



Lake County Illinois

Legislation Text

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Joint resolution authorizing execution of a Bulk Water Agreement with Aqua Illinois and the Village of Hawthorn Woods relating to the Hawthorn Woods/Glennshire water supply system, to resolve matters with the Village, consistent with the terms of an October 21, 1975 Agreement for Water Supply and Operation between the County and the Village of Hawthorn Woods.

- The County Board authorized a resolution on November 18, 2008 approving a Bulk Water Agreement with Aqua Illinois and the Village of Hawthorn Woods relating to the Hawthorn Woods/Glennshire Water System.
- The Village of Hawthorn Woods was given until December 15, 2008 to approve and execute the County Board-approved Bulk Water Agreement.
- Based on Judge Hoffman's recommendation in court on December 12, 2008 and in the absence of any intervening County Board or Committee meetings Chair Schmidt provided a letter on December 15, 2008 confirming that the County informally agrees to extend the time frame for village approval set forth in the November 18, 2008 Resolution, from December 15, 2008 to January 30, 2009.
- Subsequent language revisions have been incorporated to the Bulk Water Agreement to address concerns expressed by the Village, Aqua Illinois and the County and this agreement has now been approved by Village Board action on April 20, 2009.
- This resolution authorizes the execution of a Bulk Water Agreement with Aqua Illinois and the Village of Hawthorn Woods for service to the Hawthorn Woods/Glennshire Water System.

WHEREAS, this County Board did, on November 18, 2008, adopt and approve a Bulk Water Agreement ("BWA"), with Aqua Illinois and the Village of Hawthorn Woods, providing for a water supply to a new replacement HWG WS and a funding mechanism for the construction of that new replacement HWG WS, all consistent with and in supplement to the terms of the underlying 1975 *Agreement* by which the County operates and owns the HWG WS in the Village, which BWA would have, if approved by the Village, allowed for the issuance of an IEPA permit for construction of said new replacement HWG WS; and

WHEREAS, at a January 27, 2009 pre-trial conference in the IEPA enforcement case entitled *People ex rel. Madigan v. County of Lake and Village of Hawthorn Woods* and *County of Lake v. Village of Hawthorn Woods*, 06 CH 2569, two revisions were suggested to the BWA, including (1) a release by the County to the Village for any and all claims the County may have against the Village by reason of Village acts and omissions, up to the date of execution of the BWA, and (2) in the "Funding Mechanism" paragraph, inclusion of a phrase, relating to County-issued revenue bonds to fund the construction of a new IEPA-approved HWG WS, that the Village agrees and approves of the County imposing a surcharge on and to HWG WS customer water bills, to pay for the retirement of said County-issued revenue bonds for the replacement HWG WS; and

WHEREAS, the water supplier, Aqua Illinois, has advised the County that, because of the two (2) years in delay to approve this Bulk Water Agreement, the eight (8) years of fixed water rate charges originally agreed to needed to be adjusted in the BWA, and, as a result, the November 18, 2008 County Board-approved BWA has been edited to reflect a six (6) years period of fixed water

supply rates, as well as the two (2) Court suggested revisions described above; and

WHEREAS, the County has, for more than 2 ½ years now, attempted to work, always within the terms of the *1975 Agreement*, with the IEPA, Attorney General, and the Village towards a solution for replacing the current 50 to 60 years old, HWG WS, only to be stymied or rebuffed by the Village, or to face demands from the Village wholly outside of the terms and conditions contained in the *1975 Agreement*, but, this County Board shall provide one final opportunity for the Village to act in the spirit of intergovernmental cooperation and in accordance with the terms of the *1975 Agreement*, under which the County took over from the Village the operation and ownership of the subject HWG WS in 1975; and

WHEREAS, the Village Board of the Village of Hawthorn Woods did on April 20, 2009 approve the Bulk Water Agreement, revised as described in the Paragraph above, and has caused its authorized Village representatives to execute said Bulk Water Agreement; and

WHEREAS, the water supplier, Aqua Illinois, has executed the County's IEPA permit application, relating to the design and construction of a new, replacement, Code-compliant public water system for the Hawthorn Woods-Glenshire territory, and Aqua Illinois, by its authorized corporate representatives, has approved and executed, or will approve and execute, the revised Bulk Water Agreement; and

WHEREAS, the revised BWA, containing the Aqua Illinois requested water supply rate revisions and the two (2) revisions suggested in the IEPA enforcement suit proceedings, is consistent with and in furtherance of the *1975 Agreement*, and this County Board hereby determines and finds that approval of the revised BWA is appropriate and necessary, if the HWG WS is to be replaced within the immediate near future with a public water system in compliance with IEPA standards; and

WHEREAS, the Public Works & Transportation Committee of this County Board does recommend approval of the two (2) revisions suggested in the IEPA enforcement suit proceedings, and water supply rate revisions, to the November 18, 2008 County Board-approved BWA, a copy of which revised Bulk Water Agreement is attached to this Resolution.

NOW, THEREFORE, BE IT RESOLVED by this County Board of Lake County, Illinois, as follows:

1. Recitals. That the above recitals are incorporated by reference as a part of this Resolution, as if fully set forth herein.

2. Vacating of November 18, 2008 Resolution. The County Board resolution, dated November 18, 2008, approving the initial Bulk Water Agreement, is hereby vacated and of no further force and effect.

3. Revised Bulk Water Agreement. The revised Bulk Water Agreement (a copy of which is attached hereto and incorporated by reference), between Aqua Illinois, the County, and the Village of

Hawthorn Woods, containing *inter alia* the two (2) revisions suggested in the IEPA enforcement suit proceedings, and the Aqua Illinois requested edits to the water supply rate schedule, is accepted and approved.

4. County Execution. The Chairman and County Clerk are authorized and directed to affix their signatures and seal to the attached revised Bulk Water Agreement, which Agreement shall be effective thereafter.

DATED AT WAUKEGAN, ILLINOIS this 12th day of May, 2009, A.D.