

**CONSOLIDATION STUDY
NORTH GREENBUSH FIRE DISTRICT #1**

**DISSOLUTION OF DEFREESTVILLE FIRE
PROTECTION DISTRICT**

**EXTENSION OF NORTH GREENBUSH FIRE
DISTRICT #1**

SEPTEMBER 2009

**PREPARED BY
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Introduction

In December 2007, the North Greenbush Fire District #1 submitted an application for the New York State Department of State Shared Municipal Services Incentive Grant Program. The purpose of the application was to fund a feasibility study for the consolidation of fire protection services in the Town of North Greenbush. Specifically the study would examine the processes and issues associated with the dissolution of the Defreestville Fire Protection District and the extension of the North Greenbush Fire District #1 to include the entire Town of North Greenbush within its boundaries. While the processes to complete such actions are clearly described in New York State Law, many of the organizational and financial issues required examination.

The grant application was a collaborative process between the North Greenbush Fire District #1, The Defreestville Fire Department, Incorporated, the Wynantskill Fire Department, Incorporated and the Town of North Greenbush with North Greenbush Fire District #1 serving as the lead applicant. The stated goal of the application would be to “benefit all residents of the town by providing more cost efficient fire protection and a reduction in municipal costs thus a savings to the town-wide taxpayer.”

On May 1, 2008, New York Governor David A. Patterson announced a 2007-2008 Shared Municipal Services Incentive (SMI) competitive grant award to the North Greenbush Fire District. The total of the grant award was \$23,256.45. In announcing the award, Governor Paterson stated:

“Fire Protection in the Town of North Greenbush is provided by North Greenbush Fire District #1 (Wynantskill Fire Company) and the Defreestville Fire Protection District (Defreestville Fire Department). This project will entail the dissolution of the Defreestville Fire Protection District and expand the North Greenbush Fire District #1 to encompass the entire town, thus consolidating fire protection into a single municipal entity. The dissolution/consolidation action will benefit all residents of the town by providing more cost efficient fire protection and a reduction in municipal costs.”

Following the award of the grant, the North Greenbush Fire District #1 commissioners took the necessary steps to initiate the study beginning with the retention of consulting services from Edward M. Olmstead, Jr., Fire Protection Consultant. In the following months, the services of Mark C. Butler, Esq. and Terence S. Hannigan, Esq. were engaged to provide the necessary legal guidance for the Fire District, the Town of North Greenbush and the Defreestville Fire Company.

Scope of Study

The scope of the study was developed from a list of questions that were initially posed by the Defreestville Fire Department as a part of the consolidation discussions that preceded the grant application process.

1. Both North Greenbush Fire District #1 and the Defreestville Fire Department, Incorporated have LOSAP plans with the same vendor, but with different benefit levels. What happens to these plans? Can they be merged? How are the benefits affected?
- 2) The Defreestville Fire Department, Incorporated has substantial assets. What is the mechanism to turn these assets (equipment and cash) over to North Greenbush Fire District #1? If the Defreestville Fire Department, Incorporated wants to retain the cash for continued operations, how is the amount needed determined?
- 3) The Defreestville Fire Department, Incorporated has outstanding debt, all for fire apparatus. When the assets are turned over to North Greenbush Fire District #1, what is the disposition of the debt? Since the debt is attached to specific apparatus, can the Defreestville Fire Department, Incorporated lease the apparatus to the North Greenbush Fire District #1 until the debt is retired, then turn the apparatus over to North Greenbush Fire District #1?
- 4) The Defreestville Fire Department, Incorporated is in the midst of purchasing land to construct a new fire station to replace the existing facility. Can the Defreestville Fire Department, Incorporated retain ownership of the station and lease all or part of the building to North Greenbush Fire District #1, and at some time in the future turn the new station over to North Greenbush Fire District #1?
- 3) Can there be a contract or Memorandum of Understanding between the Defreestville Fire Department, Incorporated and North Greenbush Fire District #1 with certain guarantees, yet defined? If so, how long should such a contract or Memorandum of Understanding be in effect? The intent of such a contract or Memorandum of Understanding would be to protect the identity of the Defreestville Fire Department, Incorporated during the transition to a single administrative organization. This would most likely be a concern of the Wynantskill Fire Department, which is currently the North Greenbush Fire District #1 fire company. There is no intent to merge the two fire companies into a single group at this point.
- 6) What is the exact process to dissolve the Town of North Greenbush Fire Protection District and merge it into North Greenbush Fire District #1? Is the stated legal process as it appears in Town Law simple and straight forward or are their potential stumbling blocks?
- 7) How is the existing North Greenbush Fire District #1 debt dealt with once the Town of North

Greenbush Fire Protection District is absorbed by North Greenbush Fire District #1?

8) What would be the Chief Officer structure, specifically the District Chief?

9) How would North Greenbush Fire District #1 distribute the 2% money to the Defreestville Fire Department, Incorporated and the Wynantskill Fire Department?

10) How would the fire company structure be established? How would the two companies formally interact to avoid and resolve disputes? What restrictions can North Greenbush Fire District #1 place on fire company operations?

11) It seems that fund raising to support fire company operations by Defreestville Fire Company, Incorporated would still be allowed. Are there restrictions?

12) What would happen with the current written Standard Operating Procedures (SOP's) in place with Defreestville Fire Department, Incorporated? Would the North Greenbush Fire District #1 Board of Fire Commissioners have to formally adopt them or would the Defreestville Fire Department, Incorporated operate under the North Greenbush Fire District #1 SOP's currently in place?

13) What would the final budget for the North Greenbush Fire District #1 be and how would the existing tax rates be affected by the consolidation?

The Study Process

The consultant met with the following organizations and persons to conduct interviews and discussions and gather information and data related to the study:

- North Greenbush Fire District #1 Board of Fire Commissioners
- Representatives of the Defreestville Fire Department, Incorporated
- Representatives of the Wynantskill Fire Department, Incorporated
- Mark C. Butler, Esq.
- Terence S. Hannigan, Esq.
- Town of North Greenbush Assessor John Harkin
- Town of North Greenbush Clerk Kathryn A. Connolly
- Town of North Greenbush Comptroller Michael Strenka
- Representatives of VFIS Division of Glatfelter Insurance Group

Numerous documents and data files were provided to the consultant for review by the North Greenbush Fire district #1, Defreestville fire Department, Incorporated and the Wynantskill Fire Department, Incorporated. We received full cooperation from the Board of Fire Commissioners,

Edward M. Olmstead, Jr., Fire Protection Consultant

the Wynantskill Fire Department and the Defreestville Fire Department throughout the study.

Fire Protection Issues and Challenges

Communities across New York State, both large and small, face increasing challenges in providing and planning for the future of emergency services delivery. Common factors include rising costs for the delivery of services, an expectation by the public of reliable, diverse and improved levels of service, and persistent pressure from citizens to limit tax increases. Organizations that employ full time personnel are impacted the hardest by budget increases resulting from contract negotiations with employee bargaining units. Emergency service organizations that rely on volunteer personnel are faced with a decline in active participation by community residents while struggling with the retention of existing members. Career and volunteer organizations alike must respond to increased State and Federal regulations that are applied to personnel and service delivery, with mandates generally unfunded except through local taxpayer dollars.

Particularly in older communities of the Northeastern United States, the organization and deployment of fire protection and emergency services is more a product of “evolutionary” growth than of planning. The earliest fire companies, staffed by community volunteers, were located proximate to member residences and businesses, a result of walking (and running) being the primary mode of transportation. Fire equipment was pulled by hand, then later by horse and finally by motor-driven vehicles. While improved transportation allowed apparatus and personnel to travel farther and more quickly, the location of fire stations tended to remain in their place of origin. Planning for a change in the deployment of a community’s fire defenses goes beyond a simple consideration of technical response issues and facility location. The emotion of job and organization impact, neighborhood concerns, community history and tradition, and a wide array of personally held opinions makes even the most logical planning activity a true challenge.

Fire protection within the towns of New York provides unique challenges to both the providers of the services and to the elected representatives of the town residents. From the earliest days in New York State, towns have been viewed as rural entities that provide only basic services such as organizing and supervising elections, administering judicial functions and constructing and maintaining highways. As the population of towns increased and as their character shifted from rural to suburban (and in some cases urban) communities, the demand for increased services included all weather roads, sidewalks, public water, public sewer and police protection beyond that provided by county sheriffs and the state police. In many locations throughout the state, villages have been formed to provide a wider array of services to citizens.

While cities and villages in New York have the power to provide fire protection service, towns are not empowered, as a rule, to provide fire protection services directly as a town function.

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Towns may only provide fire protection through methods that are specified in Town Law.

One method is to establish a fire district. A fire district is a special purpose district established for the sole purpose of fire protection. Fire districts are recognized by the State Constitution as having certain characteristics of a true municipal corporation and are granted certain powers given to general purpose municipal corporations, but denied to most other public benefit corporations. Specifically, a fire district has the power to levy taxes and to incur indebtedness. A fire district is a unit of local government and is practically autonomous. Unlike cities, villages, towns and counties, fire districts do not have home rule powers and they exercise little legislative power except as permitted by statute. The registered voters of the district elect fire district commissioners. The only function of the town is to set out the initial establishment of the fire district or for its extension, dissolution or consolidation, and to collect taxes for the fire district. Fire district boundaries are not limited to the town in which it is located. The district may be part of the town, all of the town, including a village or villages, if any, and the district may be a portion of two or more towns.

A second method for a town to provide fire protection services to its residents is the establishment of a town fire protection district (or, in some cases, a fire alarm district). Unlike fire districts, fire protection and fire alarm districts are not true district corporations. These two types of districts exist only for the purpose of assessing the cost of fire protection services purchased by the town through a fire protection contract. Once the fire protection district is established, the Town may contract with a city, village or fire district fire department, or with an incorporated fire company defined below. The contract may not exceed a period of five years.

The Not-For-Profit Corporation Law of New York State provides a mechanism for the formation of the fire corporations, frequently referred to as incorporated fire companies. The formation of the fire corporation is subject to the majority approval of the town board. Fire corporations are not municipal corporations nor do they have the powers of a fire district. The board of directors of the fire company negotiates the contract with the town board for the provision of fire, rescue and possibly emergency medical services. The terms of the contract are subject to a public hearing in advance of the town board's approval. Towns may contract with one or more fire corporations for the purpose of protecting the property and citizens of the town. Fire corporations may also provide fire protection to a village under the terms of a contract for service.

Towns may only arrange for fire protection through the formation of districts. Fire districts, fire protection districts and fire alarm districts are formed by towns to provide fire protection services to residents and to the commercial and institutional community, but the elected town representatives have little or no control over the details and cost of these services. At the same time, the elected representatives of the community must answer to the voters for the total cost of town government, including the costs associated with fire protection. As the financial burden on

taxpayers has increased, budgetary scrutiny has turned to local fire protection costs. This scrutiny, usually reserved for school districts and highway budgets, has presented new challenges and opportunities for both town government and for the emergency service providers.

The Town of North Greenbush

The Town of North Greenbush, New York is located in the central, western edge of Rensselaer County. Known as a part of the capital district of New York State, the town is bounded on the west by the Hudson River and the northern portion of the City of Rensselaer. To the North is the City of Troy and the Town of Brunswick. The eastern border is formed by the towns of Poestenkill and Sand Lake. The Town of East Greenbush is to the South. The town encompasses an area of nearly 19 square miles (12,868 acres) and has an estimated population (United States Bureau of Census, 2000) of 10,805.

Along the Hudson River, the terrain slopes sharply uphill, rising vertically 250 feet in about one mile. The landscape then transitions into moderately rolling hills and valleys, reaching altitudes as high as 650 feet in the central and eastern portions of the town. While the primary structure type consists of residential occupancies, there are increasing numbers of commercial and institutional occupancies in the western portion of the town. A limited number of farms are found in the central and eastern parts of the town. There are many scenic locations that provide views of the New York State Capital and the Hudson River valley.

The Town contains two “centers” of population. These unincorporated areas are known as Wynantskill and Defreestville. Wynantskill, located in the northeastern area of the town, borders on the city of Troy and is the original residential and commercial center of the Town. Defreestville, diagonally across the town to the southwest is the emerging commercial and industrial center of the community.

Located in Defreestville is the Rensselaer Technology Park which serves as a “magnet” to attract technology enterprises to the region. The 1200 acre site, opened in 1981, is owned and operated by Rensselaer Polytechnic Institute. Companies pursuing high technology-related endeavors can lease land or rent building space in which to operate their businesses. Technology Park companies can access physical and human resources from the Rensselaer Polytechnic Institute. A broad diversity of technologies has been attracted to the Park including more than 50 tenants that employ more than 2,300 workers. Future plans for the Park include the construction of residential, hotel and conference facilities.

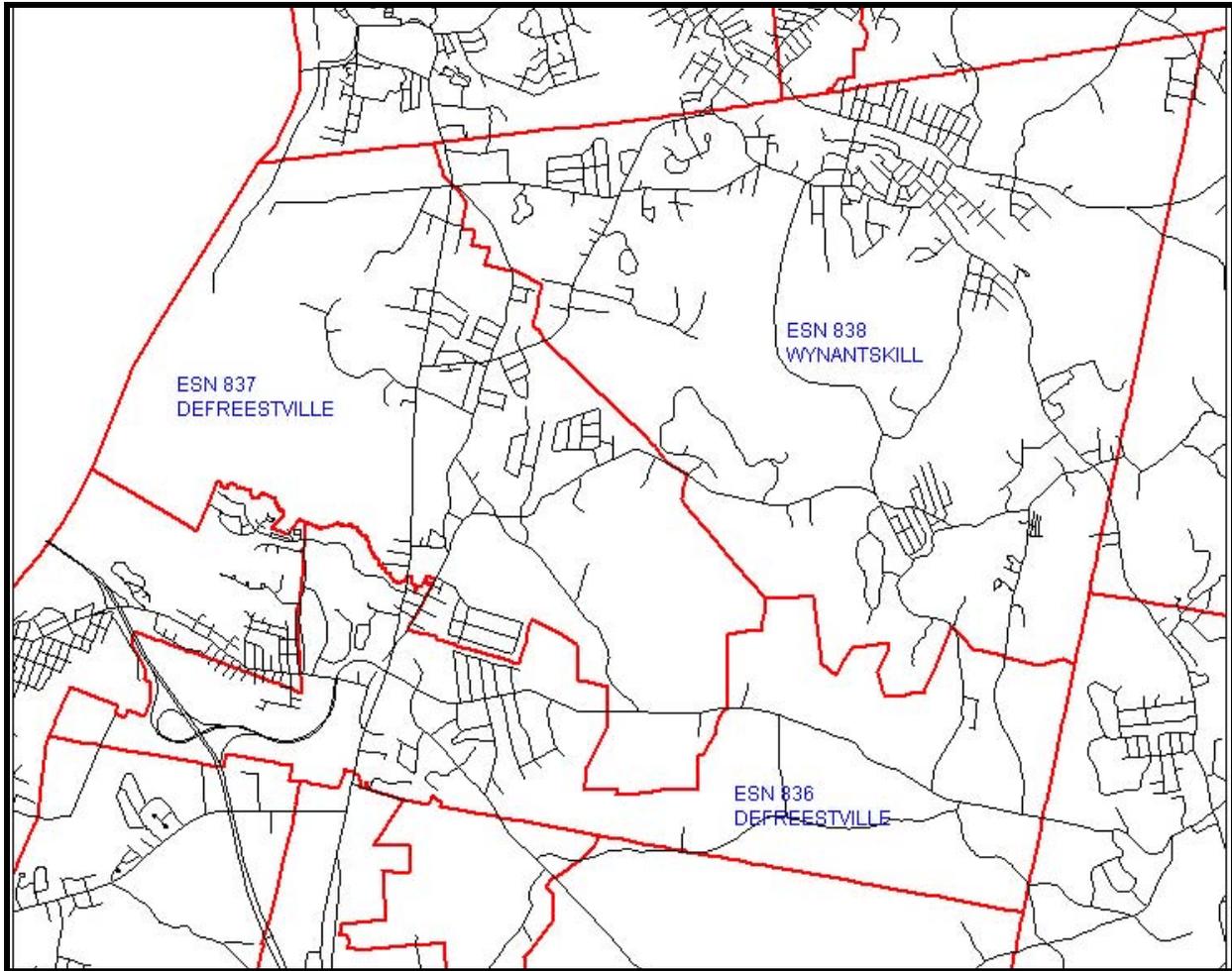
The construction of the Exit 8 interchange brought new pressures on the town for commercial and industrial development in support of the long range plans of the Technology Park. The interchange construction has made the area increasingly attractive to new commercial, technological and industrial ventures.

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Fire Protection in the Town of North Greenbush

There are currently two distinct service areas for fire protection in the Town of North Greenbush. The larger of the two is the area protected by the North Greenbush Fire District #1 and encompasses more than two-thirds of the Town area. The remaining area is a town fire protection district protected by the Defreestville Fire Department, Incorporated. However, a contractual arrangement between the North Greenbush Fire District #1 and the Defreestville Fire Department, Incorporated increases the area protected by Defreestville Fire Department, resulting in an equalization of the approximately equal-sized service areas.

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The map above illustrates the three fire protection “ESN zones” that exist in the Town of North Greenbush. ESN zones are “emergency service number” zones and are used to designate the proper emergency service response in E-911 systems. The North Greenbush Fire District #1 comprises two ESN zones:

- ESN 838, primary response area for the Wynantskill Fire Department, Incorporated
- ESN 837, part of the North Greenbush Fire District #1 that is contracted to the Defreestville fire Department for primary response

The Defreestville Fire Protection District is illustrated by ESN 836 and is the primary response area for the Defreestville Fire Department, Incorporated.

The area in the lower left corner of the map is the City of Rensselaer and is not part of the fire response area for either the North Greenbush Fire District #1 or the Defreestville Fire Department.

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While the North Greenbush Fire District #1 owns the district's fire station, apparatus and equipment and is responsible for all budget matters in the district, actual firefighting services are provided by the members of the Wynantskill Fire Department, Incorporated. While fire companies were first formed in the Town in the 1800's, it was not until 1915 that the Wynantskill Fire Department was formally incorporated. The fire district is governed by a board of five elected fire commissioners and is the authority having jurisdiction for all fire protection matters in the district.

The Defreestville Fire Department was formally incorporated in 1945 as the North Greenbush Fire District Number 2, Defreestville Department, Inc. In 1955, the name was changed to the Defreestville Fire Department, Inc. Both the Town of North Greenbush and the North Greenbush Fire District #1 contract with the Defreestville Fire Department for emergency services. However, neither the town nor the district own any of the fire protection assets used by the Defreestville Fire Department. The Defreestville Fire Department owns the fire station, apparatus and equipment used by its members to deliver service. Control of the fire department operations is overseen by an executive committee elected from the fire company membership.

In a very real sense, the two fire departments (or the District and Defreestville) are "functionally" combined. They respond to emergency calls together, sometimes backing each other up and sometimes operating together at incidents. The equipment, training and standard operating procedures of both entities are very similar, and in some case, identical. This makes the prospect of combining the district and the Defreestville Fire Department into a single agency more likely to succeed than if there were great differences.

Consolidation Issues

The following material addresses the thirteen questions that make up the scope of this study. While we attempt to provide complete answers on issues that are matters of New York State Law, it is imperative that any decisions concerning a consolidation of the North Greenbush Fire District #1 and the Defreestville Fire Department, Incorporated be overseen by competent legal advisors.

What is the exact process to dissolve the Town of North Greenbush Fire Protection District and merge it into North Greenbush Fire District #1? Is the stated legal process as it appears in Town Law simple and straight forward or are their potential stumbling blocks? (Item #6)

The process for the dissolution of the Town of North Greenbush Fire Protection District and the expansion of North Greenbush Fire District #1 is a straightforward process that is spelled out in Town Law, consisting of the following steps:

- The Town of North Greenbush holds a public hearing describing the proposed actions

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and the cost of to town taxpayers including the cost of the service award program

- The Town of North Greenbush dissolves the Town Fire Protection District protected by the Defreestville Fire Department
- The Town of North Greenbush adds the area previously encompassed by the Town Fire Protection District to the existing North Greenbush Fire District #1.
- The fire commissioners of the North Greenbush Fire District #1 must accept the added territory in writing.
- If the dissolution of the town fire protection district and the expansion of the fire district results in the town incurring debt, permission must be obtained from the New York State Department of Audit and Control (New York State Comptroller)
- If no debt is to be incurred, permission for the dissolution and expansion is not required.
- The actions for the dissolution of the fire protection district and the extension of the fire district can be accomplished by a single proceeding through a joint meeting of the Town of North Greenbush Board and the North Greenbush Fire District #1 Board of Fire Commissioners.

The specific sections of New York State law that are applicable to the process are as follows:

Article 11, Fire, Fire Alarm and Fire Protection Districts, Section 172-d, Dissolution or alteration of boundaries of fire protection district when added to an adjoining fire district as follows:

Irrespective of the manner of its original establishment, whenever a fire protection district adjoins a fire district, the town board of the town in which such fire protection district is located or, if such fire protection district be situated in more than one town, the town boards thereof acting jointly by a majority vote of the members of each of such town boards may, after a public hearing thereon, (1) dissolve the fire protection district and add the whole of the dissolved district to the adjoining fire district or (2) alter the boundaries of the fire protection district so as to exclude a portion of its territory which adjoins the fire district and add the excluded portion to such adjoining fire district; provided that the fire commissioners of the fire district, in either such case, have consented in writing to such addition. Such consent shall be acknowledged or proved in the same manner as a deed to be recorded. Notice of the hearing shall be given, the hearing held, and the subject matters thereof determined in the manner provided for a hearing upon the extension of a fire district under subdivision two of section one hundred seventy-one of this article, except that the notice of hearing shall state in general terms

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the purpose of the hearing, shall specify the fire protection district to be dissolved or the manner in which it is proposed to alter the boundaries of the fire protection district, and shall also describe the boundaries of the fire district as it is proposed to be extended. If, upon the dissolution of a fire protection district and the addition of the entire area thereof to a fire district, the fire district would become the sponsor of a service award program pursuant to section two hundred sixteen-b of the general municipal law, the notice of hearing shall so specify and contain a statement of the estimated annual cost of the service award program to the fire district; provided, however, that if, upon the dissolution of a fire protection district and the addition of such district to a fire district, the ensuing fire district would become the sponsor of a service award program pursuant to section two hundred sixteen-b of the general municipal law, the resolutions establishing the districts shall be submitted in each such town in the manner provided by article seven of this chapter. Whenever the town board or boards shall, after such public hearing, adopt a resolution approving the dissolution or alteration of the boundaries of a fire protection district and the addition of the described territory to an adjoining fire district it shall proceed in the manner prescribed in section one hundred seventy-three of this chapter for the extension of a fire district. For the purposes of this section, such fire protection district shall be deemed dissolved, or its boundaries altered, and the territory described added to the fire district upon the adoption by the town board or boards of an order providing therefor, pursuant to subdivision four of section one hundred seventy-three of this chapter, unless such order shall specify some other date for such purpose, in which case the dissolution or alteration shall become effective on the date specified. If the order provides for the dissolution of the fire protection district, the fire district shall be liable for all the obligations under the then existing contracts for the supply of fire protection to such fire protection district unless the contract is amended or terminated in the manner provided in section one hundred eighty-four of this chapter. If the order provides for the alteration of the boundaries of the fire protection district any existing contracts for the supplying of fire protection to the fire protection district so altered shall be carried out in the same manner as if such alteration had not taken place unless the contract is amended or terminated in the manner provided in section one hundred eighty-four of this chapter.

Town Law, Article 11, Section 171, Subdivision 2 specifies the requirement for Petition and Hearing regarding the dissolution of the fire protection district and expansion of the fire district as follows:

2.a. The town board or town boards shall hold a public hearing upon such petition and shall cause a notice thereof to be published at least once in a newspaper having general circulation in the territory affected, the first publication thereof to be not less than ten days nor more than twenty days before the day designated therein for the hearing, and the town clerk or town clerks shall cause copies of such notice to be posted on the sign-board

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of the town maintained pursuant to subdivision six of section thirty of this chapter, and conspicuously in such other places within or without the territory affected as the town board or town boards may direct, not less than ten nor more than twenty days before the day designated for the hearing as aforesaid. In the event that the town maintains a website, such information may also be provided on the website. Such notice shall contain a description of the proposed district or extension, state the estimated rate per thousand dollars of assessed valuation, based on the aggregate assessed valuation of taxable real property of the proposed district or extension district shown in the latest completed final assessment roll, projected to be assessed, levied and collected for purposes of the proposed district or extended district for the fiscal year of its operation and specify the time when and the place where the town board or boards will meet to consider such petition and to hear all persons interested in the subject concerning the same. If the petition shall provide for the dissolution of an existing water supply district upon the establishment of the fire district, the notice of hearing shall so specify. If, upon the establishment or extension of a fire district, the fire district would become the sponsor of a service award program pursuant to section two hundred sixteen-b of the general municipal law, the notice of hearing shall so specify and contain a statement of the estimated annual cost of the service award program to the fire district; provided, however, that if, upon the establishment or extension of a fire district, the ensuing fire district would become the sponsor of a service award program pursuant to section two hundred sixteen-b of the general municipal law, the resolutions establishing the districts shall be submitted in each such town in the manner provided by article seven of this chapter. Prior to the publication of the notice, the board or boards shall cause to be prepared, and file for public inspection with the town clerk, a detailed explanation of how the estimated rate of assessment for the proposed district or extended district was computed.

b.(1) If the permission of the state comptroller is not required pursuant to section one hundred seventy-three of this article because it is not proposed to finance an expenditure for the district or extension by the issuance of bonds, notes, certificates or other evidences of indebtedness of the fire district, a certified copy of the notice shall be filed with the state comptroller on or about the date of the publication of such notice.

(2) Notwithstanding the provisions of subparagraph one of this paragraph the state comptroller shall not be precluded from requiring the submission of additional information or data in such form and detail as the state comptroller shall deem sufficient or from causing an investigation to be made with respect to the establishment or extension of a district or an increase in the maximum amount to be expended.

Town Law, Article 11, Section 173, Subdivision 1 specifies the requirement for the Filing of Determination by the town board when the indebtedness will not be incurred by the fire district

Edward M. Olmstead, Jr., Fire Protection Consultant

as a result of the dissolution and expansion, as follows:

1. Whenever the town board or boards shall adopt a resolution establishing or extending a fire alarm district or a fire protection district, or consolidating two or more adjoining fire districts or fire protection districts, or altering the boundaries of a fire district or fire protection district, or dissolving a fire district, a fire alarm district or fire protection district, the town clerk or clerks shall cause a certified copy of such resolution to be duly recorded in the office of the clerk of the county or counties in which such fire district, fire alarm district, fire protection district, or consolidated or altered fire districts, or consolidated fire protection districts, are located, and shall, within ten days cause a certified copy of such resolution to be filed in the state department of audit and control at Albany, New York. When so recorded, such resolution shall be presumptive evidence of the regularity of the establishment, extension, consolidation, dissolution or alteration of such district or districts. The expense of such recording shall be a charge against the district or districts. The said determination shall be final and conclusive unless a proceeding has been commenced for review in the manner provided by article seventy-eight of the civil practice law and rules within thirty days from the time of recording thereof.

If the dissolution of the fire protection district and expansion of the fire district would cause the fire district to incur new indebtedness, then Town Law, Article 11, Section 173, Subdivisions 2 and 3 specify submission of resolution or determination to the state comptroller as follows:

2. Whenever the town board or boards shall adopt a resolution establishing or extending a fire district for which it is proposed that an expenditure is to be financed by the issuance of bonds, notes, certificates or other evidences of indebtedness of the fire district, such resolution or determination shall be submitted to the state comptroller for approval in the following manner:

(a) Within ten days after the adoption of a resolution by a town board approving the establishment or extension of such a district, the town clerk of the town shall file a certified copy of such resolution, in duplicate, in the office of the state department of audit and control at Albany, New York, together with an application, in duplicate, for permission to create or extend such district as the case may be. Such application shall be executed and verified by the supervisor, or by such other officer of the town as the town board shall determine, and shall include the following:

(1) A certified copy of the petition, if there is one, omitting, however, the signatures and acknowledgments or proofs, or authentications.

Edward M. Olmstead, Jr., Fire Protection Consultant

(2) An itemized statement of the existing indebtedness of the town, both temporary and bonded, including the indebtedness of the town for all special district purposes.

(3) A statement of the aggregate assessed valuation of the taxable real property situated in the proposed district or extension thereof, and, if there is a petition, of the portion thereof owned by resident owners.

(b) Whenever such an application shall be filed in the office of the department of audit and control, the state comptroller shall within five days thereafter give notice thereof to the board of supervisors of the county in which such proposed district or extension is located by filing with the clerk of such board of supervisors one copy of such application. At any time within fifteen days of the filing of the application, said board of supervisors may file an objection, in writing, in the office of said department of audit and control. In addition, the state comptroller shall determine whether the public interest will be served by the creation or extension of the district and also whether the cost thereof will be an undue burden upon the property of the proposed district or extension. The state comptroller may make such determinations upon the original or any amended application, or in his discretion may require the submission of additional information or data in such form and detail as he shall deem sufficient, or may cause an investigation to be made, to aid him in making the determinations above mentioned.

3. Upon the expiration of fifteen days from the date of the filing of such application with the clerk of the board of supervisors and upon reaching a determination, the comptroller shall make an order, in duplicate, granting or denying permission for the creation or extension of the district and shall file one copy of such order in the office of the state department of audit and control at Albany, New York, and the other in the office of the town clerk of the town in which the proposed district or extension is located. The town clerk shall present such order to the town board of the town at the next meeting thereof.

The Defreestville Fire Department, Incorporated has substantial assets. What is the mechanism to turn these assets (equipment and cash) over to North Greenbush Fire District #1? If the Defreestville Fire Department, Incorporated wants to retain the cash for continued operations, how is the amount needed determined? (Item #2)

The Defreestville Fire Department has substantial assets consisting of the fire station, land, fire apparatus vehicles and associated fire equipment that include the following:

- Fire Station, 480 North Greenbush Road

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- Old Buell Residence, 482 North Greenbush Road
- Old Kruzemark Residence, 490 North Greenbush Road
- Vacant Land, Ludlow Road
- Car 1, 2005 Ford Command Vehicle
- Car 2, 2008 Dodge Command Vehicle
- Car 3, 2007 Chevrolet 4x4 Support Vehicle
- FR-9, 2000 Ford First Response Emergency Medical Service Vehicle
- TSU-9, 2008 Eclipse Trailer, scene support and utility trailer
- Brush-9, 1998 Dodge Brush Fire Truck
- R-9, 1981 Sanford Engine/Rescue
- 9-2, 2007 KME Engine (loan obligation till 2017)
- 9-6, 2004 Emergency-One Engine/Tanker (loan obligation till November 2010)
- 9-7, 1996 3D Manufacturing Engine/Tanker

The disposition of these assets is determined by the Not-For-Profit Corporation Law. The Defreestville Fire Department may turn over assets to the North Greenbush Fire District #1 without restriction subject to the following:

- If the value of the assets to be turned over *does not* constitute a majority of the total value of all assets, a resolution by the board of directors (executive committee) must be approved by the membership of the fire department in accordance with the constitution and bylaws of the department.
- If the value of the assets to be turned over does constitute a majority of the total value of the assets, a resolution by the board of directors must be approved by a two-thirds majority of the membership of the fire department and in accordance with the constitution and bylaws of the department. Following the actions by the board and members of the fire department, the turnover must be approved by the supreme court in the judicial district or of the county court of the county in which the corporation has its office or principal place of carrying out the purposes for which it was formed.

Not-For-Profit Corporation Law, Article 5, Section 510 reads as follows:

(a) A sale, lease, exchange or other disposition of all, or substantially all, the assets of a corporation may be made upon such terms and conditions and for such consideration, which may consist in whole or in part of cash or other property, real or personal, including shares, bonds or other securities of any other domestic or foreign corporation or corporations of any type or kind, as may be authorized in accordance with the following procedure:

- (1) If there are members entitled to vote thereon, the board shall adopt a

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resolution recommending such sale, lease, exchange or other disposition. The resolution shall specify the terms and conditions of the proposed transaction, including the consideration to be received by the corporation and the eventual disposition to be made of such consideration, together with a statement that the dissolution of the corporation is or is not contemplated thereafter. The resolution shall be submitted to a vote at a meeting of members entitled to vote thereon, which may be either an annual or a special meeting. Notice of the meeting shall be given to each member and each holder of subvention certificates or bonds of the corporation, whether or not entitled to vote. At such meeting by two-thirds vote as provided in paragraph © of section 613 (Vote of members) the members may approve the proposed transaction according to the terms of the resolution of the board, or may approve such sale, lease, exchange or other disposition and may authorize the board to modify the terms and conditions thereof.

(2) If there are no members entitled to vote thereon, such sale, lease, exchange or other disposition shall be authorized by the vote of at least two-thirds of the entire board, provided that if there are twenty-one or more directors, the vote of a majority of the entire board shall be sufficient.

(3) If the corporation is, or would be if formed under this chapter, classified as a Type B or Type C corporation under section 201, (Purposes) such sale, lease, exchange or other disposition shall in addition require leave of the supreme court in the judicial district or of the county court of the county in which the corporation has its office or principal place of carrying out the purposes for which it was formed.

(b) After such authorization the board in its discretion may abandon such sale, lease, exchange or other disposition of assets, subject to the rights of third parties under any contract relating thereto, without further action or approval.

Not-For-Profit Corporation Law, Article 5, Section 511 reads as follows:

(a) A corporation required by law to obtain leave of court to sell, lease, exchange or otherwise dispose of all or substantially all its assets, shall present a verified petition to the supreme court of the judicial district, or the county court of the county, wherein the corporation has its office or principal place of carrying out the purposes for which it was formed. The petition shall set forth:

1. The name of the corporation, the law under or by which it was incorporated.
2. The names of its directors and principal officers, and their places of residence.

Edward M. Olmstead, Jr., Fire Protection Consultant

3. The activities of the corporation.
4. A description, with reasonable certainty, of the assets to be sold, leased, exchanged, or otherwise disposed of, or a statement that it is proposed to sell, lease, exchange or otherwise dispose of all or substantially all the corporate assets more fully described in a schedule attached to the petition; and a statement of the fair value of such assets, and the amount of the corporation's debts and liabilities and how secured.
5. The consideration to be received by the corporation and the disposition proposed to be made thereof, together with a statement that the dissolution of the corporation is or is not contemplated thereafter.
6. That the consideration and the terms of the sale, lease, exchange or other disposition of the assets of the corporation are fair and reasonable to the corporation, and that the purposes of the corporation, or the interests of its members will be promoted thereby, and a concise statement of the reasons therefor.
7. That such sale, lease, exchange or disposition of corporate assets, has been recommended or authorized by vote of the directors in accordance with law, at a meeting duly called and held, as shown in a schedule annexed to the petition setting forth a copy of the resolution granting such authority with a statement of the vote thereon.
8. Where the consent of members of the corporation is required by law, that such consent has been given, as shown in a schedule annexed to the petition setting forth a copy of such consent, if in writing, or of a resolution giving such consent, adopted at a meeting of members duly called and held, with a statement of the vote thereon.
9. A prayer for leave to sell, lease, exchange or otherwise dispose of all or substantially all the assets of the corporation as set forth in the petition.

(b) Upon presentation of the petition, the court shall direct that a minimum of fifteen days notice be given by mail or in person to the attorney general, and in its discretion may direct that notice of the application be given, personally or by mail, to any person interested therein, as member, officer or creditor of the corporation. The court shall have authority to shorten the time for service on the attorney general upon a showing of good cause. The notice shall specify the time and place, fixed by the court, for a hearing upon the application. Any person interested, whether or not formally notified, may appear at

Edward M. Olmstead, Jr., Fire Protection Consultant

the hearing and show cause why the application should not be granted.

(c) If the corporation be insolvent, or if its assets be insufficient to liquidate its debts and liabilities in full, the application shall not be granted unless all the creditors of the corporation shall have been served, personally or by mail, with a notice of the time and place of the hearing. (d) If it shall appear, to the satisfaction of the court, that the consideration and the terms of the transaction are fair and reasonable to the corporation and that the purposes of the corporation or the interests of the members will be promoted, it may authorize the sale, lease, exchange or other disposition of all or substantially all the assets of the corporation, as described in the petition, for such consideration and upon such terms as the court may prescribe. The order of the court shall direct the disposition of the consideration to be received thereunder by the corporation.

In the proposed consolidation, there is no intent to dissolve the Defreestville Fire Department and it will continue as a corporate entity. The cash assets of the fire department remain in their entirety with the corporation and are subject to the provisions of the constitution and by-laws. Only in the case of a non-judicial dissolution of the corporation would New York State Law come into play (Not-For-Profit Corporation Law, Article 10).

The Defreestville Fire Department, Incorporated has outstanding debt, all for fire apparatus. When the assets are turned over to North Greenbush Fire District #1, what is the disposition of the debt? Since the debt is attached to specific apparatus, can the Defreestville Fire Department, Incorporated lease the apparatus to the North Greenbush Fire District #1 until the debt is retired, then turn the apparatus over to North Greenbush Fire District #1? (Item #3)

The Defreestville Fire Department, Incorporated is in the midst of purchasing land to construct a new fire station to replace the existing facility. Can the Defreestville Fire Department, Incorporated retain ownership of the station and lease all or part of the building to North Greenbush Fire District #1, and at some time in the future turn the new station over to North Greenbush Fire District #1 (Item #4)

The outstanding debt for fire apparatus may remain with the Defreestville Fire Department until it is satisfied. The assets may then be turned over to the North Greenbush Fire District #1 in accordance with the procedure detailed above.

The Defreestville Fire Department may lease assets to the North Greenbush Fire District #1 and turn the assets over to the North Greenbush Fire District #1 without restriction as described above. The fire department could also continue the ownership of the asset and continue the lease arrangement.

Edward M. Olmstead, Jr., Fire Protection Consultant

The alternative to the retention of the obligated assets would be for the Defreestville Fire Department to turn over the assets to the North Greenbush Fire District which would require the district to assume the financial obligation. Prior to assuming the obligation, the fire district is required to receive approval by the registered voters of the fire district as required by Article 2, Title 3, Section 38 of the Local Finance Law.

- a. A bond resolution or a capital note resolution adopted by the finance board of a fire district shall not become effective unless it shall have been approved at a regular or special election of such district in the manner provided in section one hundred and seventy-nine of the town law, as amended from time to time.

The same procedures and conditions apply to the existing fire station or to a future fire station constructed by the Defreestville Fire Department. We note that in a study completed by Olmstead Fire Protection Consulting, Inc. in November 2000, it was recommended that the Defreestville Fire Station be replaced

“Of all of the alternatives available, the abandonment of the current structure and the construction of a new fire station is the only plausible and realistic choice. The current fire station is more than 50 years old. While it has been well maintained, is structurally sound and is certainly adaptable for reuse by a number of different occupancies, the degradation of personal safety for the volunteer fire fighters of the Defreestville fire Department resulting from the Exit 8 Interchange construction demands a logical and sensible solution. The solution must achieve two goals:

- Provide a safe working and response environment for fire department personnel
- Facilitate an effective response to community emergency needs

We therefore recommend that the Defreestville Fire Department engage the services of a competent architectural firm that specializes in the location and design of fire stations. The fire station should be situated in a location that provides the most effective response and services to the community. The fire station should provide sufficient space for existing fire apparatus and for the acquisition of additional fire apparatus to meet the growth and change in services expected during the next 30 to 50 years.”

During our discussions with the Board of Fire Commissioners and representatives of the Defreestville Fire Department, the need for a new fire station was recognized and we believe from those discussions that the issue will be dealt with in the future.

How is the existing North Greenbush Fire District #1 debt dealt with once the Town of North Greenbush Fire Protection District is absorbed by North Greenbush Fire District #1? (Item #7)

Edward M. Olmstead, Jr., Fire Protection Consultant

The North Greenbush Fire District has no current debt and there is no action to be discussed or taken on this issue. If there was existing debt, it would be contained within the original boundaries of the fire district and the financial obligation could not be expanded to the taxpayers of the Defreestville Town Fire Protection District following the dissolution and expansion.

It seems that fund raising to support fire company operations by Defreestville Fire Company, Incorporated would still be allowed. Are there restrictions? (Item 11)

In addition to funds provided by taxpayers for the operation of fire districts and fire protection districts, volunteer fire departments may engage in various fund-raising activities to supplement the operations and activities of the fire department. In many cases, the monies resulting from such fund-raising activities are expended for equipment and operations that would otherwise be paid for through tax dollars. Both the Defreestville and Wynantskill Fire Departments conduct fund-raising activities.

Fund-raising activities are regulated by New York State Statute and it is important that these statutes be followed to provide injury and disability benefits for members of the fire department through the Volunteer Firefighter's Benefit Law.

The primary regulation of fund-raising activities is contained in General Municipal Law, Article 10, Section 204-a, Raising of funds for Fire Company Purposes:

1. Definitions. As used in this section:

- a. "Fire company" means: (1) A volunteer fire company of a county, city, town, village or fire district fire department, whether or not any such company has been incorporated under any general or special law, (2) A fire corporation the members of which are volunteer firemen and which was incorporated under or is subject to the provisions of article ten of the membership corporations law, which is not included within subparagraph (1) above, if such corporation is by law under the general control of, or recognized as a fire corporation by, the governing board of a city, town, village or fire district, or (3) A fire corporation the members of which are volunteer firemen and which was incorporated under, or established pursuant to the provisions of, any general or special law, which is not included within subparagraphs (2) and (3) above, if such corporation is by law under the general control of, or recognized as a fire corporation by, the governing board of a city, town, village, fire district or a district corporation other than a fire district.
- b. "Fund raising activity" means a method of raising funds to effectuate the lawful purposes of a fire company, but shall not include any method prohibited by the state constitution or the penal statutes of this state, public fireworks displays

Edward M. Olmstead, Jr., Fire Protection Consultant

unless conducted in compliance with section 405.00 of the penal law, or the conduct of a business or other commercial enterprise except on temporary basis for a period or periods not to exceed a total of ninety days in any calendar year. Such term "fund raising activity" shall not include drills, parades, inspections, reviews, competitive tournaments, contests or public exhibitions, described in paragraphs e and I of subdivision one of section five of the volunteer firemen's benefit law, even though prizes are awarded at such events.

c. "Governing board of the political subdivision" means the governing board of the county, city, town, village, fire district or other district corporation, as the case may be, where the fire company is under the general control of, or recognized as a fire corporation, by such governing board.

2. Subject to the provisions of this section, a fire company may engage in a fund raising activity. Two or more fire companies may join in any such activity, and for the purposes of this section such group shall be deemed a "fire company."

3. A fund raising activity shall not be conducted contrary to the by-laws, rules or regulations of the fire company or of the fire department of which it is a part.

4. A fund raising activity must be conducted within the state of New York. It shall be under the exclusive auspices of a fire company and shall not be conducted in partnership with any other person, organization, firm or corporation. This subdivision shall not be deemed to prohibit the letting of concessions, or the entering into of contracts for rides or other attractions, at such activities, or the acceptance of aid and assistance of persons who are not active members of the fire company, or of other organizations, firms or corporations, in connection with such activities. The acceptance of such aid and assistance shall not subject the political subdivision to any liability as an employer under the volunteer firemen's benefit law, section two hundred seven-a of the general municipal law, the workmen's compensation law, or any other comparable law.

5. The firehouse, firehouse grounds, fire vehicles and apparatus, or other property, real and personal, generally used by the fire company for its purposes may be used by it in the conduct of any such activity.

6. The governing board of a political subdivision may, by resolution,

(a) prohibit the fire company from engaging in fund raising activities or in any general or specific type of fund raising activity,

(b) require the fire company, at its expense, to provide any insurance protection

Edward M. Olmstead, Jr., Fire Protection Consultant

which such governing board deems necessary to protect the political subdivision against claims and actions for damages by third parties arising out of or in connection with a fund raising activity.

7. Participation by volunteer firemen in fund raising activities shall not be deemed to constitute "duty as volunteer firemen" within the meaning of section two hundred five-b of this chapter. (Note - refers to relief of volunteer firefighters engaged in the performance of duty as such firefighters from civil liability and liability of fire districts for the acts of volunteer firefighters)

8. Notwithstanding the foregoing provisions of this section, the provisions of this subdivision shall be applicable only in relation to fund raising activities for which benefits would be paid and provided pursuant to paragraph m of subdivision one of section five of the volunteer firemen's benefit law: (Note - see following reference)

(a) Before engaging in a fund raising activity the fire company shall cause the governing board of the political subdivision to be notified in writing that it proposes to conduct such activity. Any such notice shall contain a general description of the method which will be used to raise funds and shall specify the time or times when, the place or places where, and the period or periods during which the activity will be conducted and shall set forth the names of the firemen who will serve on each of the committees or subcommittees in connection with the activity. Any such notice shall be filed with the clerk, secretary or other comparable officer of such governing board. In the event that no action is taken by such governing board prohibiting such activity within thirty days after the filing of such notice, then it shall be deemed that the governing board has no objection to such activity and the fire company may proceed to conduct the same.

(b) Sales of tickets for admission to or in connection with a fund raising activity shall be by persons appointed as a committee for such purpose and shall be for or in relation to a fund raising activity to be held within sixty days after the sale of the tickets commences.

© Members of the fire company conducting the fund raising activity who attend or participate in the activity for their own pleasure or convenience, and not as a worker in connection therewith, shall not be deemed to be engaged in the conduct of such activity.

Article II, Section 5 of the Volunteer Firefighters' Benefit Law details the duties and activities in relation to which benefits are paid and provided for members of volunteer fire department. Section 5-m specifically addresses fund raising activities:

Edward M. Olmstead, Jr., Fire Protection Consultant

While, within the state and pursuant to orders or authorization, working in connection with a fund raising activity of his fire company, as defined in subdivision fifteen of section three of this chapter including necessary travel directly connected therewith, as well as necessary travel to and necessary travel returning from such activity, but shall not include competitive events in which volunteer firemen are competitors, such as baseball, basketball, football, bowling, tugs of war, water-ball fights, donkey baseball, boxing, wrestling, contests between bands or drum corps, or other competitive events in which volunteer firemen are competitors and which involve physical exertion on the part of the competitors.

How would North Greenbush Fire District #1 distribute the 2% money to the Defreestville Fire Department, Incorporated and the Wynantskill Fire Department? (Item 9)

New York State imposes a 2% tax on fire insurance premiums of “foreign” and “alien” companies who underwrite fire insurance policies for individuals or businesses in the state. Ninety percent of the collected funds are then distributed to the fire departments providing fire protection to cities, villages, fire districts, fire alarm districts or fire protection districts where the insurance policy was written. The New York State Insurance Department directs that the fire tax proceeds in a multi-company fire department are be “allocated between and among the fire companies proportional to the number of active members in each fire company.” The determination of what constitutes an “active member” of a fire company is “a member who participates in firefighting and is subject to call for whatever duties may be assigned to him under the rules and regulations of the fire department or company of which he is a member.”

As the authority having jurisdiction, the determination of what constitutes an active member is the responsibility of the North Greenbush Fire District #1 Board of Fire Commissioners. Since there exists and will continue to exist a Service Awards Program in the district, it is useful to consider the definition of active fire fighter from General Municipal Law Article 11-A, Section 215 (Definitions):

"Active volunteer firefighter" means a person who has been approved by the authorities in control of a duly organized volunteer fire company or volunteer fire department as an active volunteer firefighter of such fire company or department and who is faithfully and actually performing service in the protection of life and property from fire or other emergency, accident or calamity in connection with which the services of such fire company or fire department are required.

Nothing in the definition requires that an active volunteer firefighter be limited to a member who actively enters burning buildings and suppresses fires. The array of activities performed in support of firefighting operations include:

Edward M. Olmstead, Jr., Fire Protection Consultant

- Attendance at training courses
- Attendance at drills and seminars
- Sleep-in and standby duty
- Tours of duty
- Holding elected or appointed position
- Attendance at business and special meetings
- Service as a firefighters' convention delegate
- Participation in department responses, emergency and non-emergency
- Miscellaneous activities such as inspections and fund raising events
- Teaching fire prevention classes

As an example, if there were 50 active members in the Defreestville Fire Department and 50 active members in the Wynantskill Fire Department, each department would receive 50% of the 2% funds received by the fire district. The distribution can change from year to year as the activity levels in the fire departments fluctuate.

What would be the Chief Officer structure, specifically the District Chief? (Item 8)

During the course of this study, there was considerable discussion among the members of the fire departments and the Board of Fire Commissioners on the Chief Officer structure (Fire Chief, Deputy Fire chief and Assistant Fire Chiefs) following the consolidation process. While there was discussion about the advantages and disadvantages of hiring a paid fire chief/administrator, the final consensus from the meetings was to create the following chief officer structure:

- Fire District Chief officers will be appointed by the Board of Fire Commissioners
- Fire District Chief position will alternate yearly between the elected Defreestville Fire Department Chief and elected Wynantskill Fire Department Chief
- Fire district Deputy Fire Chief position will alternate yearly between the elected Defreestville Fire Department Chief and the elected Wynantskill Fire Department Chief

The process for the election and appointment of fire district chief officers is specified in Article 11, Section 176 of Town Law, Powers and Duties of Fire District Commissioners

11-a. The members of the fire department of the fire district shall meet at a time and place designated by the board of fire commissioners on the Thursday following the first Tuesday in April of each year and nominate persons for the offices of chief and such assistant chiefs as may be provided for in the rules and regulations adopted by the board of fire commissioners. If the Thursday following the first Tuesday in April falls upon a day of special religious observance, the board of fire commissioners may designate any other weekday in April after such Thursday as the day upon which to hold such meeting.

Edward M. Olmstead, Jr., Fire Protection Consultant

Each nominee shall be a member of the fire department. In addition, the board of fire commissioners may by resolution require that any or all of such fire department officers shall be residents of the fire district. All nominations shall be made by ballot. The person acting as secretary of such meeting shall promptly notify the fire district secretary in writing of such nominations. The board of fire commissioners at its meeting next succeeding the making of such nominations shall consider the same and shall appoint such persons to the offices to which they have been respectively nominated or, if a nomination is not approved the board of fire commissioners shall call another meeting of the members of the fire department at which a new nomination shall be made to take the place of any nomination not approved, which procedure shall continue until a full set of officers is approved. Any such person shall assume the duties of his office as soon as he has been appointed thereto by the board of fire commissioners and shall serve until his successor is appointed. A person who has been convicted of arson in any degree shall not be eligible for nomination, election or appointment to the office of fire department chief or assistant chief. Any fire department chief or assistant chief who is convicted of arson in any degree during his term of office shall be disqualified from completing such term of office.

11-b. The members of the fire department at a regular or special meeting of the department held after the month of April but prior to the month of November in any year may adopt a resolution recommending that future meetings for the nomination of the chief and assistant chiefs be held in December, either on the first Thursday, the first Saturday, the Thursday following the first Tuesday, the Saturday following the first Tuesday, the Thursday following the second Tuesday, or the Saturday following the second Tuesday in such month, instead of April as provided in subdivision eleven-a of this section. ... The notice or call for such meeting shall specify that such a resolution will be offered to be voted upon at such meeting. If such resolution is adopted, the board of fire commissioners may adopt a rule or regulation providing that future meetings for the nomination of chief and assistant chiefs shall be held in December, either on the first Thursday, the first Saturday, the Thursday following the first Tuesday, the Saturday following the first Tuesday, the Thursday following the second Tuesday, or the Saturday following the second Tuesday in such month ..., as specified in the fire department resolution, instead of April as provided in subdivision eleven-a of this section. Each nominee shall be a member of the fire department and a resident of the state of New York. In addition, the board of fire commissioners may by resolution require that any or all of such fire department officers shall be residents of the fire district. All nominations shall be made by ballot. The person acting as secretary of such meeting shall promptly notify the fire district secretary in writing of such nominations. The board of fire commissioners at its organization meeting in the month of January next succeeding the making of such nominations shall consider the same and shall appoint such persons to the offices to which they have been respectively nominated or, if a nomination is not

Edward M. Olmstead, Jr., Fire Protection Consultant

approved the board of fire commissioners shall call another meeting of the members of the fire department at which a new nomination shall be made to take the place of any nomination not approved, which procedure shall continue until a full set of officers is approved. Any such person shall assume the duties of his office as soon as he has been appointed thereto by the board of fire commissioners and shall serve until his successor is appointed. A person who has been convicted of arson in any degree shall not be eligible for nomination, election or appointment to the office of fire department chief or assistant chief. Any fire department chief or assistant chief who is convicted of arson in any degree during his term of office shall be disqualified from completing such term of office. If the date of meetings for the nomination of chief and assistant chiefs is changed from April to September or December pursuant to the foregoing provisions of this subdivision, the members of the fire department at a regular or special meeting of the department held after the month of April but prior to the month of November in any year may adopt a resolution recommending that future meetings for the nomination for such officers shall be held in April pursuant to the provisions of subdivision eleven-a of this section. The call for such meeting shall specify that such a resolution will be offered to be voted upon at such meeting. If such a resolution is adopted, the board of fire commissioners may adopt a rule or regulation providing that future meetings for the nomination of chief and assistant chiefs shall be held in April pursuant to the provisions of subdivision eleven-a of this section and that the provisions of such subdivision eleven-a shall again become applicable.

How would the fire company structure be established? How would the two companies formally interact to avoid and resolve disputes? What restrictions can North Greenbush Fire District #1 place on fire company operations? (Item 10)

Can there be a contract or Memorandum of Understanding between the Defreestville Fire Department, Incorporated and North Greenbush Fire District #1 with certain guarantees, yet defined? If so, how long should such a contract or Memorandum of Understanding be in effect? The intent of such a contract or Memorandum of Understanding would be to protect the identity of the Defreestville Fire Department, Incorporated during the transition to a single administrative organization. This would most likely be a concern of the Wynantskill Fire Department, which is currently the North Greenbush Fire District #1 fire company. There is no intent to merge the two fire companies into a single group at this point. (Item 5)

The current fire company (department) structure should remain as is with the Defreestville Fire Department and the Wynantskill Fire Department continuing in their present form. It is a common practice in fire districts and municipal fire department to have multiple volunteer fire departments of companies. In some cases the existence of multiple companies is based on the historical development of the community. In other communities, the location and/or distribution of fire stations creates establishes the need for separate departments or companies. Finally, some

Edward M. Olmstead, Jr., Fire Protection Consultant

fire companies are established on the basis of function (engine companies, truck companies, rescue companies, etc.).

It is in the best interests of the North Greenbush Fire District to maintain the individual identities of the Defreestville and Wynantskill Fire Departments. The members of these organizations have invested tremendous personal effort in the development and operations of their departments. A forced combination of the two departments into one would most likely result in a dysfunctional outcome and a decline in membership.

In our discussions with the Board of Fire Commissioners, it was made clear to us that there was no intent to change the current structure of the Defreestville and Wynantskill Fire Departments now or at any point in the future.

We do recommend that both fire departments conduct a review of the current constitution and bylaw documents to determine if any revisions or modifications are necessary to be in compliance with the rules, regulations and policies of the North Greenbush Fire District and the applicable laws of New York State. This review should be conducted with the assistance of an attorney specializing in fire service law for fire districts and volunteer fire departments.

The issue of dispute resolution and restrictions imposed by a fire district board of fire commissioners is specified in Article 11, Section 176 of Town Law:

10. May organize, operate, maintain and equip fire companies, including the purchase of uniforms to be used by the members of such companies, and provide for the removal of such members for cause.

11. May adopt rules and regulations governing all fire companies and fire departments in said district and prescribing the duties of the members thereof and enforce discipline and provide for public drills, parades, funerals, inspections and reviews of the fire district fire department, or any company or unit thereof, within the fire district or at other places within the state, any adjoining state or in Canada. Such rules and regulations shall not authorize any member of the board of fire commissioners to interfere with the duties of the chief or assistant chief at such times as the fire department or any company or squad thereof is on duty.

19. Shall have the exclusive management and control of the property of the fire district and may insure the same against loss or damage from any risk whatsoever and may contract at the expense of the district for insurance indemnifying the district, its officers, agents, employees and the members of all fire companies against any loss arising from injuries to persons or property through the operation and maintenance of such fire district and the performance of the duties thereof and insure the members of the fire department

Edward M. Olmstead, Jr., Fire Protection Consultant

of the district against injury or death in the performance of their duties, or both.

We believe that the issue of a memorandum of understanding is not a consideration that can be taken forward. Such an agreement would most likely be in conflict with the broad powers and responsibilities of the Board of Fire Commissioners.

What would happen with the current written Standard Operating Procedures (SOP's) in place with Defreestville Fire Department, Incorporated? Would the North Greenbush Fire District #1 Board of Fire Commissioners have to formally adopt them or would the Defreestville Fire Department, Incorporated operate under the North Greenbush Fire District #1 SOP's currently in place? (Item 12)

The North Greenbush could formally adopt the Standard Operating Procedures of the Defreestville Fire Department, but such an action could result in an operational difference or conflict with the current fire district Standard Operating procedures. We recommend that the officers of the Defreestville and Wynantskill Fire Departments conduct a thorough review of the existing Standard Operating Procedures in place for the Defreestville fire Department and the North Greenbush Fire District #1 and present an updated and uniform set of Standard Operating Procedures to the Board of Fire commissioners for consideration and adoption.

We anticipate that, while the operational practices of Defreestville and Wynantskill are quite similar in most cases, the review will be a time-consuming process that will take several months to complete.

Both North Greenbush Fire District #1 and the Defreestville Fire Department, Incorporated have LOSAP plans with the same vendor, but with different benefit levels. What happens to these plans? Can they be merged? How are the benefits affected? (Item #1)

The most complicated issue in the consolidation discussion and research concerns the Length of Service Awards Programs that are in place in the North Greenbush Fire District #1 and the Defreestville Fire Department, Inc. Service award programs were established by New York State legislation to provide a modest financial retirement incentive for volunteer firefighters in the hope that membership growth would be stimulated and existing members would be retained.

Two types of service award programs are available. A "defined contribution" plan means any service award program that provides to eligible volunteer firefighters a benefit as the result of definite and determinable contributions under the program, and without reference to any income, expense, gains or losses or forfeitures of other participants under the program. A "defined benefit" plan "Defined benefit plan" means any service award program that provides to eligible volunteer firefighters, a benefit that is definitely determinable under the program without reference to the amount contributed to the program on the participant's behalf or to any income,

Edward M. Olmstead, Jr., Fire Protection Consultant

expenses, gains or losses or forfeitures of other participants under the program.

In both plans, firefighters receive point credit for various activities ranging from administrative duties to emergency response. To receive annual credit toward the service award, the member must participate sufficiently to meet the minimum required point credit. If a member does not accumulate the required minimum number of points, then there will be no credit toward the service award for that year.

Both the North Greenbush Fire District #1 plan and the Defreestville Fire Department plan are “defined benefit” plans. Both plans are through the VFIS Division of the Glatfelter Insurance Group. However the plans are not identical and there is no provision in state legislation or insurance industry practice to consolidate the two plans. The North Greenbush plan provides service award benefits to members of the Wynantskill fire Department and is the financial responsibility of the North Greenbush Fire District #1. The Defreestville plan benefits members of the Defreestville Fire Department and is the financial responsibility of the Town of North Greenbush.

Title	Defreestville Plan	North Greenbush Plan
Monthly Benefit	\$10.00	\$20.00
Total Years of Service	\$40.00	\$30.00
Maximum Monthly Benefit	\$400.00	\$600.00
Entitlement Age	65	65
Post Entitlement Benefit	No	Yes

We presented VFIS with five scenarios for the modification of the existing service award program with the intent of continuing the incentive program for all members of the Defreestville and Wynantskill Fire Departments. We asked VFIS to prepare a comprehensive analysis of each of the possible scenarios with a description of the pros and cons of the scenario, the process for accomplishing each scenario, and the projected annual cost for each scenario. The cost of plans includes the nominal cost of the plan, life insurance and an administrative fee collected by VFIS. In some of the proposed scenarios, there was also an amortization cost component. Any modification of any type to the current plans is subject to a mandatory referendum presented to the taxpayers of the fire district and fire protection district.

Edward M. Olmstead, Jr., Fire Protection Consultant

Scenario 1: Maintain the current LOSAP plans (status quo). This would require two separate taxing districts and would provide different benefit levels within the Fire District.

This scenario is essentially a “plan zero.” Nothing would be done to alter the benefits, resulting in dissimilar benefits for the volunteer members of the two departments. VFIS did not provide a response for this scenario

Scenario 2: Incorporate the North Greenbush Fire District #1 LOSAP plan into the Defreestville Fire Department LOSAP plan. This would result in a change in benefit to the current members of the North Greenbush Fire District #1 plan.

This scenario would have reduced the benefit level for the members of the Wynantskill Fire Department. VFIS did not provide a response for this scenario.

Scenario #3: Incorporate the Defreestville Fire Department LOSAP plan into the North Greenbush Fire District #1 LOSAP plan. This would result in change in benefit to the current members of the Defreestville Fire Department plan.

This scenario would have increased to benefit for the members of the Defreestville Fire Department. VFIS did not provide a response for this scenario.

Scenario #4: Combine the assets of the existing plans into a new LOSAP plan that would include all current and future plan members.

This scenario would have created a completely new plan. Current members would not be “harmed” - the benefits that had been earned to date would carry over to the new plan. An analysis of this scenario was prepared by VFIS.

The estimated cost of this scenario is \$177,437.

Scenario #5: Terminate the current Defreestville Fire Department plan and add all members of the current Defreestville plan to the North Greenbush Fire District #1 plan. This would be the equivalent of all current Defreestville plan members leaving the Department and moving out of the area.

This scenario is the most likely to succeed for a number of reasons. The termination of the Defreestville Plan would not require a referendum as there would be no change in the plan. Members who were vested in the Defreestville plan would receive monthly service award payments at their entitlement age. They would then be included in the North Greenbush plan and would begin earning service credit in that plan resulting in receiving a second monthly service award payment at the entitlement age. While there would be some continuing expense to

the town as part of the termination process, we believe that expense would eventually end as deferred annuities were purchased to fund the service award benefits. There would be a required referendum to expand the North Greenbush Fire District #1 plan into the current fire protection district territory.

The estimated cost of this scenario is \$158,383

Scenario #6: Following our submission of these five scenarios to VFIS, a sixth scenario was proposed that would change the features of the current plans to an identical state. The Defreestville plan would increase the benefit to \$20.00 per month and add post entitlement benefits. The North Greenbush Plan would increase the years of eligible service to 40 years. This would raise the maximum service award benefit to \$800 per year.

The estimated cost of this scenario is \$204,679.

Scenario #7: After further discussion, a seventh scenario was requested that would modify the Defreestville plan by dropping the post-entitlement benefit. This seventh scenario was requested for purposes of comparison although it is likely that post entitlement benefits will be required in all existing and future service award plans.

The estimated cost of this scenario is \$192,392

Since the receipt of the above analysis and estimates from VFIS, discussions have continued between the North Greenbush Fire District, the Defreestville Fire Department, the Wynantskill Fire Department, the legal counsel of these three entities and VFIS. The intent of the discussions has been to develop the most reasonable scenario to address the service awards issue. As these discussions are currently in progress, we are unable to include any details or results as a part of this report.

What would the final budget for the North Greenbush Fire District #1 be and how would the existing tax rates be affected by the consolidation? (Item #13)

The following *estimated* budget that would result from the dissolution of the Defreestville Fire Protection District and the extension of the North Greenbush Fire District #1 is based on the following:

- Actual 2009 adopted budget for the Defreestville Fire Department, Inc.
- Actual 2009 adopted budget for the North Greenbush Fire District #1
- Estimated for LOSAP Scenario #5 provided by VFIS in June 2009
- Estimate of minimum amounts necessary for the lease of the Defreestville Fire Department fire station and apparatus by the North Greenbush Fire District #1

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This estimated budget is provided as a basis for the ongoing discussions and negotiations between the North Greenbush Fire District #1 Board of Fire Commissioners and the Defreestville Fire Department, Inc. We presume that there will be modification to the final budget based on those discussion and negotiations and the possible savings realized from combining insurance, workers' compensation, maintenance of apparatus and purchasing economies. The largest variable in the final budget will be the costs associated with the final resolution of the Service Awards Program.

The calculation of the projected property tax rate is based on the following factors:

- Estimated total General Fund and Capital Reserve Budget for the North Greenbush Fire District #1 Post consolidation (following spreadsheet) - \$959,001.80
- Estimated fund balance for North Greenbush Fire District #1 - \$40,000.00
- Taxable value of property in the Town of North Greenbush (includes existing North Greenbush Fire District #1 and Defreestville Fire Protection District) - \$316,015,493

Based on the above factors, the estimated projected tax rate would be \$2.91 per thousand. The 2009 tax rate for the North Greenbush Fire District #1 is \$2.72 per thousand. The 2009 tax rate for the Defreestville Fire Protection District is \$4.25 per thousand.

North Greenbush Fire District #1/Defreestville Fire Department Combined Budget	North Greenbush Fire District #1 Estimated Budget Post Consolidation	Defreestville Fire Department, Inc. Estimated Budget Post Consolidation	Combined Budget Cost to North Greenbush Fire District #1 Post Consolidation
Personal Services			
Personal Services:			
Secretary-Treasurer/Staff	\$38,000.00	\$2,100.00	\$40,100.00
Personal Service - Subtotal	\$38,000.00	\$2,100.00	\$40,100.00
Firefighting Operations, Equipment and Support			
FEOE&S - Rescue and Firefighter	\$15,000.00	\$16,250.00	\$31,250.00
FEOE&S - Radio Equipment	\$2,250.00	\$7,500.00	\$9,750.00
FEOE&S - Turnout Gear	\$31,640.00	\$6,000.00	\$37,640.00
FEOE&S - Hose, Portable Pumps and Foam	\$2,125.00	\$0.00	\$2,125.00
FEOE&S - Fire, Scuba and EMS Training	\$15,750.00	\$0.00	\$15,750.00
FEOE&S - Fire Chief's Fire Prevention	\$4,000.00	\$2,200.00	\$6,200.00
FEOE&S - Fire Chief's Fire Police Squad	\$1,500.00	\$0.00	\$1,500.00
FEOE&S - EMS Equipment, Supplies and Manuals	\$13,000.00	\$0.00	\$13,000.00
FEOE&S - SCBA	\$1,200.00	\$4,500.00	\$5,700.00
FEOE&S - Chief's Fund	\$0.00	\$2,100.00	\$2,100.00
FEOE&S Subtotal	\$86,465.00	\$38,550.00	\$125,015.00
Equipment Maintenance			
Maintenance - Equipment - Apparatus Repairs	\$21,000.00	\$24,500.00	\$45,500.00
Maintenance - Equipment - All Other Repairs and Supplies	\$18,000.00	\$0.00	\$18,000.00
Maintenance - Equipment - Diesel Fuel, Gas and Oil	\$12,000.00	\$10,914.00	\$22,914.00
Maintenance - Equipment - Subtotal	\$51,000.00	\$35,414.00	\$86,414.00
Building and Grounds Maintenance			
Maintenance - Building and Grounds - Floor Cleaning Service and Windows	\$8,400.00	\$0.00	\$8,400.00
Maintenance - Building and Grounds - Landscaping, repairs and Building Supplies	\$22,500.00	\$0.00	\$22,500.00
Maintenance - Building and Grounds - Fuel, Light, Sewer and Water	\$16,000.00	\$10,500.00	\$26,500.00
Maintenance - Building and Grounds Subtotal	\$46,900.00	\$10,500.00	\$57,400.00

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North Greenbush Fire District #1/Defreestville Fire Department Combined Budget	North Greenbush Fire District #1 Estimated Budget Post Consolidation	Defreestville Fire Department, Inc. Estimated Budget Post Consolidation	Combined Budget Cost to North Greenbush Fire District #1 Post Consolidation
Insurance			
Insurance - Building and Equipment	\$27,500.00	\$25,000.00	\$52,500.00
Insurance - Worker's Compensation	\$24,153.80	\$13,029.00	\$37,182.80
Insurance - Subtotal	\$51,653.80	\$38,029.00	\$89,682.80
Communication Network			
Communication Network - Telephones	\$10,000.00	\$2,000.00	\$12,000.00
Communication Network - Mass Communication	\$4,000.00	\$0.00	\$4,000.00
Communication Network - Subtotal	\$14,000.00	\$2,000.00	\$16,000.00
Administrative Expenses			
Administrative Expenses - Legal Fees	\$18,000.00	\$2,500.00	\$20,500.00
Administrative Expenses - Legal Notices	\$1,500.00	\$0.00	\$1,500.00
Administrative Expenses - Audit Fee	\$12,000.00	\$0.00	\$12,000.00
Administrative Expenses - Association dues and Publications	\$1,000.00	\$0.00	\$1,000.00
Administrative Expenses - Office and Printing Supplies, Equipment	\$2,000.00	\$0.00	\$2,000.00
Administrative Expenses - Computer Services and Equipment	\$10,000.00	\$0.00	\$10,000.00
Administrative Expenses - Subtotal	\$44,500.00	\$2,500.00	\$47,000.00
Fringe Benefits			
Fringe Benefits - LOSAP Program and Administration - Equal Programs	\$144,156.00	\$0.00	\$144,156.00
Fringe Benefits - Life Insurance	\$14,227.00	\$0.00	\$14,227.00
Fringe Benefits - Subtotal	\$158,383.00	\$0.00	\$158,383.00

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North Greenbush Fire District #1/Defreestville Fire Department Combined Budget	North Greenbush Fire District #1 Estimated Budget Post Consolidation	Defreestville Fire Department, Inc. Estimated Budget Post Consolidation	Combined Budget Cost to North Greenbush Fire District #1 Post Consolidation
Other Expenses			
Other Expenses - Physical Examinations	\$10,000.00	\$4,800.00	\$14,800.00
Other Expenses - Conventions, Seminars, Etc.	\$5,000.00	\$4,500.00	\$9,500.00
Other Expenses - Social Security, Payroll Taxes	\$2,907.00	\$0.00	\$2,907.00
Other Expenses - Annual Inspection Dinner	\$3,300.00	\$0.00	\$3,300.00
Other Expenses - Subtotal	\$21,207.00	\$9,300.00	\$30,507.00
Lease Expenses			
Defreestville Fire Department Lease - Capital	\$95,250.00	\$0.00	\$95,250.00
Defreestville Fire Department Lease - Corporate Expenses	\$14,250.00	\$0.00	\$14,250.00
Defreestville Fire Department Lease - Debt Service	\$90,000.00	\$0.00	\$90,000.00
Defreestville Fire Department Lease - Subtotal	\$199,500.00	\$0.00	\$199,500.00
TOTAL GENERAL FUND BUDGET	\$713,608.80	\$136,393.00	\$834,001.80
Capital Reserve Fund:			
Capital Reserve Fund - Building	\$0.00	\$0.00	\$0.00
Capital Reserve Fund - Equipment	\$125,000.00	\$0.00	\$125,000.00
Capital Reserve Fund - Repairs Reserve	\$0.00	\$0.00	\$0.00
Capital Reserve Fund - Subtotal	\$125,000.00	\$0.00	\$125,000.00
Total General Fund & Capital Reserve Budget	\$838,608.80	\$136,393.00	\$959,001.80

Summary

This report summarizes numerous meetings, discussions, E-mail transactions, telephone discussions and gathered documents and data. It represents a starting point in the final processes that must take place to effect the dissolution of the Defreestville Fire Protection District and the extension of the North Greenbush Fire District #1. Those processes, as the report indicates, are regulated by New York State Statutes and require the advice and counsel of competent attorneys.

What is more important, there is clearly a strong commitment by the Board of Fire Commissioners, the officers and members of the Defreestville Fire Department, Incorporated and the officers and members of the Wynantskill Fire Department, Incorporated to the success of this endeavor. The ongoing discussions and negotiations include determined efforts to provide the lowest property tax rate possible while maintaining the high quality of emergency services that are provided to the citizens of the Town.

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