

Special Meeting Minutes
Water Pollution Control Authority
Tuesday, September 28, 2010 – 5:00 p.m.
Town Council Chambers

1. Call to Order

Chairman May called the Special Meeting to order after establishing a quorum at 5:10 p.m. He thanked everyone for coming and stated he wanted to get this meeting rolling and get the RFQ out as soon as possible. He stated the information has been sent to the Commissioners and he urged them to review it.

2. Pledge of Allegiance

3. Roll Call

Present were Commissioners Hillman, Siragusa, Schober, Thorn and May. Also present were Administrator Brian Lynch, Superintendent Michael Didato, Attorney Ron Ochsner and Mayor Jaskiewicz.

4. New Business

Attorney Ochsner stated that by following the award by the arbitrators, Mr. Lynch asked him to sit down and work up a proposed Request for Qualifications for a new sewer use rate study. The work had been previously completed but in light of the arbitrators decision there was a clear need to dress up the process so that it would have more significant clarity in terms of what was to take place and in terms of visibility and participation by both the community and by the rate users. As a consequence he prepared three documents, one was the sewer use rate study itself, the second is the formalized Request for Qualifications, and the third is a set of specific procedures to work with independent consultant. This is based upon the view the arbitrators took that the process that was followed was not sufficiently transparent and the procedures that have been worked up have addressed that in detail and make the process very transparent during the course of the conduct of the analysis and he hopes to end up with the final product that will be sustainable. The Request for Qualifications is fairly close to what was done initially on the first go around. There is increased emphasis on the more controlled nature of the acquisition of information by the consultant and is very close to what was done initially and directed more toward a more transparent process. The procedures set up are a step by step process in terms of how the consultant is selected, once the consultant is selected the description of the scope of the work of the consultant and finally the process of information gathered by the consultant is an open procedure and what his requirements are in writing submitted to all the parties involved, and then the actual receipt of the information will be done in a public type format. There will be specific record keeping requirements and draft retention requirements. This process is a very transparent one and he thinks it will satisfy the requirements of the arbitrators. Commissioner Hillman inquired regarding the work schedule, and a completed by date. Attorney Ochsner stated he did not specify a specific date but will need to do so. Experience has been in the neighborhood of two to three months. Commissioner Siragusa, Schober and Thorn did not have comments. Chairman May encouraged the Commissioners to look over the materials over the weekend and stated they have made great pains to make this a completely independent study and clarified the previous study done was as independent as most towns are required to do, but the arbitration board clarified this was to go the extra step. Attorney Ochsner stated the provisions did indicated there should be an independent rate examiner and the word independent was not expressly defined by the contract and the arbitrators took the broader view and looked at all the facts and concluded there were deficiencies in that respect and ruled as such. It was not a specifically defined term. Chairman May discussed the time line and statutory requirements for an RFQ. Administrator Lynch stated it is a ways away, there are issues that still need to be discussed, such as what type of rate study to do, the costs percentages, is it going to be a town wide study, and who is going to participate. He discussed setting up a selection committee to be transparent on what is going on and that will take some

time there is an issue of Rand Whitney looking to do a rate study at the same time. It should be at least a few months for the rate consultant to get the information together. Chairman May discussed inviting Rand Whitney to participate in the rate study and asked for input from the Commission. Commissioner Hillman thinks they should be invited to participate and given the opportunity to give their input. The arbitration decision involved everyone and everyone should make the decision. Commissioners Siragusa and Schober agreed. Commissioner Thorn agrees, stating it is hard for someone to come back after the fact and disagree with a process they participated in and based on that it would be good from the input just to have them as part of the process. Chairman May asked for a motion to authorize Administrator Lynch to write a letter to Rand Whitney inviting them to designate someone to participate in the rate study with the Town of Montville WPCA. Administrator Lynch agreed and stated they should think about inviting the Mohegan Sun to sit in on the discussions as well, they are one of the biggest users and thinks it is important they be involved in the selection as well. A letter should go out to both Rand Whitney and Mohegan Sun asking them both to participate. This takes into account the major users and if there is going to be transparency it should be across the board. He urged the board to consider inviting both parties. Commissioner Hillman stated there is a consensus to move ahead and authorize Administrator Lynch to write the letters, there is no need to vote on it. Chairman May asked Administrator Lynch to write letters to Rand Whitney Containerboard and Mohegan Sun Tribal Utilities or Tribal Council requesting their participation. Chairman May discussed the timeline, stating the Commission has some business to do, and he wants to discuss this further in detail and then on Monday vote on it at the regular meeting. He asked Superintendent Didato what the best way is to go and the best study to do. Mr. Didato stated the revenue generated has to cover the expenses and realistically if someone was to look at just the multipliers as they applied at Rand Whitney, if they varied they have to make ends meet. He suggested looking at it in a two phases, looking at Rand Whitney multipliers and if they change, then consider a second phase to look at the overall town rate study. Attorney Ochsner stated to first determine what a contractual user is going to have to pay and then you know what your budget is going to be in the end and then do the town wide rate study to determine the total costs of operations are going to be and what the end rate is going to be, you would have to do two distinct studies. Administrator Lynch stated you have to divide up the residential and commercial users and how that will play out. Attorney Ochsner stated a town wide study would determine rates. Commissioner Hillman inquired if the town can use the town wide rate study they just had and re-factor the percentage that is left. Administrator Lynch stated it would depend on what the cost percentages have changed compared to what URS's was, higher or lower would effect what the other rate payers would pay. Mayor Jaskiewicz inquired if they can use the information that was established in the previous rate study. Attorney Ochsner stated if it is going to be an independent rate study you would have to acquire the information. Having been through the process recently, the acquisition of this information is not going to be as complicated a process. Commissioner Thorn stated they are working on a zero based budget, we would have to go back and start establishing what the costs are versus what the expenditures are and the debit/credit line like an accountant would do, but at the same time, many of the figures that have already been established have been done. Chairman May stated there will be public hearings and will have to show a balance sheet for each one. A town wide rate study must be done and that should be checked off as the way to go. It was the consensus of the Commission to conduct a town wide rate study in conjunction with the cost percentages side of what the arbitrators have determined is a contractual obligation to look at what Rand Whitney's contract says regarding cost percentages and at the same time run the town wide study at the same time. Administrator Lynch stated the Commission must take into consideration what the arbitrators ruled and that was on the contractual side of things. Attorney Ochsner stated this is correct, the contractual evaluation and then do the complete study across the board in terms of total cost of the WPCA for the year. Commissioner Thorn stated this is not a money generating concern, the WPCA wants to keep everyone's bills as low as possible but at the same time have to be careful to make enough money to pay for operating expenses. Chairman May stated everyone is in agreement to run two tandem studies to effectively be a town wide study. He urged everyone to look over the materials prior to voting on the subject at Monday's regular WPCA meeting.

b. To consider and act on a motion to discuss and act regarding the appointment of a representative from the Montville Water Pollution Control Authority to serve on the RFQ search committee.

Chairman May discussed a letter from Rand Whitney inviting the Commission to join them in their study and he would like to have someone from the WPCA staff be available to Rand Whitney and he stated the best person for this job would be Superintendent Didato. He does not know to what extent they will provide to them but he would like to have someone on the telephone that will be able to look at the data they are working with. He read the proposed resolution as follows;

THE TOWN OF MONTVILLE WATER POLLUTION CONTROL AUTHORITY HEREBY RESOLVES to appoint Superintendent Michael Didato of the Town of Montville Water Pollution Control Authority to serve between the Town of Montville WPCA and Rand Whitney Containerboard on the RFQ Search Committee as the representative of the Town of Montville Water Pollution Control Authority. Motion made by Commissioner Thorn, seconded by Commissioner Schober. Discussion: Commissioner Hillman asked if this needs to be voted on tonight and Chairman May stated he would like to officially put it out there that the WPCA has someone. Commissioner Hillman stated Mr. Didato would not be a liaison, he would be an agent of the WPCA, if he was a liaison he would be a member of the WPCA Commission. This resolution states a member of the WPCA will sit on the committee, not a staff member. Chairman May stated he is staff. Mr. Didato inquired if he would be required to work with Rand Whitney on their rate study or if this was just for the town wide rate study. Chairman May stated the wording could state Mr. Didato is available to Rand Whitney as the liaison, it does not have to be a resolution. He wants to formally say to Rand Whitney that the WPCA has Mr. Didato at their disposal to help out with their rate study. Commissioner Thorn stated he would like to consider Commissioner Hillman's request and look at the wording of the resolution. He feels having Mr. Didato doing this on behalf of the WPCA is an extreme asset with his knowledge of the operation and his day to day relationship with people. Mayor Jaskiewicz suggested crossing off the word "liaison". Commissioner Hillman suggested the wording as follows; THE TOWN OF MONTVILLE WATER POLLUTION CONTROL AUTHORITY HEREBY RESOLVES TO appoint Mike Didato to serve between the Town of Montville WPCA and Rand Whitney on their RFQ Search Committee. Attorney Ochsner clarified if the agenda could be amended at a special meeting. He stated it is clearly on the agenda and it is not changing the subject matter. Commissioner Schober inquired if the Commission could simply state he will be their contact person. Commissioner Hillman suggested doing a consensus vote at this meeting and a formal vote at the regular meeting on Monday. It was the consensus of all of the commission members to appoint Mr. Didato as the representative to the WPCA and to formally vote on the matter at the regularly scheduled meeting on Monday. Commissioners Thorn and Schober withdrew their original motions.

5. Remarks from the Public

Jim Andriote, 23 TreMart Drive, stated the Commission is way out of whack, they had a special meeting and did not follow the agenda and should have. He stated all they did was discuss all they are going to do on Monday night, and did not have to meet tonight, they could have passed out the packet and reviewed it over the weekend and discuss all of this on Monday night. They did not take any votes on the agenda like they were supposed to do, you either vote on an issue or postpone the issue and bring it up at the Monday meeting, but they did not, they just sat there and talked. Everything done at this meeting was null and void because there has been no action taken, he is unclear regarding what the meeting was about and he stated he sat and listened but the commission varied from too many issues and that is not how you are supposed to run a meeting according to Roberts Rules of Order.

Chairman May asked Attorney Ochsner if the meeting was run correctly. Attorney Ochsner stated an agenda was posted and the issues were addressed properly. You don't have to take action just because it is a special meeting. Commissioner Thorn stated he is

a very busy person and he understands he is part of a grass root community group of quasi professional people who do have background in this and do know what we are doing and do have years of experience in science he personally feels the meeting was very productive and is happy to have cleared the air for what they will be doing on Monday and this is a long process with no magic wands, no special people who come up and change life and personally thinks it was a really good meeting.

Commissioner Hillman stated the speakers point was to follow the agenda, when you discuss and issue you have a motion and a second and then you go into discussion and that does not seem to happen at WPCA meetings too often. You either vote on a subject or you postpone it and that did not happen tonight and that was the point the speaker was trying to make.

Chairman May disagreed with Commissioner Hillman.

Jim Wood, 43 Lataio Drive, Oakdale, Chief Administrative Officer from Rand Whitney Containerboard commented on the letter the Commission received inviting the Commission to participate in the rate study that Rand Whitney would like to do, they would like to invite the WPCA to participate from soup to nuts and that is in selecting an independent consultant, to have someone from the WPCA or the entire body to make sure that it remains independent and transparent, to review all the information necessary and work as a team. The one caviat is that Rand Whitney is offering to pay for the rate study so the WPCA may not have to authorize the rate study. Rand Whitney is willing to fund the rate study and invite the WPCA to participate every step of the way to benefit both parties as a result of the arbitration panel's results on August 11th. \$25,000 is the going rate for a rate study, and this would save the WPCA and the town rate payer's money. The offer is on the table and he hopes it will be considered by the WPCA. Chairman May stated he is looking into if the town can do this. Commissioner Thorn inquired if the Mohegan Sun can participate as well. Mr. Wood stated he would like to start with the WPCA, Rand Whitney and the Town of Montville and that is where they would like to start. Rand Whitney and the WPCA need to work together. He does not know the relevance of the Mohegan Sun with respect to the issues trying to be resolved. There have been great discussions over the past weeks and an effort has been made to make a new and better relationship with the town. Chairman May stated they must look at how Rand Whitney is going to approach their rate study, how they are going to select an independent rate consultant and a total look at the entire picture. Mr. Wood looks forward to the continued dialogue. A meeting should be set up to discuss the proposal.

John Geary, 11 Depot Road stated that over the years the town and WPCA has been hammered by DEP about equitability and in terms of what the rates were and publicly were threatened by DEP that if our rates were not equitable for residential, commercial and industrial users than the town was at risk and the Federal Government may demand the town return the grants that were given to us. These grants are approximately twelve million dollars. He feels the town over reacts to the threat by DEP and lost our way a little in terms of equitability. There are three classes of users and all of them have to be taken into consideration. He strongly recommends the rate study be handled by the town, the WPCA do its own study with input from all elements who wish to participate and with respect to the modification agreement of 1996 there is clearly some direction there as to what should happen when negotiating with Rand Whitney.

Chairman May inquired three times if there were any additional remarks from the Public and there were none.

6. Remarks from Commissioners – none.
7. Adjournment

It was the consensus of the Commission to adjourn at 5:55 p.m.

Respectfully Submitted by:

Audrey Ulmer, Recording Secretary for the Town of Montville