill space will become a sellers market which will probably continue for the foreseeable future. Total solid waste will remain constant or even increase with increasing population, land will become scarcer. We strongly recommend that UCRRA continue research into obtaining their own landfill space. This is the only way they will be able to control their disposal options and costs in the future. The Legislature should note that Saratoga County has already moved in this direction by siting their own landfill.

**Summary.-** The Ulster County Environmental Management Council-League of Women Voters Solid Waste Task Force make the following recommendations in light of a careful review of the Cashin-Cahill Study of UCRRA.

1. Ulster County should take over collection of solid waste in Ulster County using either County Law §226b or Article 5A.
2. Under Article 5A, the County should establish solid waste control districts including the City of Kingston and other equal population areas of the County.
3. The County should place the responsibility for operation of the entire system either in UCRRA (however it might be reconstituted) or in a County Department as part of this Local Law.
4. The responsible agency should file a Request for Proposals with the private sector including all requirements for solid waste collection including recyclables, the maximum solid waste transport fee to be charged in the district, the location(s) where solid waste and recyclables are to be delivered, etc. for each district. The highest bid by a business judged competent for the job will be awarded a multi-year contract for residential solid waste collection in a particular district. The contract will contain provision for annual review of the maximum collection fee per unit of solid waste and per unit of recyclables.
5. A system like Recommendation #4 will be followed for non-residential solid waste collection including recyclables in each district.
6. The County will establish as part of its Local Law funding provisions for the agency:

a. an *ad valorem* real property tax to cover all fixed costs of the agency(see our Phase 2 Recommendations for a listing of these fixed costs[but with recycling service charges left out of 1st tier funding]) including recycling education and Household Hazardous Waste collection and disposal. The tax rate will be modified annually to meet these fixed costs and the tax will be a separate, identified, line item on each property owner's tax bill.

b. collection and disposal costs will be paid from the proceeds of the sale of specially marked bags or tags for residential and some small business and from fees based on the volume of solid waste generated by larger businesses, institutions, and factories. The residential and business fees will be identical for each unit of solid waste to be landfilled.

c. the costs of collecting recyclables will be calculated into the price of the bags/tags/bins. The price to be charged for each bag/tag/unit of solid waste will be reviewed annually.

d. bags or tags will be for sale by the County through haulers and through governmental agencies throughout Ulster County.

7. The agency will reimburse the haulers for their contract-defined collection fee for their district.

8. The County, as part of the Local Law, will turn over the entire proceeds of the *ad valorem* tax to the agency. The agency will file periodic reports of expenditures to the County Administrator and to the Legislative Committee overseeing the agency's work. The agency will submit a budget to its Legislative Committee by 8/1 and the normal County budgeting process will be followed. The County Legislature will appropriate funds sufficient, in its opinion, to pay agency costs. Any funds in excess of the appropriation will be placed in a reserve fund which can be used to meet agency appropriations in years where expenses are greater than revenues. The reserve fund may also be used by Resolution of the County Legislature for special projects which the agency was unable to place in the regular budgeting process.

#### REFERENCES

<sup>1</sup>See appendix to EMC-LWV Phase 2 Report, 10/98.

<sup>2</sup>J. Burgiel and R. Randall; "Who's Paying by the Unit"; *Resource Recycling*, 3/99, pp 24-25; see Appendix A below.

<sup>3</sup>This is done in both Smithtown, NY and Stonington, CT and many other municipalities.

<sup>4</sup>C&A Carbone v. Town of Clarkstown, NY; 114 S. Ct 1677(1994).

<sup>5</sup>SSC Corp. v. Town of Smithtown, NY; 66 F 3d 502(E.D. NY. 1995).

<sup>6</sup>U.S.A. Recycling v. Town of Babylon; 66 F. 3d 1272(E.D. NY. 1995).

<sup>7</sup>Sal Tinerello & Sons, Inc. v. Town of Stonington CT et al. (1998 U.S. App Lexis 6695).

<sup>8</sup>Stonington, CT Ordinance and Regulations. See Appendix B.

<sup>9</sup> a. Eastern Rennsalaer County Solid Waste Authority has some communities with single haulers under contract and others with multiple haulers. The 'district' communities have annual costs of \$90-\$160 per living unit for collection and disposal. Neighboring Towns without these contracts average \$240 per year per living unit. The contract districts have recycling pickups while multi-hauler Towns(no contract) have some recyclable pickups and some not. The Authority charges extra for mixed loads containing both recyclables and trash so these haulers are "coming around". Contact Meg Morris; 1-518-434-9107 ext 107.

b. Onondaga County RRA handles County solid waste. Four Towns and four Villages outside of Syracuse have single hauler contracts; 25 municipalities have multi-hauler arrangements like Ulster County. Per Household annual costs for single hauler contract districts are \$125-\$150. For the other municipalities, annual costs range from \$250-\$340. OCRRA favors unit cost pricing for collection and disposal but they haven't established it yet. In their opinion it must be County-wide and all haulers must follow it if it is to be successful. Contacts: Suzanne LaLonde, Director of Recycling; and Tom Rhodes, Executive Director; 1-315-453-2866.

c. Schenectady County. No RRA. City of Schenectady has municipal collection and disposal. The City also contracts with the Village of Scotia for collection and disposal of solid waste. One other Village has a single hauler contract. Jeff Edwards hadn't collected data but it was his impression that the contract villages had lower collection-disposal costs than the other municipalities. There is no unit pricing in Schenectady County but the Village of Scotia is moving in that direction. Contact Jeffrey Edwards, Schenectady County Planning Dept. 1-518-434-2225.

<sup>10</sup>Phone conversation with Arcadia Refuse Service/Waste Management, Inc. 4/26/99. They had not considered their price structure if UCRRA accepted solid waste with no tipping fee.

A PROPOSAL TO ENHANCE  
THE  
ENVIRONMENTAL AND  
FINANCIAL  
SUSTAINABILITY OF ULSTER  
COUNTY'S SOLID WASTE  
SYSTEM

- Dated: July 5, 2012
- Authored: LEGISLATORS KENNETH WISHNICK & CARL BELFIGLIO

**A PROPOSAL TO ENHANCE THE  
ENVIRONMENTAL AND FINANCIAL  
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**PRESENTED BY**

**LEGISLATORS  
KENNETH WISHNICK &  
CARL BELFIGLIO**

**PRESENTED TO**

**ULSTER COUNTY LEGISLATURE  
ENVIRONMENT, ENERGY AND  
TECHNOLOGY COMMITTEE**

**July 5, 2012**

## I. INTRODUCTION

This document evaluates the history and current problems facing the Ulster County Resource Recovery Agency (UCRRA) and proposes a strategy leading toward the additional environmental accountability and financial self-sufficiency. The recommendations emanate from the 1993 adopted Ulster County Solid Waste Plan that calls for solid waste "flow control" and tipping fee adjustments to completely cover operational and bond repayment costs.

## **II. BACKGROUND**

### **1) UCRRA CREATION**

The UCRRA was created in 1986 by the NYS Legislature at the request of the Ulster County Legislature to be the lead agency for comprehensive solid waste management in Ulster County.

### **2) TRANSITION FROM TOWN LANDFILLS**

At the time, Ulster County's waste was disposed of in small town operated landfills that were not in compliance with state environmental law and had limited remaining capacity.

### **3) THE 1993 SOLID WASTE MANAGEMENT PLAN**

The 1993 adopted solid waste plan called for:

- a) town landfill closure assistance
- b) improvement of town drop off sites
- c) interim operation of 3 town landfills (Ulster, New Paltz and Lloyd).
- d) siting/construction of a new landfill
- e) **payment of all operations through tipping fee collection**

### **4) THE INITIAL 28.5 MILLION BOND ISSUE**

UCRRA's initial allocation of bond issue included:

- a) \$6.9 million was given to the county for "prior system development costs"
- b) \$6.5 million to the towns for landfill closure expenses
- c) \$900,000 for upgrades to municipal drop off center upgrades
- d) \$1.4 million to upgrade the 3 town landfills temporarily remaining open
- e) \$2.2 million for construction related to recycling
- f) \$1.5 million for equipment
- g) \$2.8 million for siting a new landfill

### **5) ADDITIONAL 11 MILLION IN BONDS ISSUED**

Closing of the 3 consolidation landfills required the additional bonding.

- a) post closure maintenance at these landfills continues at \$200,000 annually through 2027 out of the UCRRA operating budget.

### **6) BOND REFINANCING**

In 2002, the Ulster Legislature refinanced and extended the UCRRA debt from 2017 to 2025 in an effort to lower the Net Service Fee. An additional refinancing occurred in 2012 for all eligible bonds, but the term was not extended beyond 2025.

### III. THE PROBLEMS

#### 1) CURRENT DEBT

Current UCRRA debt stands at approximately \$21.7 million and requires approximately \$2.8 million in annual repayments. The original plan called for tipping fees to cover this expense. It does not.

#### 2) UCRRA PROJECTS INCREASE IN TAXPAYER SUBSIDIES

UCRRA's estimated projection of Net Services Fee (shortfall that taxpayers subsidize) is itemized as \$1.4 million for 2012; \$2.4 million for 2013; and \$2.6 million for 2014.

#### 3) UCRRA PROJECTIONS MAY BE TOO OPTIMISTIC

There are several scenarios that may drive property tax subsidies astronomically higher including, but not limited to:

a) Although WMI is in contract to deliver its waste to the UCRRA until December 31, 2012, they hold a DEC permit to operate their own transfer station and could divert \$3.35 million annually from the UCRRA beginning January 1, 2013.

b) Kingston is expected to increase its single stream recycling program from 65 tons per month to 130 tons per month. Since the UCRRA Materials Recovery Facility does not have the technology to process single stream, this will mean a significant operating loss of income and will likely cause the MRF to operate at a deficit.

c) Contract expiration dates for Ulster towns and cities (requires drop off center waste be brought to the UCRRA).

-Expires October 1, 2012

Gardiner, Marlboro, Rochester, Rosendale, Saugerties Wawarsing, Woodstock, Kingston Town

-Expires March 1, 2013

Hurley and Kingston City

-Expires October 1, 2013

Shawangunk, Denning, Hardenburgh, Esopus, Olive and Plattekill

-Expires December 31, 2025

New Paltz, Lloyd and Ulster

d) Any company collecting solid waste in Ulster County may choose to deliver their waste to the WMI transfer station rather than UCRRA if the price was competitive which would further reduce UCRRA income.

#### 4) FINAL DISPOSITION OF ALL OF ULSTER'S WASTE NOT KNOWN

Waste haulers in Ulster County may dispose of their waste at a destination of their choosing. The Ulster County Solid Waste Plan should provide a system to ensure that ALL solid waste generated in Ulster County ultimately goes to a safe, licensed, disposal facility. Flow control could help accomplish this.

**5) FAILURE TO FULLY IMPLEMENT 1993 SOLID WASTE PLAN AND UCRRA AGREEMENT**

The 1993 approved solid waste plan and the UCRRA agreement (upon which all bonding was predicated) called for:

- a) the tipping fees covering all UCRRA expenses.
- b) enactment of "flow control" to ensure that ALL waste generated in Ulster County was brought to safe licensed disposal facilities through UCRRA oversight.
- c) item a) cannot be achieved without item b)

## **IV. MAKING THE UCRRA SELF SUPPORTING**

### **1) SOLID WASTE FLOW CONTROL IS A MUST**

Solid "Flow control," which would require all waste generated in Ulster County to be brought to designated locations for disposal, **MUST** be the cornerstone of any self-sufficiency plan.

Without flow control, UCRRA is expected to price compete with other solid waste options while at the same time:

- a) UCRRA is asked to earn enough to repay a massive debt covering items beyond their operations (i.e. the cost of failed landfill siting activity and the \$6.9 million rebated to county government from the initial bonding), and
- b) UCRRA is told to aggressively increase recycling even though waste diverted to recycling diminishes the agency's income- thus raising taxpayer subsidies. Flow control could ensure that the system self funds any losses due to recycling.

### **2) SOLID WASTE FLOW CONTROL CAN CUT DISPOSAL COSTS**

- a) The UCRRA's current agreement with WMI not only gives the company the lowest tipping fee of any waste hauler, but also mandates that all WMI tonnage brought to the UCCRA transfer station must be transported to, and disposed of, at the WMI's High Acres landfill near Rochester.
- b) Since lower landfill rates are available elsewhere, the remaining solid waste from Ulster is sent to Seneca Meadows landfill near Syracuse.
- c) According to UCRRA Executive Director Tim Rose, an even lower disposal charge is likely if all of Ulster's waste can be sent to one final disposal facility (i.e. landfill, waste-to-energy plant, etc.).
- d) Since flow control would guarantee the delivery of all of WMI's waste to the UCRRA, no contract with WMI would be necessary and this could result in a lower tipping fee for all who dispose of waste.

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### 3) TIPPING FEES SHOULD BE ADJUSTED TO COVER ALL SYSTEM COSTS

This was the original plan in 1993. With the ability to adjust fees as needed, property tax subsidies will no longer be needed. As an illustration of the issue, here is a sample of current tipping fees (fuel adjustments are additional):

|  |                           |                          |
|--|---------------------------|--------------------------|
| Towns (from drop off centers)  | \$90 ton +fuel surcharges |                          |
| City of Kingston   | \$80                      | "                        |
| Packer truck residential   | \$85                      | "                        |
| Royal Welsh Prepay   | \$75.50                   | "                        |
| Construction and Demolition  | \$85                      | "                        |
| Business self haulers  | \$100                     | "                        |
| County Waste   | \$77                      | "                        |
| WMI  | \$74.50                   | "                        |
| Sludge   | \$95                      | "                        |
| <br>   |                           |                          |
| Blended Current Tipping Fee*   | <u>\$87</u>               | includes fuel surcharges |
| Break Even Tipping Fee**   | <u>\$99</u>               | includes fuel surcharges |
| <br>   |                           |                          |
| Estimated \$3 million bonding for equipment replacement results in per ton fee toward bond repayment | \$ 3                      |                          |
| <br>   |                           |                          |
| <b>Total Tipping Fee Required to be self sufficient</b>  | <b><u>\$102</u></b>       | includes fuel surcharges |

\*includes adjustments for recycling financials

\*\*excluding capital requirements

### 4) TIPPING FEE INCREASE IMPLEMENTATION OPTION

a) If tipping fee increases are phased in so that each category would be raised by no more than \$10 a year, the Net Service Fee would be as follows:

|      |             |
|------|-------------|
| 2013 | \$1,448,343 |
| 2014 | \$ 370,713  |
| 2015 | - \$ 90,085 |

b) Impact on households

If the tipping fee rises to \$102 per ton, the average increase per household will be \$16.83 per year (see Appendix for calculation formula).

## **5) STRATEGIES TO ADDRESS UCRRA SYSTEM AVOIDANCE**

- a) illegal dumping- system to examine waste and identify the owner. Establish fines and cleanup procedures. Any cost of cleanups should be recovered through tipping fees.
- b) Establish a system to ensure haulers dispose of waste as called for in the solid waste plan.
- c) For Shandaken/Hardenburgh/Denning and Shawangunk areas a special effort must be made to either construct small transfer stations or arrange for Inter-Municipal Agreements with neighboring counties.

## **6) LOSS OF OUT-OF-COUNTY WASTE VOLUME DUE TO FLOW CONTROL?**

UCRRA has very roughly estimated that about 12% of its tipping fees come from out of county waste delivered to its transfer stations. The tipping fees for this waste vary in the same manner as Ulster County waste received (see item 2 above). Thus, if flow control facilitates the county equalizing and increasing tipping fees to a self sustaining level (\$102 per ton est.):

- a) For individuals who drop off waste at the Ulster Transfer Station from Dutchess County, the tipping fee increase would be approx. \$2 ton- an insignificant change. Municipalities (i.e. Red Hook) would pay \$12 more and private haulers will vary.
- b) whether waste is lost will depend on the economics of transporting waste to a more distant location including labor costs, equipment wear & tear and fuel costs as well as competing tipping fees.
- c) The RRA also reports that it is aware of a large volume of Ulster County solid waste that is currently directly exiting the county, but it has no means of measurement.

## **7) SUSTAINABILITY OF UCRRA RECYCLING MUST BE ADDRESSED**

In recent years, the UCRRA made a substantial investment (utilizing bond funding) in the building and equipment needed to operate a Materials Recovery Facility.

- a) at the time of investment, processing of "source separated" materials (paper and cardboard collected separately from glass, plastic and metal) was the technology of choice.
- b) for efficiency, all these materials are increasingly collected together as what is called "single stream" recycling.

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c) a consultant report prepared for the UCRRA concluded that it would NOT be economically feasible to retool the MRF for single stream processing.

d) Currently:

-WMI completely bypasses the MRF with its recyclables

-County Waste pays UCRRA \$20 a ton to transfer their recyclables onto another County Waste truck

-Royal/Welsh recyclables are transferred by UCRRA to a processing facility in Poughkeepsie

-Only the towns, some smaller haulers and part of Kingston's recyclables are still processed at the MRF.

-Kingston's intent to soon switch to all single stream will cause the MRF to lose more income and consequently cause the Net Service Fee to increase.

## 7) RECYCLING POLICY OPTIONS

a) Continue with MRF technology as long as possible

-continue processing "source separated" materials from town drop off centers and some small haulers.

-continue serving as a transfer point only for "single source"

-decrease workforce and accept that there will be a financial loss

c) Exit the recycling business and monitor private sector activity

d) Seek state legislation to authorize flow control for recyclables

-invest in "single stream" processing equipment for the MRF

-the added income can lower solid waste tipping fees

## **V. RESTRUCTURING THE UCRRA**

### **1) UCRRA OVERSIGHT DOES NOT FUNCTIONALLY EXIST**

a) The UCRRA Board is comprised of five politically appointed members who make all financial, business and policy decisions needed to run this \$14 million public benefit corporation. There is no compensation to those who serve.

b) The Agency was created by state legislative action and neither the County Legislature nor the County Executive can require or change any action taken by the Board. In fact, at a recent UCRRA Board meeting, a County Legislator who sits on the Legislative Environment, Energy and Technology Committee was denied the opportunity to speak on a policy issue.

c) The policy decisions of the UCRRA Board can have far reaching implications for county residents and businesses without governmental input including:

- Long term contracts with waste haulers, towns, disposal facilities, long-haul transporters, unions, etc. may be entered into without governmental review and approval of the terms.

- There are no policies preventing special pricing and terms for large corporate haulers over locally owned small family run companies.

- Decisions to engage in or avoid innovative and aggressive recycling programs can be made without legislative input.

## **2) RESTRUCTURING**

To encourage greater accountability to both the users of Ulster's Solid Waste System as well as residents and businesses, three restructuring options are offered and all would require state legislation to implement:

a) Expand the Board to include the Town Supervisors/Mayors of each municipality. Each have a direct stake in affordable trash disposal and recycling. This has successfully been done in Rockland County.

b) Place responsibility for all staffing and operations under the County Executive within the Public Works Department and abolish the UCRRA Board.

-This would facilitate sharing of both commonly used equipment and a single maintenance facility.

-Financial and equipment needs of the solid waste system would be weighed against the needs of other county departments

-Anyone having suggestions or complaints that cannot be resolved at the staff level would have access to the political process to resolve them.

c) Place under the County Executive within the Public Works Department, abolish the UCRRA Board and create a Solid Waste Advisory Board comprised of town supervisors, mayors, haulers and legislators.

-As with all county departments, the Ulster County Legislature would set the solid waste and recycling policies and the Executive would administer the programs.

## VI. GENERAL COMMENTS

### FLOW CONTROL

a) A flow control law should minimize government's intrusion into the private sector's proprietary information to the extent allowable by legal precedent. The draft ordinance as presented by the RRA for this purpose may be overly intrusive and includes:

- requiring GPS devices on all trash trucks
- giving system employees access to confidential customer records
- reporting to system employees the locations of all trash containers
- providing system employees access to routing and pick up schedule information

b) Environmental benefits must form the basis of any flow control ordinance. It is noted that:

- The Ulster County Health Department currently requires permits for businesses that collect and transport "Objectionable Materials." The application form requests disclosure of the source of wastes along with the destination disposal sites. No permit is required for roll off container waste.
- If a local business has its waste collected by a hauler who improperly dumps, joint and several financial liability can return to that business, even if they have done nothing wrong. Residential waste is excluded.

c) Competition would likely increase with flow control

Tim Rose reports that small haulers have requested that Flow Control be passed because they want to pay the same tipping fees as the large haulers. He believes this would result in a large increase in small locally owned haulers and more competitive collection rates.

## **VII. RECOMMENDED IMPLEMENTATION STRATEGY**

### **1) LEGISLATURE SHOULD CREATE A SOLID WASTE SYSTEM ADVISORY PANEL**

a) to be comprised of every town supervisor/mayor or their designee, representation from the legislature and two solid waste haulers (small and large).

b) panel should review and comment on all solid waste operations, financials, tipping fees and any proposed new initiatives.

### **2) LEGISLATURE SHOULD PASS A SOLID WASTE FLOW CONTROL LAW**

a) a legal review of previously upheld laws should be completed

b) requirements that infringe on business proprietary information should be kept to the minimum level needed to support the law.

c) Administration of current county licensing requirements for the transport of "Objectionable Materials" should be replaced with licensing required under the flow control law.

d) July 1, 2013 is the suggested target date

### **3) LEGISLATURE AND COUNTY EXECUTIVE TO REQUEST STATE LAW BE ENACTED ALLOWING ULSTER COUNTY TO TAKE THE FOLLOWING ACTIONS:**

a) Authorize abolishing the UCRRRA

b) Authorize the enactment of a flow control law for recyclables

### **4) IF ABOLISHING THE UCRRRA CAUSES IMMEDIATE CALLING OF DEBT**

a) Request state legislation to restructure the UCRRRA Board to a membership as outlined in item 1 above.

### **5) LEGISLATURE TO TAKE NEEDED ACTIONS TO RELOCATE ALL CURRENT UCRRRA STAFFING INTO THE COUNTY PUBLIC WORKS DEPARTMENT**

a) February 1, 2013 is suggested as the target date

### **5) LEGISLATURE TO ENACT A FLOW CONTROL LAW FOR RECYCLABLES AFTER STATE AUTHORIZATION IS RECEIVED**

### **6) LEGISLATURE TO CALL FOR A STAFF REPORT ASAP ON:**

a) solid waste equipment capital improvements needed

b) strategy and capital plan for managing single stream recycling

### **7) LEGISLATURE TO IMMEDIATELY CALL FOR AN AMENDMENT TO THE COUNTY SOLID WASTE PLAN TO ADDRESS ALL OF THE ABOVE ITEMS**

## **VIII. OTHER OPTIONS DISCUSSED**

### **1) SELL UCRRA ASSETS AND EXIT THE TRASH COLLECTION/RECYCLING BUSINESS AND LEAVE IT TO THE PRIVATE SECTOR**

#### **a) Advantages:**

- No further bonding required for UCRRA capital improvements
- the remaining debt will be a defined dollar amount with a payoff date
- changing landfill fees, fuel costs and commodity markets and operational issues will no longer be a budgetary concern.

#### **b) Disadvantages:**

- Prior to taking this action, the DEC must approve an amended Ulster County solid waste plan showing an acceptable strategy to comply with state recycling and solid waste mandates. Approval is not a certainty.
- the purchaser of UCRRA's assets is likely to be a large waste hauler who would be given a huge competitive advantage
- UCRRA assets are believed to be worth only a small fraction of current debt.
- outstanding bonds may be callable upon dissolving the UCRRA. This could mean an immediate payment close to \$30 million for all outstanding principle and interest. If refinanced, the annual debt payments will be significantly higher than \$2.8 million currently owed by UCRRA since the principle would be higher.
- After ending UCRRA operations, the county would still be responsible for leachate disposal, ground water monitoring and other closure responsibilities at the Lloyd, New Paltz and Ulster landfills till at least 2027. Current costs are about \$200,000 annually
- State legislative action is required to abolish the UCRRA

## **2) CREATE A SOLID WASTE DISTRICT AND TAX ALL PROPERTY OWNERS FOR REPAYMENT OF UCRRA OUTSTANDING DEBT**

The solid waste assessment would be based on property value and would be adjusted annually to equal either the UCRRA's bond repayments or the Net Service Fee.

### **a) Advantages:**

- tax would be paid by all property owners, including non-profits
- there is a possibility that this would remove solid waste system costs from the 2% tax cap imposed on county budgeting
- the UCRRA budget would be supplemented by an itemized solid waste assessment on property tax bills rather than directly from property taxes.

### **b) Disadvantages:**

- Does not reduce any solid waste system operational costs or improve efficiency
- Property owners cannot deduct a solid waste district charge from their federal/state tax obligations in contrast to the property tax deduction currently in place.
- the volume of trash generated is not always proportional to the value of a property. i.e. a large church.
- state enabling legislation would needed
- state and local pushback on a new tax is likely in our current economy

## **3) CONTRACT OUT UCRRA OPERATIONS**

Issue a Request for Proposals from entities to operate UCRRA facilities for defined compensation.

### **a) Advantages:**

- there is a belief that the private sector can run UCRRA operations more efficiently
- UCRRA would no longer have long term employee pension obligations

### **b) disadvantages:**

- this option would not preclude the flow control option due to the prerequisite of county ownership and operation.
- virtually all of the problems outlined in Section III would remain

## APPENDIX

### Calculation of average per household cost

2012 Ulster MSW Est. x %residential = number of tons per person x avg. hhd. size x avg tipping fee incr = avg hhd cost.  
2011 Ulster County Pop Estimate

$$142,250 \times .60 / 182,493 \times 2.4 \times (\$102 - \$87) = \$16.83 \text{ per year per household}$$

# Legislator Wishnick Questions

- Dated: August 7, 2012
- Authored: Paula Sirc,  
Shawangunk Journal

Paula Sirc  
<pasirc@gmail.com>

08/07/2012 01:04 PM

To Terry Bernardo <iterry@me.com>, chairman@co.ulster.ny.us,  
cbef@co.ulster.ny.us

cc

Subject RRA questions

Legislator Wishnick raised several questions regarding the RFPs for the sale of the RRA and I was hoping you could answer them for the article I'm writing this week. He suggests that common sense dictates that legislators be able to answer the following questions before voting to spend \$10,000 on an RFP:

Can an RFP be solicited for the sale of assets that are owned by a state created public benefit corporation and not the county?

-The RRA's transfer station in the Town of New Paltz is built on town owned property and the lease expires in 2016 and does not allow transfer of rights. Can a private company legally operate there?

-If the RRA is sold, the bondholders would have their interest payments changed from "tax free" to "taxable." Explain what the strategy would be to get bondholders approval of a sale?

-According to the Town of Ulster Tax Assessor (Legislator Jim Maloney), the value of the buildings and land are just \$1.3 million. What is the rationale for thinking that a private company would pay over \$30 million.

-How will trash and recycling be environmentally managed if the RRA is sold? Doesn't state law require DEC to pre-approve a sale in the county's mandated Integrated Solid Waste Management Plan?

-Why hasn't leadership consulted with the county's procurement office to see if the legislature has the authority to proceed with an RFP BEFORE resolution 214 is voted on?

-Since the Environment Committee is meeting again in just one week, why was it necessary to rush a late resolution through with only 1 hour notice to the committee members by email?

-Since grant funds were used to construct the Materials Recovery Facility, Terry Laibach of the DEC advised that \$1,346,666.80 would need to be repaid to the state if the RRA is sold. Where will these funds come from?

-The RRA is responsible for removing leachate and monitoring test wells at landfills located in the towns of Lloyd, New Paltz and Ulster until 2027. Won't this taxpayers \$3 million if the RRA is sold? What if pollution is detected in one of these wells- will countywide taxpayers be responsible for this as well?

-Ulster County's contract with the UCRRA in Article VI, Section 6.02 Termination of Agreement states "the County shall have the right to terminate the Agreement on 360 days of written notice subject to .... payment by the County to the Agency of an amount sufficient to defease the Bonds..." If a year's written notice is required to sell, why was the Environment Committee not allowed sufficient time to vet the issue? How does the county plan to pay the \$31 million to defease (payback) the bonds?

The Republicans are saying "we are only exploring the option of selling." However, there is no consideration being given to the immediate impacts on the RRA's ability to conduct their business. i.e. the RRA can't credibly negotiate contracts with municipalities and vendors while a sale to a private company is being discussed. What about morale and productivity? The RRA's process of planning for the future is now frozen.

Deadline for the story is tomorrow morning at 10am. Many thanks for your timely response.

Paula Sirc  
Correspondent  
paula@gunkjournal.com  
845.657.8152

Shawangunk Journal  
P.O. Box 669  
Ellenville, NY 12428  
845-647-9190  
info@gunkjournal.com  
www.gunkjournal.com

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# Legislator Gerentine Questions

- Dated: July 20, 2012
- Council Response Dated:  
July 24, 2012

Raad24@aol.com

07/20/2012 11:15 AM

To Raad24@aol.com, iterry@me.com, lchapman@hvlaw.net,  
dbdonaldso@yahoo.com, cbef@co.ulster.ny.us,  
jparete@yahoo.com, vfab@co.ulster.ny.us

cc

Subject Re: RRA

To all,

I would suggest that our professional people answer these questions?

In a message dated 7/20/2012 9:19:49 A.M. Eastern Daylight Time, Raad24@aol.com writes:  
Terry, Langdon, Dave, Carl, John and Victoria,

After our meeting concerning the RRA, I started to think of issues that must be addressed before we can begin with any resolutions or further discussions. If any of these below concerns cannot be dealt with than the Legislative actions are moot:

1. The most important issue would be if the RRA board is open or agreeable to allow the changes that we are proposing? Do we need their approval? If not, can we make changes to the board and how quickly?
2. Can we propose an operating contract with a firm instead of a sale?
3. What is the legal opinion of the bondholders regarding any action?
4. We must get our State representatives, County Executive concurring on this issue. We also need to see what the DEP is going to allow since they control our approved Integrated Solid Waste Plan.

I would recommend strongly before we propose any action, that we must know the answers regarding the above items?

Thank you and enjoy the weekend!

---

From: **Erica Guerin** <saugertiesgirl@gmail.com>

Date: Tue, Jul 24, 2012 at 8:43 PM

Subject: Complete Answer

To: raad24@aol.com, Terry Bernardo <iterry@me.com>, Langdon Chapman <LChapman@hvlaw.net>

I am sorry about my earlier e-mail not being complete.

I want to supplement Langdon's answer by advising you of the following:

1) By the very nature of the RRA, they have a role in any decision that is made including the dissolution of the corporation. With respect to changes to the Board itself, Section 2050-c of the Public Authorities Law allows members of the board to be removed for "the same reasons and in the same manner as may be provided by law for the removal of officers of the county." Under this provision, essentially, the only way you would be able to remove a board member would be if there was wrong doing. Thus, making changes to the board would be extremely difficult.

2) The law that established the RRA does authorize the RRA to enter into a variety of contracts. However, under the current structure of things, I don't believe the Legislature can enter into a operating contract without involving the RRA. The way everything is set up--the RRA is the owner of the assets

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and because of that, only the RRA can contract for the use of the facility, the equipment, etc. Moreover, only the RRA can assign the service contracts with the towns.

3) Langdon is absolutely correct about the bonds. However, Terry asked me to discuss the issue of the bonds with bond counsel--Tom Myers, who was incredibly helpful. He helped me to understand the bonds in layman's terms. The bonds are considered "as issued" which means that the bondholders are expecting to get paid in accordance with the terms of the bonds. Ulster County acts as something of a "guarantor" which is why we have the Net Service Fee. So the bondholders are not very concerned about the RRA per se--they are more concerned about being paid over the next 13 years. Most of the bondholders are mutual funds and high net worth individuals who are looking for the non-taxable income from the bonds. Thus, the nature of the bonds does not allow them to be "called" nor can they be paid off in a lump sum--they will have to be paid over the bond period. I do believe that the bondholders will have to be notified about the changes.

4) Langdon said it all.

The bond counsel, Tom Myers, works with 34 counties in New York and he told me that he assisted Monroe County in the dissolution and sale of their version of the RRA. The advantage that Monroe County had over us is that it owned a landfill which made it more lucrative. I think he would be a really great resource. We couldn't get into too much depth about the dissolution of the RRA because we would be crossing ethical boundaries as the RRA is his client.

Getting Ulster County out of the garbage business will be a process and will probably take a year to complete maybe more. The real property will have to be appraised before being sold. The RRA is going to want to negotiate something for the employees. There are 32 full time employees and 4 part-time employees. The RRA's budget for personnel this year is \$2.75 million. These are just a few of the numerous issues that will have to be considered.

Langdon is right about the Executive. Unfortunately, even though he acts like Pontius Pilate by pretending to wash his hands of the RRA, he will have a role in anything that the Legislature does, especially since he will have to approve any resolution that the Legislature passes.

Please let me know if you want me to elucidate any of these answers further.

Erica

--

Erica K. F. Guerin, Esq.  
Ulster County Legislative Counsel  
244 Fair Street  
PO Box 1800  
Kingston, New York 12402  
845-340-3900

# Resolution 21 of 2011

- Dated: February 15, 2011

**Creating A Special Joint Advisory Committee To Study Viable Solutions And Improve The Oversight Of The Ulster County Resource Recovery Agency By The Ulster County Legislature**

The Governmental Services and Administration Committee (Chairman Roberts and Legislators Belfiglio, Fabiano, Ronk, Robert Parete, Madsen and Rodriguez) offers the following:

WHEREAS, in 1986, the New York State Legislature enacted Chapter 936 of the Public Authorities Law which created the Ulster County Resource Recovery Agency; the Agency's organizational structure consists of a five-member board of directors, and executive director, agency counsel, and management, administrative and operation staff, and

WHEREAS, the County entered into an Agreement on January 26, 1988 with the Ulster County Resource Recovery Agency to develop a plan and manage solid waste and recovery systems within the County, therefore providing the citizens of Ulster County with efficient and environmentally sound solid waste and recycling services, and

WHEREAS, certain recent events involving the Ulster County Resource Recovery Agency indicate that the Ulster County Legislature act to ensure compliance of the contractual and statutory oversight of the Agency, and

WHEREAS, the Ulster County Resource Recovery Agency has adopted their Resolution No. 2203, "Authorizing Joint Committee to Study the Agency;" the resolution requests that the Ulster County Legislature create a joint committee to be made up of Legislators and Members of the Agency to be appointed by the Chairman of the Ulster County Legislature, and

WHEREAS, pursuant to Section C-11(K) of the Ulster County Charter and Section A2-5 (A11) of the Administrative Code: "Powers and duties of Legislature: Among such powers and duties, but not by way of limitation, it shall have the power: *To conduct studies and investigations in furtherance of its legislative functions and, in connection therewith, to obtain and employ professional and technical advice, appoint citizens' committees, commissions and boards, subpoena witnesses, administer oaths, and require the production of books, papers and other evidence deemed necessary or material to such studies or investigations,*" and

WHEREAS, Section C-16 of the Ulster County Charter and Section A2-11 of the Administrative Code, "Advisory committees, commissions and boards. *Members of all citizens' committees, commissions and boards appointed pursuant to § C-11K of the Charter shall serve at the pleasure of the County Legislature. They shall serve without compensation other than for actual and necessary expenses within appropriations made therefor, unless otherwise provided by resolution of the County*

Resolution No. 21 February 15, 2011

**Creating A Special Joint Advisory Committee To Study Viable Solutions And Improve The Oversight Of The Ulster County Resource Recovery Agency By The Ulster County Legislature**

*Legislature. The Chairman of the County Legislature shall be a member ex-officio of all such committees, commissions and boards," and*

WHEREAS, it is the intent of the Ulster County Legislature to create a special joint advisory committee herein to study viable solutions and improve the oversight of the Ulster County Resource Recovery Agency by the Ulster County Legislature, and

WHEREAS, the Governmental Services and Administration Committee has met and reviewed said request with a majority of the members voting approval, now, therefore, be it

RESOLVED, that a seven member Special Joint Advisory Committee is hereby created to study viable solutions and improve the oversight of the Ulster County Resource Recovery Agency and shall be known as the Special Joint Committee to Study the Ulster County Resource Recovery Agency, and be it further

RESOLVED, that the committee shall consist of seven members: five from the Ulster County Legislature, two members of the Ulster County Resource Recovery Agency and Counsels from both the Ulster County Legislature and the Ulster County Resource Recovery Agency shall serve as advisors, and be it further

RESOLVED, that the committee shall seek input from stakeholders including but not limited to representatives from labor, haulers, environmental advocates and others, and be it further

RESOLVED, that this Special Joint Advisory Committee will review the Agency's current status and relationship with County government and recommend improvements to that status and relationship within 120 days,

and moves its adoption.

ADOPTED BY THE FOLLOWING VOTE:

AYES: 27                      NOES: 3  
(NOES: Legislators Donaldson, Petit and Zimet)  
(Absent: Legislators Fabiano, Felicello and Harris)

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Resolution No. 21 February 15, 2011

**Creating A Special Joint Advisory Committee To Study Viable Solutions And Improve The Oversight Of The Ulster County Resource Recovery Agency By The Ulster County Legislature**

FINANCIAL IMPACT:  
NONE

0207

STATE OF NEW YORK

ss:

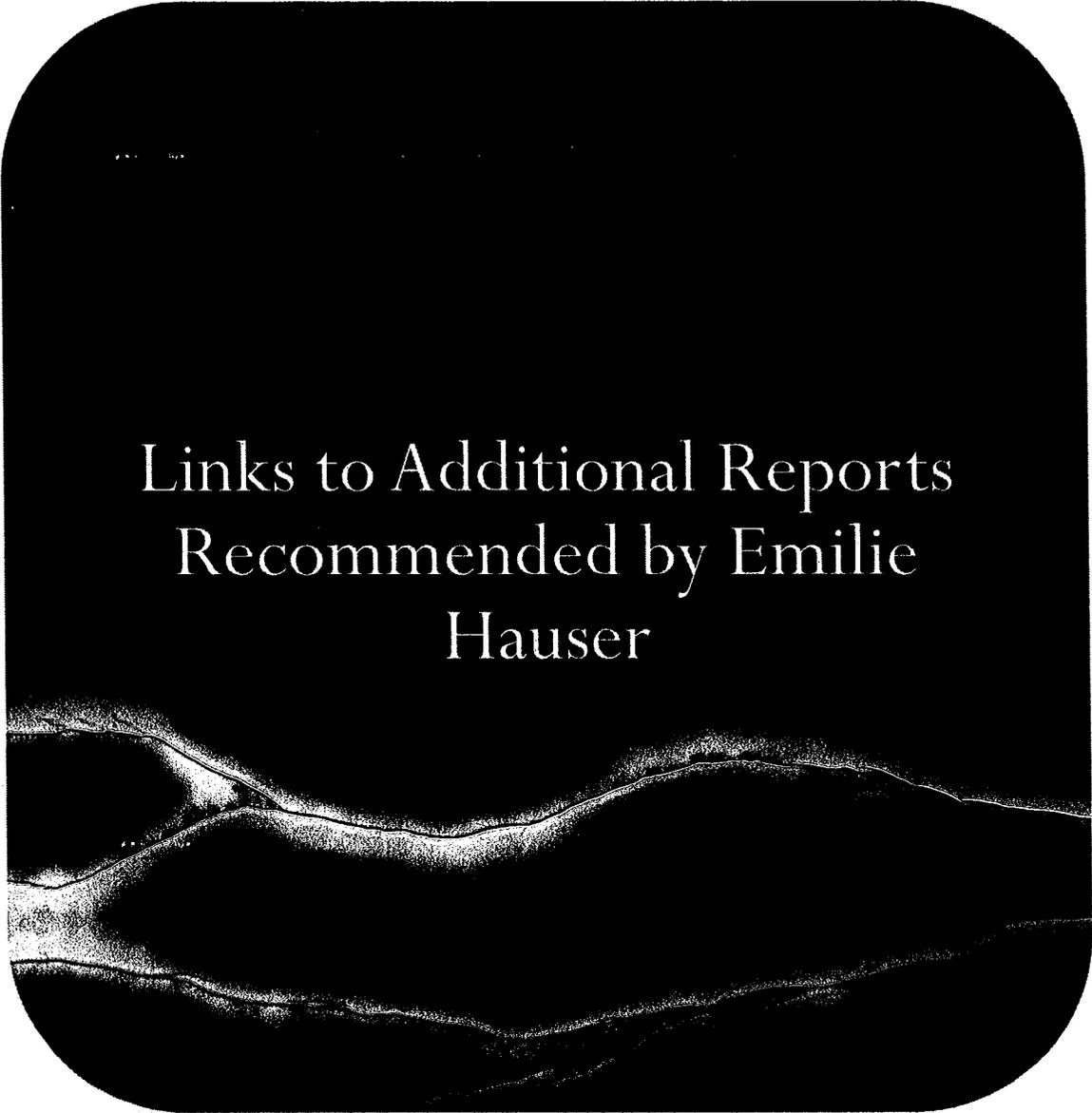
COUNTY OF ULSTER

This is to certify that I, the undersigned Clerk of the Legislature of the County of Ulster have compared the foregoing resolution with the original resolution now on file in the office of said clerk, and which was adopted by said Legislature on the 15<sup>th</sup> day of February, 2011, and that the same is a true and correct transcript of said resolution and the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of the County of Ulster this 17<sup>th</sup> Day of February in the year Two Thousand and Eleven.

Karen L. Binder  
Karen L. Binder, Clerk  
Ulster County Legislature

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## Links to Additional Reports Recommended by Emilie Hauser

- DCRRA: Flow control and Solid Waste Management Alternatives by Germano & Cahill, P.C. and Gerhardt, LLC [<http://www.co.dutchess.ny.us/CountyGov/Departments/Legislature/CLRRA092009.pdf>]
- Dutchess County: Independent Review of Solid Waste Management System and LSWMP, July 2011 by Mid-Atlantic Solid Waste Consultants, LLC [<http://www.co.dutchess.ny.us/CountyGov/Departments/Legislature/CLSolidWasteMgmtSystem.pdf>]
- Solid Waste User Fee, Roger Ackeley. Acting Solid Waste Commissioner, November 13, 2009. [<http://www.co.dutchess.ny.us/CountyGov/Departments/SolidWasteMgmt/SWindex.htm>]

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