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**April 10, 2017**

**DIVISION OF ENVIRONMENTAL AND WATER RESOURCES**

**INTERNAL AUDIT**

**BACKGROUND**

As found on the website, the mission of Kane County (County) Division of Environmental (Environmental) and Water Resources Department (Water Resources) is to serve County citizens and to protect the natural resources by developing sustainable policies, procedures and ordinances that protect natural resources, the safety and general welfare and promote the health of the public of the County. Water Resources administers a cost share drainage program that provides assistance and financial aid in solving storm water and subsurface drainage problems in older residential communities of the County. Other programs within the division include storm water management, recycling, waste recovery, energy and resource conservation, and other environmental activities and special projects such as the development of Settler's Hill Landfill. The County has adopted partnerships with businesses and local municipalities to enrich our County's mission to build natural environments from which residents in the County can participate and benefit. The County serves as a local repository for floodplain maps and studies produced by the Federal Emergency Management Agency (FEMA) within the unincorporated areas of the County. Links to the maps and studies are available on the Kane County Division of Environmental and Water Resources website at the following: <http://countyofkane.org/FDER/Pages/ewrdiv.aspx>

The funds utilized for Water Resources are general funds Water Resources (001.690.692) and Cost Share Drainage (405.690), special revenue fund Storm Water Management (420.670), capital funds for the Special Billing Areas (SBAs) (53XX's), and enterprise funds Enterprise Surcharge (650.670) and Enterprise General (651.670.671). For the SBAs, County ordinance, Chapter 9 – Stormwater Management, defines the establishment of a special service area to provide funding for the long-term maintenance of stormwater drainage systems. The County established an advisory group to review all SBAs related to the cost-share program which provides recommendations to the Development Committee to ensure administrative costs do not outweigh the benefits. The County created the waste disposal enterprise funds with fees received from past operations of the closed landfill at Settler's Hill. The enterprise funds shall be utilized for purposes deemed appropriate by the County Board per the following resolutions and ordinances: Res. 83-129, Ord. 88-59, Ord. 91-302, and Ord. 97-189.

The Settler's Hill Landfill operated for 24 years beginning in 1982 and was the primary waste disposal site for Kane, DuPage and western Cook counties before it closed in 2006. The County has engaged the firm Hunden Strategic Partners to study the market and prepare financial projections for a new cross country course on the landfill. The master plan for the 700-acre complex, which includes both the Settler's Hill and Midway Landfills, was developed by Kane County in conjunction with the Kane County Forest Preserve District. The stakeholders (homeowners, KCHD, various health organizations and Illinois Environmental Protection Agency) who will participate in the approval process of the project's final design have expressed a preference in seeing the site divided into 90 percent passive and 10 percent active uses. The design is available at the following:

[www.countyofkane.org/Pages/settlersHill.aspx](http://www.countyofkane.org/Pages/settlersHill.aspx)

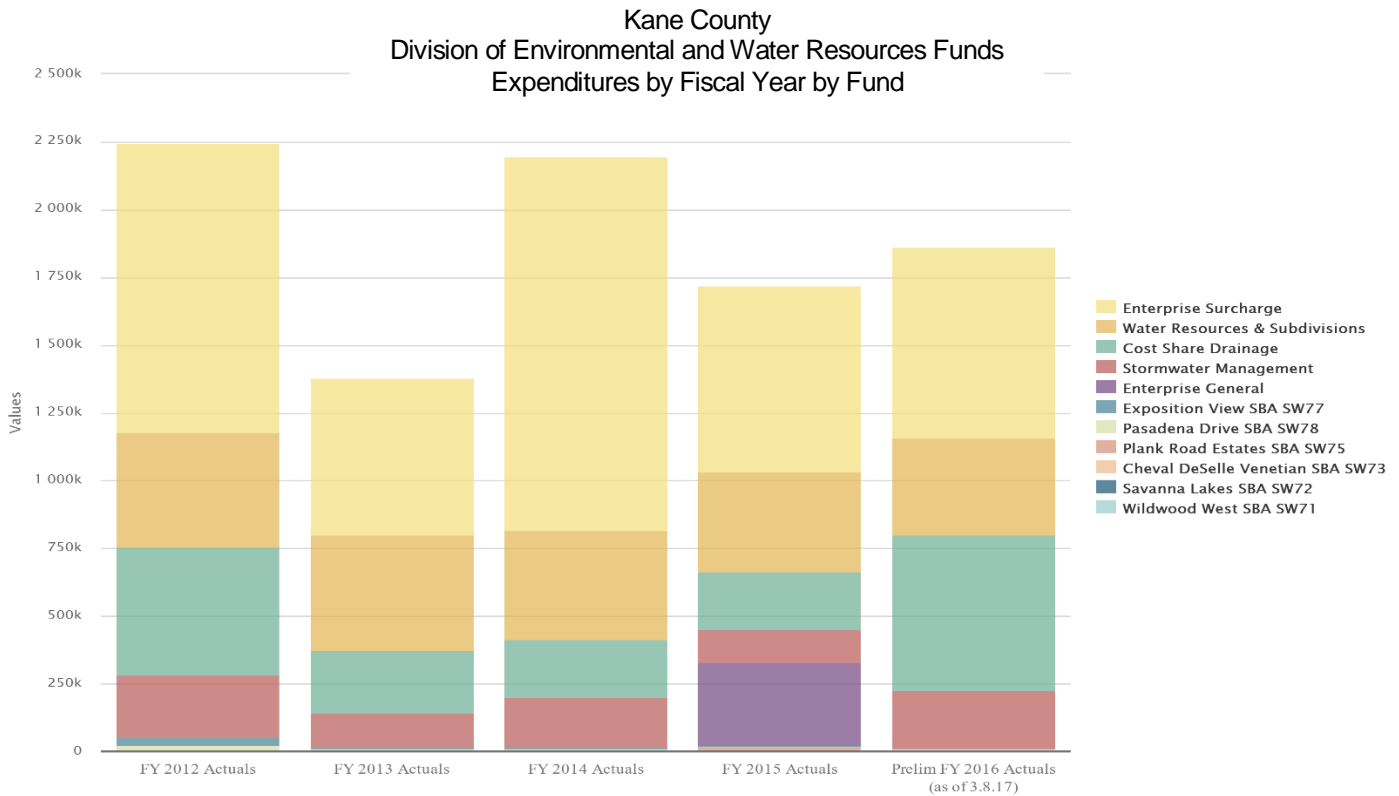
Following are actual revenues and expenditures for fiscal years 2012 through preliminary 2016:

	<u>FY 2012</u>	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016 Prelim</u>
<b>Revenues</b>					
<b>Charges for Services</b>					
Wetland Fee in Lieu Fees	\$ -	\$ -	\$ -	\$ -	\$ 87,400
Water Resource Cost Share Fees	-	6,399	7,408	-	26,102
Hauling Fees	3,530	3,680	4,160	3,660	4,000
Electric Vehicle Charging Station Fee	-	-	-	-	118
Environmental Fees	55,145	8,968	57,869	14,402	-
<b>Other (Investment Inc and Misc Other)</b>	<b>64,504</b>	<b>46,033</b>	<b>107,739</b>	<b>135,858</b>	<b>100,089</b>
<b>Reimbursements</b>					
House Hazard Waste Reimbursement	22,847	25,162	24,966	25,050	25,264
Miscellaneous Reimbursement	7,335	5,050	10,025	3,850	10,460
<b>Property Taxes</b>	<b>18,102</b>	<b>18,112</b>	<b>19,387</b>	<b>16,756</b>	<b>16,840</b>
<b>Grants</b>					
Miscellaneous Grants	100,000	150	-	-	-
IEPA Grant	-	2,000	2,000	2,000	-
<b>Licenses and Permits</b>	<b>-</b>	<b>-</b>	<b>1,000</b>	<b>2,000</b>	<b>3,500</b>
<b>Transfers In</b>	<b>697,000</b>	<b>603,736</b>	<b>555,860</b>	<b>519,081</b>	<b>442,429</b>
<b>Total Revenue</b>	<b>\$ 968,463</b>	<b>\$ 719,290</b>	<b>\$ 790,414</b>	<b>\$ 722,657</b>	<b>\$ 716,201</b>
<b>Expenditures</b>					
<b>Personnel Salary &amp; Benefits</b>	<b>\$ 660,515</b>	<b>\$ 630,124</b>	<b>\$ 618,558</b>	<b>\$ 619,734</b>	<b>\$ 580,523</b>
<b>Contractual Services</b>	<b>993,244</b>	<b>363,053</b>	<b>1,144,891</b>	<b>639,048</b>	<b>683,564</b>
<b>Commodities</b>	<b>14,692</b>	<b>16,398</b>	<b>16,953</b>	<b>22,702</b>	<b>20,408</b>
<b>Capital</b>	<b>337,252</b>	<b>113,644</b>	<b>92,790</b>	<b>121,711</b>	<b>392,567</b>
<b>Transfers Out</b>	<b>239,205</b>	<b>256,073</b>	<b>323,201</b>	<b>316,280</b>	<b>187,010</b>
<b>Total Expenditures</b>	<b>\$ 2,244,908</b>	<b>\$ 1,379,292</b>	<b>\$ 2,196,393</b>	<b>\$ 1,719,475</b>	<b>\$ 1,864,072</b>
<b>Net Revenue/(Expenditures)</b>	<b>\$ (1,276,445)</b>	<b>\$ (660,002)</b>	<b>\$ (1,405,979)</b>	<b>\$ (996,818)</b>	<b>\$ (1,147,871)</b>

Notes to the above chart referencing revenue and expenditures:

- “Wetland Fee in Lieu Fees” are restricted revenue from fees paid by developer and used for preservation of designated wetlands within the County.
- “Water Resource Cost Share Fees” are permit fee collections from resident property improvement projects in unincorporated areas.
- “Environmental Fees” are recycling fees from the manufacturers of recycleable items (e.g., televisions). The County shared the revenue with the municipalities. The payment per pound has decreased over the years, and the program ended in 2016.
- “Investment Income” fluctuates due to cash on hand which is primarily driven by the account balances in the enterprise funds.
- “Miscellaneous Grants” in 2012 was a one-time Health Impact Assessment grant received in April 2012.
- “Transfer from Other Funds” is primarily from Riverboat Grants which have decreased over the past few years due to the decline in Riverboat funding.
- “Contractual Services” are largely associated with the enterprise funds. The increase in FY 2014 is due to preparations for Settler’s Hill with (1) County’s old jail demolition and (2) feasibility studies for the golf course and cross country course.
- Capital expenditures vary based upon cost share drainage projects.
- The net expenditure is mostly driven by the enterprise funds which draw upon the “cash on hand” associated with those funds. FY16 cash on hand for the enterprise funds is \$13.5M.

The following presents expenditure information broken out by fund:



## SCOPE AND TESTING

The audit was performed to determine if the department's internal controls and processes are following County policies, ordinances, resolutions and other authoritative guidance. The following steps were performed:

- Interviewed the Director of Environmental and Water Resources department and staff regarding the processes and controls practiced by the department.
- Documented processes and controls.
- Tested ten samples of accounts payable invoice inquiries from New World System and compared invoices to purchase orders, contracts and, if applicable, County Board resolutions.
- Evaluated internal controls and processes related to County's financial policies.
- Cross referenced funding received by the department from Riverboat Grant funding for FY 2012- 2016.
- Analyzed actual and budgeted income and expenditures reports for fiscal years 2012 through preliminary 2016.

## RECOMMENDATIONS AND MANAGEMENT RESPONSE

**Recommendation 1** – While 501 ILCS 510, Local Government Professional Services Selection Act, exempts government from having to get quotes on architectural, engineering and land surveying services, obtaining quotes is best practice. **Recommend following the County's Purchasing Policy and obtaining quotes for spend equal to or greater than \$3k. Bids and County Board approval should continue to be obtained for spend equal to or greater than \$30k.**

**Management Response** – The Kane County Division of Environmental and Water Resources Qualification Based Selection policy was reviewed and approved by the Kane County Purchasing Department and the Kane County Development Committee. This policy is based upon the Kane County Division of Transportation Award Winning Qualification Based Selection Manual which is available on-line. 501 ILCS 510 Local Government Professional Services Selection Act requires that the County use Qualification Based Selection for professional services. "The State's Attorney's office has advised that the County Procurement Ordinance, at section 4.5.3, references and mirrors The Local Government Professional Services Selection Act, 50 ILCS 510/1. The suggested best practice would be more restrictive than both. It is possible for the County Ordinance to be amended, as we are permitted to be more restrictive than the State statute. However, it is suggested that such an amendment to the Ordinance be investigated at the committee level, as this would significantly impact current County procurement practices."

**Recommendation 2** – During the invoice testing, noted that vendor selection for cost share drainage projects does not require quotes to be obtained. Contractors may be solicited either by the homeowners or by the County. If the homeowners solicit the contractor, Water Resources will review the quote based upon their knowledge of local contractors and rates. Water Resources has the option to accept or deny the homeowner’s proposed contractor. **To protect against potential overbilling and related party transactions, recommend that Water Resources formalize the contractor selection process and require multiple quotes/bids (quotes if under \$30k).**

**Management Response** – The Kane County Cost-Share policy states in part “Funding Alternates and Approvals: Funding in lieu of cash from municipalities, Township Road Districts, or groups of individuals may be in-kind services, the direct purchase of materials, or the direct hiring of construction services for the installation of improvements.” Cash equivalents for in-kind service construction costs shall be based on the IDOT-MFT rates for machine and manpower as published from time-to-time by the IDOT Bureau of Local Roads. For vendor selection, when the County holds the contract, quotes and bids are always obtained in accordance with the Kane County Purchasing Department and as allowed by the Department for emergency situations, which occurs when flooding is impacting homes. However, when the Homeowner’s Association or group of homeowners request a Cost-Share grant through the Grand Victoria Riverboat Fund (GVRF) for drainage improvements that will be constructed on private property, as with all the external GVRF grants, they are not required to follow the Kane County Purchasing requirements as under the Cost-Share policy, they can provide direct purchase of materials or services. To protect against potential overbilling and related party transactions, Kane County Division of Environmental and Water Resources reviews the quotes and compares the unit prices for similar projects before approving the Cost-Share through Development Committee. In addition, our Drainage Consultant is on-site during construction to ensure the homeowner’s contractor installs the work per County standards. In many cases, homeowners have contractors they have worked with in the past and as our work usually involves excavation often in close proximity to trees, homes and structures.

**Recommendation 3** – “Retainage” has two general purposes (1) to provide an incentive to the contractor to complete the project and (2) to give the payer protection against problems like liens, contractual defaults, delays, etc. Generally, 10% of each progress payment to the contractor is withheld for retainage with 50% of the retainage being released to the contractor upon 50% of the project completion. The remaining 50% may be contractually held for up to a year to protect the payer from defect. During the invoice testing, noted immediate payment of retainage to the contractor even though the contract called for holding the retainage for one year. **Recommend establishing standard retainage procedures, in accordance with any applicable laws and regulations, and enforcing the contractual terms to protect the County against project defects and/or liens.** For example, The American Institute of Architects has the following standard terms:

- *To insure the proper performance of this Contract the Owner will retain 10% of the amount of each estimate until final completion and acceptance of all work covered by this Contract.*

- *Although all material and work covered by partial payments made shall have become the property of the Owner, this provision shall not be construed as relieving the Contractor from the sole responsibility for the care and protection of materials and work upon which payments have been made, or the restoration of any damaged work, or as a waiver of the right of the Owner to require the fulfillment of all terms of the Contract.*
- *The Contractor shall provide all statements, affidavits and waivers required by the Mechanics' Liens Law of the State of Illinois, including Section 5 thereof, at such time and in such form as provided therein to protect the Owner against mechanics' or other liens, and the Contractor hereby acknowledges receipt of notice from the Owner to furnish same.*
- *Each application for payment must be accompanied by Contractor's Affidavits and by partial waivers of lien from all subcontractors, as well as material Suppliers, showing that the amount of money paid to date to each Subcontractor and Supplier is at least equivalent to the amount shown as the estimated total value of all labor and material incorporated into the work through the immediately preceding calendar month's estimate of work as submitted by the Contractor, less contract retainage.*

**Management Response** – Kane County Division of Environmental and Water Resources uses the same language for retainage for all cost-share projects. This language was reviewed and approved by Purchasing and is in accordance with Construction standards for underground work:

“Payments will be made to the Contractor on a monthly basis and in accordance with the work completed. Lien waivers will be required from the Contractor before final contract payment will be made by the County. Ten percent retainage will be withheld from each pay estimate due to the Contractor until substantial completion. After substantial completion, the Contractor may request a reduction in the retainage to 5%. The County, at its discretion, may decrease the retainage to 5% or maintain the retainage at 10% depending upon the work remaining and punchlist items required for contract completion.

From the date of final payment, the County of Kane shall have a one-year maintenance warranty on all work under this Contract. The Contractor shall secure a maintenance bond for this purpose for 10% of the awarded Contract amount or request that the County hold the retainage from the final payment (minimum of 5%) for the 1-year period. The Contractor shall be responsible to re-grade, re-compact and restore all previously disturbed areas where settlement occurred during the contract maintenance period. No additional compensation will be allowed for this work, including any pavement removal within the one (1) year warranty period.”

**Recommendation 4** – In fiscal year 2016, Water Resources spent \$100k with Huddleston McBride Drainage Company (Huddleston). An RFQ was released in 2016 with Huddleston being chosen for drainage consulting services. Prior to the 2016 RFQ, the County had a contract with Huddleston from 2012 with two additional one year extensions, and then further extended an additional year by resolution 14-286. The annual authorized spend is not to exceed \$75k. Huddleston bills the

County monthly for what is applied to the \$75k, as well as performing other occasional services bringing the total to \$100k for FY16. The monthly billing for 2016 totaled \$84,480. The monthly billing was not consistently applied to the annual PO:

- December 2015 and January 2016 were applied to the 2015 purchase order; however, they were properly recorded in fiscal year 2016 expenses.
- October 2016 (\$9,480) was not applied to any purchase order.
- Other “occasional services” of \$9,427 were applied to the 2016 purchase order.
- November 2016 billing (\$7,560) was properly applied to the 2016 purchase order, but incorrectly recorded in fiscal year 2017 expenses.

**Recommend that the total amount of annual spend be approved by the County Board with all invoices applied to the purchase order. Additionally, recommend that expenses by applied to the proper fiscal year.**

**Management Response** – The Huddleston-McBride contract is for \$75,000 per year. A purchase order is issued each budget year. In 2015, a significant amount of rainfall delayed the construction of several of the cost-share projects that Mr. Huddleston was scheduled to be the inspector on. Because of this, the remaining amount in the FY -2015 P.O. was rolled over with the construction dollars into 2016. The early 2016 bills were applied to the FY-2015 P.O. even though the work was completed in FY-2016 because of the rollover.

**Recommendation 5** – Over the years, the management alignment of Environmental Management and Development has evolved. When the general ledger structure was established, part of what is now under the Environmental Management Director was under Development. Other organizations within the County align under one department number and reports are easily pulled. To understand what falls under the Environmental Management Director, Development Director, and Community Reinvestment Director, the financial and headcount reports need to be parsed. **Recommend working with the Finance Department to determine if restructuring the general ledger is possible and, if possible, realigning general ledger accounts currently under Development to Environmental Management and Water Resources.**

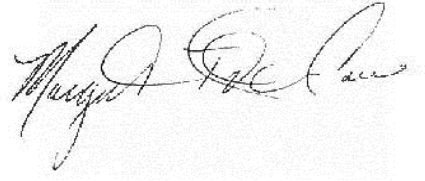
**Management Response** – Kane County Division of Environmental and Water Resources staff will work with the Finance Department and others to evaluate the restructuring of general ledger accounts.

We would like to express our appreciation to Director Ken Anderson and his staff for their cooperation and generous assistance provided during the audit.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Terry Hunt".

Terry Hunt  
Kane County Auditor

A handwritten signature in cursive script, appearing to read "Margaret Todd-Cave".

Margaret Todd-Cave  
Staff Auditor