

Town of Montville Town Council
Public Hearing Meeting Minutes
Monday, January 10, 2011
6:00 p.m. – Montville Town Hall – Town Council Chambers

Chairperson Jacobson called the Public Hearing to order at 6:02 p.m. and asked everyone to stand for the pledge of allegiance. Present were Councilors Beetham, Buebendorf, Caron, Hillman, Jacobson, McFee and Murphy. Also present was Mayor Jaskiewicz and Town Attorney Bruce Chudwick.

Chairperson Jacobson read into the record the notice of public hearing for the proposed ordinance.

The Montville Town Council will hold a public hearing at Montville Town Hall, Council Chambers, 310 Norwich New London Turnpike, Uncasville, Connecticut on Monday, January 10, 2011 at 6:00 p.m. to receive public comment and questions regarding the proposed ordinance entitled “Ordinance Regarding the Authority and Duties of the Water and Sewer Commission”. The ordinance makes amendments to existing ordinances (Chapter 21 – Compensation, Chapter 313 – Sewer and Sewage Disposal, and Chapter 386 – Water) to delegate to the Water and Sewer Commission (the “Commission”) the Town Council’s authority to enter into employment contracts with Water and Sewer Department employees, to authorize the Commission to give final approval to the Water Department and Sewer Department annual budgets (subject to audits of the financial function of the Department annually and at any time as directed by the Town Council), and to make numerous updates and technical corrections to the existing ordinances.

A copy of the full text of the ordinance is available for inspection at the Montville Town Clerk’s office during regular office hours and is posted on the Town’s website at www.townofmontville.org.

Dated at Montville, Connecticut this 15th day of December, 2010.

Lisa Terry, Town Clerk

TOWN OF MONTVILLE
NOTICE OF ORDINANCE HEARING

The following Ordinance, copies of which may be obtained at the office of the Town Clerk during office hours, was introduced at a regular meeting of the Town Council held December 13, 2010 and a public hearing thereon and for its consideration by the Town Council will be held at Town Hall Meeting Room, January 10, 2011 at 6:00 P.M.

**ORDINANCE REGARDING THE AUTHORITY AND DUTIES
OF THE WATER AND SEWER COMMISSION**

THE TOWN OF MONTVILLE HEREBY ORDAINS THAT THE TOWN ORDINANCES REGARDING THE AUTHORITY AND DUTIES OF THE WATER AND SEWER COMMISSION SHALL BE AMENDED AS FOLLOWS;

Chapter 21

COMPENSATION

ARTICLE III

Delegation of Authority to Water and Sewer Commission

[Adopted (date) By Ord. No. _____]

§21-7. Delegation of employment authority

The Town Council delegates to the Water and Sewer Commission the authority to enter into employment contracts with Water Department and Sewer Department employees and to approve all salaries and benefits and changes in salaries and benefits of Water Department and Sewer Department employees , which salaries and benefits must be in conformity with a systematic pay and benefit plan for the positions involved, as required by and consistent with the requirements of § C906 of the Charter.

Chapter 313

SEWERS AND SEWAGE DISPOSAL

ARTICLE III

Sewer Department

[Adopted 10-12-1977 by Ord. No.)-L-1 (Part 124 of the 1991 Compilation)]

§ 313-7 Created.

There shall be an administrative department of the Town of Montville known as the "Sewer Department."

§ 313-8 Duties.

The Sewer Department shall be responsible for the day-to-day operations of the Town sewer system.

§ 313-9 Divisions within Sewer Department.

The Sewer Department shall contain two divisions to be known as the "Sewer Department Administrative Division" and the "Sewer Department Operations Division."

§ 313-10 Duties of each Division.

The duties of each Division shall be as follows:

A. Administrative Division: to administer all resolutions, regulations, and policies set by the ~~Sewer Authority~~ Water and Sewer Commission that concern the collection of money due the ~~Sewer Authority~~ Water and Sewer Commission, to represent the ~~Sewer Authority~~ Water and Sewer Commission in its day-to-day relations with the public, to keep all records of the Department, and to discharge such other duties as are necessary for the efficient operation of the Department.

B. Operations Division: to administer all resolutions, regulations, and policies with regard to the operation and maintenance of the treatment plant and so much of the physical system located outside of the treatment plant as is assigned to the Operations Division by the ~~Town Council~~ Water and Sewer Commission.

§ 313-11 Chief operating officer.

The Mayor will be the chief operating officer of the Sewer Department, and the Director of each Division will be responsible to the Mayor.

§ 313-12 Use of other Town agencies and departments.

The Mayor may use the services of other Town agencies and departments, including the Department of Public Works, in carrying out the responsibilities of the Sewer Department.

§313-13 Employees. [Amended 6-14-2004 by Ord. No. 2004-2; Amended (date) by Ordinance .]

All salaried employees of the Sewer Department shall be interviewed and recommended for employment by the ~~Sewer Authority~~ Water and Sewer Commission and appointed by the Mayor in accordance with § C503 of the Charter.

§313-14 Mayor responsible to ~~Sewer Authority~~ Water and Sewer Commission

The Mayor will be responsible to the ~~Sewer Authority~~ Water and Sewer Commission for those matters which by statute, Charter, or ordinance are the responsibility of the ~~Authority~~ Commission and to the Town Council for those matters which by statute, Charter, or ordinance are the responsibility of the Town Council.

§313-15 Each Division to communicate information to Water and Sewer Commission

Each Sewer Department Division will be responsible for communicating to the Water and Sewer Commission any information which the Commission requires to properly perform its functions.

§313-16 Salaries. [Amended 6-14-2004 by Ord No. 2004-2; Amended (date) By Ord. No.

Nothing in this article shall be construed to prohibit the payment of Sewer Department employees with funds derived from the operation of the sewer system; provided, however, that such salaries, from whatever source paid shall be set by the Water and Sewer Commission ~~Town Council~~ upon the recommendation of the Mayor ~~as provided in § C906 of the Charter~~ and as authorized by §21-7 of the Code.

§313-17 Sewer Department Budget and Finances

The Administrative Division of the Sewer Department is responsible for coordinating with the Operations Division in preparing the annual Sewer Department budget and conducting collection of all sewer use and other charges. The Administrative Division shall submit its annual budget to the Water and Sewer Commission for final approval (approval by the Town Council of the Sewer Department Budget is not required) and shall submit monthly financial reports to the Water and Sewer Commission and to the Director of Finance. An Audit shall be conducted of the financial function of the Sewer Department Administrative Division at least annually or at any time as directed by the Town Council. Any audit reports shall be provided to the Water and Sewer Commission and the Town Council within 30 days after completion. The Town reserves the authority to incur indebtedness by issuing its bonds and notes for any capital improvements to sewerage facilities as provided in §C709 of the Charter.

Chapter 386

WATER

**Article I
Municipal Water Utility System**

§386-1 Definitions

As used in this article, the following terms shall have the meanings indicated:

DESIGNATED AREA

The property to be serviced by the municipal water utility system as provided for in this article and in future ordinances as a result of any extension of the municipal water utility.

LEGISLATIVE BODY

The Town Council of the Town of Montville.

LEGISLATIVE POWER

The power of the Town Council derived from Chapter 102 of the Connecticut General Statutes and other provisions pertaining to the contracting for water (Chapter 98 of the Connecticut General Statutes) and any other provision of the Connecticut General Statutes, as amended.

MUNICIPAL WATER UTILITY ACCOUNT

A separate account kept by the Water Department for deposit of all funds derived from the municipal water utility system and withdrawal of these funds for any authorized and permitted expenditures, which account shall be audited annually, and the Treasurer of the Town of Montville shall act as custodian of said account and funds. Said funds shall be kept separate from other funds of the Town and shall be used for such municipal water utility system and for no other purpose as provided in C.G.S. § 7-240, as amended.

MUNICIPAL WATER UTILITY SYSTEM

There shall be one municipal water utility in the Town of Montville, owned by the Town of Montville, a Connecticut municipality, which municipal water utility shall be constructed, maintained and operated by the legislative body or its duly authorized agent pursuant to the provisions of Chapter 102 of the Connecticut General Statutes, as amended, entitled "Municipal Waterworks System."

RULES FOR USE, ASSESSMENTS, BENEFIT CHARGES, AGREEMENTS FOR USE

Charges for the use of the water from the municipal water system, assessment of benefits, benefit charges and contracts between the legislative body and the property owner-consumer concerning connection to the system and respective liabilities. Said rates, assessments, charges and agreements are subject to further ordinances and public hearings as provided for in Chapter 102, C.G.S. § 7-239 and Chapter 97, C.G.S. § 7-137c et seq. of the Connecticut General Statutes, as amended.

SINKING FUND

A fund consisting of a sum equal to 10% of the amount needed to pay for the construction, acquisition, maintenance, operation, interest on borrowings, and other charges in operating said system as required in Chapter 102 of the Connecticut General Statutes, as amended.

WATER AND SEWER COMMISSION

The duly authorized Commission created by § C407 of the Charter with the authority to plan and direct the development, financing, construction and operation of the water supply and distribution facilities as may be required to serve the needs of the Town.

WATER DEPARTMENT

The duly authorized agent of the legislative body empowered to operate, maintain, repair the municipal water utility system and any extension thereof and to collect the water use charges, assessments, fees and to lien property for any deficiencies in the payments of assessments, extension fees, water use rates, etc. Said Department shall also provide any notices required by this article or the provisions of the Connecticut General Statutes, as amended, and any further ordinances enacted by the legislative body required to water out the purpose and intent of providing water by way of the municipal water utility in a manner provided by law.

§ 386-2 Project phases Municipal Water Utility System

[Amended 4-11-1988 by Ord. No. O-U-2; 4-11-1988 by Ord. No. O-V-2; By Ord. _____.]

The components of the Municipal Water Utility System shall be plotted and illustrated on a drawing utilizing Geographic Information System (GIS) data and shall be filed with the Town Clerk and made available for public inspection.

~~By grant of legislative power to the Town of Montville, there shall be a municipal water utility owned and operated by the Town of Montville as a result of the need for a clean and cost efficient water supply for the residential, commercial and industrial growth of the residents and taxpayers of Montville. The designated area for the initial phase in the construction of said water utility system is more particularly bounded and described as follows, to-wit:~~

~~A. Project Description Phase I.~~

~~(1) The water system project will consist of 7,210 linear feet of six inch, eight inch, sixteen inch and twenty four inch ductile iron pipe. The system will serve an equivalent flow of 109 units in Area I. Users are made of residential (91), commercial (3), and industrial (1) classifications.~~

~~(2) The following streets and roads will be covered in Phase I of the water system:~~

Location	Size (inches)	Length (feet)
Lathrop Road	24	600
Lathrop Road	16	1,500
Pink Row	16	750
Depot Road	8	1,270
Edwards Road	6	570
Gair Court	8	270
Dock Road	8	1,400
Peter Road	8	850

B. Project Description Phase II.

(1) ~~The water system project will consist of 13,090 linear feet of six-inch, eight-inch, sixteen-inch and twenty-four-inch ductile iron pipe. The system will serve an equivalent flow of 201 units in Area II. Users are made up of residential (138), commercial (39), apartments (14) and other (10) classifications.~~

(2) ~~The following streets and roads will be covered in Phase II of the water system:~~

Location	Size (inches)	Length (feet)
Blumenthal Drive	8	41
Brewer Street	4	104
Brewer Street	6	370
Crescent Street	16	1,110
Depot Road	16	197
Harrison Street	6	514
Jerome Avenue	8	1,123
Jerome Road	8	3,190
Maple Avenue Extension	16	1,285
Maple Avenue	16	2,421
Pink Row	8	47
Powerhouse Road	12	1,147
Powerhouse Road	16	31
Route 32 Crossings	8	185
Route 32	12	1,904
Route 32	16	1,532
Starr Road	8	965

C. Project Description Phase III.

(1) ~~The following streets and roads are covered in Phase III of the Montville water system:~~

Location	Size (inches)	Length (feet)
Blumenthal Road	4	258
Blumenthal Road	8	133
Hewitt Drive	8	965
Route 32	8	821

§ 386-3 Grants-in-aid.

The Mayor is hereby authorized to apply for and accept, upon prior approval of the legislative body, any grants-in-aid from the state and federal governments for the acquisition, construction, maintenance, repair and operation of the municipal water utility system, on behalf of the legislative body.

§ 386-4 Negotiations to provide water.

The Mayor is hereby authorized and empowered to negotiate with ~~the City of New London and any other~~ any federal, state or municipal body or agency or any other entity for the purpose of providing water for the municipal water supply system and, upon prior approval of the ~~legislative body~~ Water and Sewer Commission, to sign said contract.

§ 386-5 Municipal water utility capital account.

There is established a separate capital account known as "Municipal Water Utility Capital Account" with the funds derived from the grants-in-aid from the federal or state government deposited in said account by the ~~legislative body~~ Water and Sewer Commission to be used for the sole purpose of acquiring and constructing said municipal water utility system. The municipal water utility system shall be operated from the municipal water utility account as previously defined by the Water Department with a sinking fund established as previously defined.

§ 386-6 Duties of Water Department.

The Water Department shall operate, maintain and repair the municipal water utility system and any extension thereof and to collect the water use charges, assessments, fees, etc., and to lien property for any deficiencies in the payments of assessments, extension fees, water use charges, etc. Said Department shall also provide any notices required in this article or the provisions of the Connecticut General Statutes, as amended, and any further ordinances enacted by the legislative body required to carry out the purpose and intent of providing water by way of the municipal water utility in a manner provided by law. Any employee hired to perform services for the Water Department shall exercise any power and discharge any duty under the supervision and control of the Mayor.

§ 386-7 Planning and Zoning Commission report required prior to construction.

Prior to construction of the municipal water utility system or any substantial extension thereof, the proposal shall be referred to the Planning and Zoning Commission for a report as required under C.G.S. § 8-24, as amended.

ARTICLE II Water Connections for Water System, All Phases (§ 386-8 — § 386-11)

[Adopted 1-9-1984 by Ord. No. O-G-2

Editor's Note: Ordinance No. O-T-2 amended only the title of Ord. No. O-G-2 in order to clarify that Ord. No. O-G-2 was intended to apply to all phases of the Montville Water System.

(Part 126 of the 1991 Compilation)]

ARTICLE II
Water Connections for Water System, All Phases

§ 386-8 Water connection applications.

A. All applications for service connections and use of water shall be made at the office of the ~~Sewer and~~ Water Department on the form prescribed and shall be signed by the owner of the building to be supplied or by his duly authorized agent or representative. The owner/agent shall state fully and truly the specific use or uses to which the water is to be applied. The acceptance of the application and supply of water by the ~~Sewer and~~ Water Department shall constitute the contract between the Town and the owner, obligating the owner to pay the charges for connection, deposits, etc., and rates for water use established and to comply with all laws, ordinances and regulations.

B. Owners of property shall be responsible for all payments of all just charges for services furnished him or his property during ownership.

§ 386-9 Water connection permit and inspection fee.

A. Each water connection permit requires the payment of a fee of ~~\$30~~ by the owner to the ~~Sewer and~~ Water Department at the time of the filing of the water connection application. All water connections shall be inspected by a duly authorized agent or representative of the ~~Sewer and~~ Water Department prior to backfilling by the owner.

B. Each owner is responsible for connection from the curb box to the building and for all required internal plumbing changes, other than meter connection. The external connection (i.e., from curb box to building) shall not be backfilled prior to inspection. All connections by owner shall be made by a licensed plumber and shall meet water connection specifications of the state and local public health code, building code and any specification approved by the Town by ordinance or regulation.

§ 386-10 Water meters.

The Town will own all water meters in the Municipal Water Utility System and the Water Department will install and maintain all meters. The meters will be connected or disconnected by a duly authorized agent or representative of the ~~Sewer and~~ Water Department. All water supplied to owners for any approved purpose shall be metered, except for fire hydrant connections and other connections where metering is impractical.

§ 386-11 Hydrants.

All public fire hydrants and their connections shall be installed and maintained by the ~~Town~~
Water Department.

**ARTICLE III
Water Use Rates and Charges**

[Adopted 1-9-1984 by Ord. No. O-H-2 (Part 127 of the 1991 Compilation)]

§ 386-12 Definitions.

For the purposes of this article, the following definitions shall apply:

BUILDING

A residential dwelling unit(s), a public and/or quasi-public unit(s), a commercial and/or industrial unit(s) to which water is supplied by the Montville water system through one meter.

DEPARTMENT

The ~~Sewer and~~ Water Department of the Town of Montville.

LEGISLATIVE BODY

The Town Council of the Town of Montville.

OWNER

The title owner(s), as recorded in the Montville land records, of the building(s) and/or land supplied water by the water system.

TOWN

The Town of Montville.

WATER AND SEWER COMMISSION

The duly authorized Commission created by § C407 of the Charter with the authority to plan and direct the development, financing, construction and operation of the water supply and distribution facilities as may be required to serve the needs of the Town.

WATER SYSTEM

The municipally owned Montville water system.

§ 386-13 Water use billings and other charges.

A. All water use rates and other charges established by this article shall be billed to the property owner. Prompt notice shall be given to the Department of a change in the billing address of the owner. Failure to receive a bill does not relieve the owner of the obligation of its payment nor from the consequences of its nonpayment. Whenever an owner sells or transfers property for which application for service has been approved, the owner shall promptly notify the Department in writing, giving the name and address of the new owner.

B. All water use rates shall be billed on a calendar quarterly basis to the owner after meter reading by a duly authorized agent or representative of the Department. All bills are due and payable within 30 days after the due date which shall be the 15th day of the month following the end of a calendar quarter and shall be payable to the Montville Water System at 310 Norwich-New London Tpke., Uncasville, Ct. 06382.

C. All charges for other than water use rates as established by this article shall be billed at the time the basis for the charges is created. Those charges shall be due and payable within 30 days after the due date

of the charges billed and shall be payable to the Montville Water System at 310 Norwich-New London Tpke., Uncasville, Ct. 06382.

D. All overdue bills for water use rates and other charges shall bear interest at the same rates as for unpaid taxes.

E. All water use rates and any surcharges shall be approved by the Water and Sewer Commission and submitted to the Town Council for final approval pursuant to Section C407.D of the Charter. All other charges shall be established and final approval determined by the Water and Sewer Commission as the duly authorized agent of the Town Council pursuant to the provisions of Chapter 102 of the Connecticut General Statutes, as amended. The Town reserves the authority to incur indebtedness by issuing its bonds and notes for any capital improvements to water facilities as provided in C709 of the Charter.

§ 386-14 Water use rates and other charges.

A. Water use rates to approved owners shall be the contract water supplier's or any other water supplier's City of New London water use rates charged outside the limits of the City of New London, plus a ~~ten-percent~~ surcharge; said rates and charges to cover the costs of water, administrative fees and expenses; maintenance, repair and capital replacement, reserve, and contingency. ~~and undetermined pipe rental charges, if any, by the Town of Waterford.~~

B. There shall be a minimum quarterly use rate per meter to be collected in accordance with the provisions of the duly adopted water rate schedule as approved by the Town Council and filed with the Town Clerk. Rate Schedule A.

~~Editor's Note: Schedule A is included at the end of this chapter.~~

C. There shall be a charge ~~of \$15~~ billed to the owner for relocation of a meter.

D. There shall be a charge ~~of \$15~~ for removal of a meter for discontinuation of service at the owner's request. There shall be ~~the usual thirty dollar~~ a permit fee for reinstallation of the meter and ~~the~~ water service.

E. There shall be a ~~fifteen dollar~~ charge for reconnecting any service which has been disconnected for failure to pay the rates and charges as established by the adoption of this article.

F. There shall be a charge ~~of \$15~~ for a meter test requested by the owner, provided the test shows that the meter is reading to within a four-percent accuracy.

G. For temporary use of water by contractors and others for such purposes as construction where the use of a meter is not practical, a flat rate per day or portion of a day shall be charged. For extended use, a flat rate per week shall be charged.

H. ~~All~~ Any damages to meters ~~which shall be owned, installed and maintained by the Town~~ which is caused by neglect, carelessness, mischief and/or vandalism by the property owner and/or his or her lessees shall be chargeable to the owner ~~and connected~~ in accordance with the provisions of this article.

I. These rates and charges will be set forth in detail in the duly adopted water rate schedule as approved by the Town Council and filed with the Town Clerk. Schedules A and B which shall be part of this article and shall be attached hereto.

~~Editor's Note: Schedules A and B are included at the end of this chapter.~~

§ 386-15 Public and private fire hydrant service.

Public and private fire hydrant service connection costs, annual testing fees and water use charges shall be paid as set forth in the duly adopted water rate schedule as approved by the Town Council. ~~plus the ten-percent local surcharge shall be paid by the Town pursuant to contract with the water supplier and any subsequent revisions or modifications thereto.~~

§ 386-16 Delinquent payment of water use charges and other charges.

A. Any bills for rates and/or charges as established by the provisions of this article which remain unpaid

after 30 days after the due date of any and all of the rates and charges billed to the owner shall be considered delinquent and shall constitute a lien upon the property served in favor of the Town of Montville and shall be subject to interest at the same rate as that charged for unpaid taxes.

B. Bills which remain unpaid for two months from the due date shall cause the Department to send a final notice mailed by registered mail to the owner and shall give a two-week (fourteen-day) notice from the date of receipt by the owner in which to pay the arrears as written in the notice and shall detail the owner's right to a review and his or her right to consideration due to serious illness. This right of review shall be outlined in § 386-18 of this article describing the rights of appeal.

C. If, after 14 days from the date of the receipt of the final notice by the owner, there has been no payment received by the Department or no arrangement for payment has been made or no claim of serious illness has been made and no change has been made in the position of the Department, a notice as authorized by the Water and Sewer Commission to terminate service may be given to the agent or representative of the water system and service shall be disconnected. Service will not be reconnected until all arrears charges and fees are paid or arrangements for payment at the satisfaction of the Department are made.

§ 386-17 Liens.

All rates and charges as established by the provisions of this article and billed to the property owner which remain unpaid for 30 days after the due date shall be and shall remain a lien against the served property until such rates, charges, interest, shutoff fees and lien fees have been paid and the Town shall have the authority to foreclose such liens. Such liens shall take precedence over all other liens or encumbrances except taxes and may be foreclosed against the lot or building served in the same manner as a lien for taxes. Lien fees shall be charged at the same rate as that for unpaid taxes. Such liens shall be released by the Town upon payment of such rates, charges and fees.

§ 386-18 Appeals.

A. Any owner who has a question or complaint or who disputes all or part of his or her bill after receiving a termination notice (final bill) may contact the Department. If the owner remains unsatisfied, he or she may request the Mayor of the Town of Montville in writing to review the problem. Any such request must be made within 10 days after receipt of the final notice. If the dispute remains unresolved after a written decision is issued by the Mayor, the owner may request a further investigation and hearing by the Town Council of the Town of Montville. This request must be made in writing within five days after receipt of the written decision by the Mayor.

B. If any person presently and normally living in a residence is seriously ill, the Department will not shut off water service during such illness if the resident has his or her doctor or someone from the doctor's office call the Department within seven days from the time the owner received a final notice from the Department. The doctor shall, within one week, follow up the telephone call with a letter stating the nature and length of the illness. The owner will be required to make an equitable arrangement to pay past due bills and to pay on a current basis all future bills while the illness continues.

C. A copy of this appeal procedure shall be mailed with each final notice.

§ 386-19 Adjustment of bills.

Bills which are incorrect due to meter or billing errors shall be adjusted as follows:

A. Whenever a meter in service is tested and found to have over-registered more than 4%, the Department shall adjust the owner's bill for the excess amount paid as determined below:

(1) If the time at which the error first developed or occurred can be definitely determined, the amount of overcharge shall be based thereon.

(2) If the time at which the error first developed or occurred cannot be definitely determined, it shall be assumed that the over-registration existed for a period equal to one-half of the time since the meter was last tested. If more than one owner received service through the meter during the period for which the fund is due, a refund shall be paid to the present owner only for the time during which he received service through the meter.

B. Whenever a meter in service is found not to register, the Department may render an estimated bill. The Department shall estimate the charge for the water used by averaging the amount registered over a similar period preceding or subsequent to the period of nonregistration or for a corresponding period in previous years, adjusting for any changes in the owner's usage.

C. When an owner has been overcharged as a result of incorrect reading of the meter, incorrect calculation of the bill, incorrect connection of the meter or other similar reasons, the amount of the overcharge shall be adjusted, refunded or credited to the owner.

D. When an owner has been undercharged as a result of incorrect reading of the meter, incorrect calculation of the bill, incorrect connection of the meter or other similar reasons, the amount of the undercharge may be billed to the owner.

§ 386-20 Transfer of ownership; transfer fee.

When transfers of property served by the water system are to be made, the owner shall request the water meter to be read at least two business days in advance, and a final bill will be prepared and available in the Department office. Said final bill must be paid prior to transfer of the service to the buyer, and the seller shall be liable for all charges to the date of written notice to transfer the service. The seller shall furnish the Department with the name and mailing address of the buyer. The new owner (buyer) must apply for service in the Department office and pay a transfer fee. ~~of \$10.~~

§ 386-21 Obligations of owner.

A. The owner shall own and be responsible for repair and maintenance of the service connection line from the main to the building and shall be obligated to protect Town-owned meters, fixtures and appurtenances from freezing and other damage, from whatever cause.

B. The obligation for thawing any frozen water line services and meters shall be the responsibility of the owner.

§ 386-22 Damage to water mains, fire hydrants and meters.

A. All damages to water mains, fire hydrants and/or meters installed by the Town caused by the owner or his or her agent in putting in sewers, drains, pipes or in any other manner shall be chargeable to the owner, and such charges shall be collected in accordance with the provisions of this article.

B. No owner or his or her lessees shall be compensated for damages to his or her property or appurtenances thereof because of damage caused by his or her neglect, carelessness, mischief and/or vandalism or by his or her lessees to any water mains, service mains, hydrants and/or meters.

§ 386-23 Water system operation.

No person shall be entitled to damages, nor to have any portion of a payment refunded for any stoppage of water supply occasioned by accident to any portion of ~~the works~~ water system nor for stoppage for purpose of additions or repairs, ~~nor~~ or for nonuse occasioned by absence or for any other reason, and the ~~Town of Montville water system~~ Department shall have the right at all times to shut off the water temporarily without notice (although it is intended that prior notice will be given when possible) for necessary repairs, extensions or other necessary work connected with the distribution system or for causes beyond its control. The Department may restrict or regulate the quantity of water used by consumers in case of scarcity or whenever the public welfare may require it.

§ 386-24 Damage due to delinquent and/or terminated accounts.

No person shall be entitled to compensation for damage due to termination of service due to unpaid water

use rates and charges as established by the provisions of this article.

§ 386-25 Rights of Department agents and/or representatives.

The duly authorized agents or representatives of the Department shall have the right of access at all reasonable hours to the premises supplied with water for the purpose of reading meters, examining meters, pipe connections and fixtures thereof, etc., and for observing the manner of the use of water and for any other necessary purpose, and said agents and/or representatives shall supply the proper credentials of their authority upon request by the owner or the owner's representative.

§ 386-26 Water use rates or charges to Town.

The Town shall be subject to the same water use rates and charges under the same conditions and terms as other users of the water system.

§ 386-27 Amendments to water use rules, rates and charges.

The Town reserves the right to change and amend from time to time these terms, conditions, rates and charges for the use of water in accordance with the contract with the water supplier and/or the Connecticut General Statutes, as amended.

ARTICLE IV

WATER DEPARTMENT

§386-28 Created

There shall be an administrative department of the Town of Montville known as the "Water Department".

§386-29 Duties

The Water Department shall be responsible for the day-to-day operations of the Town water system.

§386-30 Divisions within Water Department.

The Water Department shall contain two divisions to be known as the "Water Department Administrative Division" and the "Water Department Operations Division."

§ 386-31 Duties of each Division.

The duties of each Division shall be as follows:

A. Administrative Division: to administer all resolutions, regulations, and policies set by the Water and Sewer Commission that concern the collection of money due the Water Department, to represent the Water Authority in its day-to-day relations with the public, to keep all records of the Department, and to discharge such other duties as are necessary for the efficient operation of the Department.

B. Operations Division: to administer all resolutions, regulations, and policies with regard to the operation and maintenance of the Municipal Water Utility System or any other system.

§ 386-32 Chief Operating Officer.

The Mayor will be the Chief Operating Officer of the Water Department, and the Director of each Division will be responsible to the Mayor.

§ 386-33 Use of other Town agencies and departments.

The Mayor may use the services of other Town agencies and departments, including the Department of Public Works, in carrying out the responsibilities of the Water Department.

§ 386-34 Employees.

All salaried employees of the Water Department shall be interviewed and recommended for employment by the Water and Sewer Commission and appointed by the Mayor in accordance with § C503 of the Charter.

§ 386-35 Mayor responsible to Water and Sewer Commission.

The Mayor will be responsible to the Water and Sewer Commission for those matters which by statute, Charter, or ordinance are the responsibility of the Commission and to the Town Council for those matters which by statute, Charter, or ordinance are the responsibility of the Town Council.

§ 386-36 Each Division to communicate information to Water and Sewer Commission.

Each Water Department Division will be responsible for communicating to the Water and Sewer Commission any information which the Commission requires to properly perform its functions.

§ 386-37 Salaries.

Nothing in this article shall be construed to prohibit the payment of Water Department employees with funds derived from the operation of the water system; provided, however, that such salaries, from whatever source paid, shall be set by the Water and Sewer Commission upon the recommendation of the Mayor and as authorized by §21-7 of the Code.

§386-38 Water Department Budget and Finances

The Administrative Division of the Water Department is responsible for coordinating with the Operations Division in preparing the annual Water Department budget and conducting collection of all water use and other charges. The Administrative Division shall submit its annual budget to the Water and Sewer Commission for final approval (no approval by the Town Council of this water budget is required) and shall submit monthly financial reports to the Water and Sewer Commission and to the Director of Finance. An Audit shall be conducted of the financial function of the Water Department Administrative Division at least annually or at any time as directed by the Town Council. Any audit reports shall be provided to the Water and Sewer Commission and the Town Council within 30 days after completion. The Town reserves the authority to incur indebtedness by issuing its bonds and notes for any capital improvements to water facilities as provided in §C709 of the Charter.

These Ordinances shall be effective thirty (30) days after their adoption.

Dated at Montville, Connecticut this 15th day of December, 2010.

Lisa Terry, Montville Town Clerk

Chairperson Jacobson asked if there was anyone who would like to come forward to speak regarding the proposed ordinance.

Mr. Dick Wilson, 6 Richard Lane, Uncasville, stated in 1972 the Town of Montville was required to build and operate a sewer system. In accordance with State Statutes, the Town first had to establish a Water Pollution Control Authority. The Board of Selectman, the legislative body at that time, designated themselves as the WPCA. In 1983 the town was required to build and operate a water system, here again, the law required the establishment of a water commission and the board of selectman again designated themselves as the water commission. During that period, the Board of Selectmen adopted a number of ordinances regulating the operation use of the water and sewer systems. In 1990 the people of Montville decided to change their form of government from a Board of Selectman to a Mayor Town Council. They also decided to transfer the authority and responsibility for operating and maintaining the water and sewer systems away from the legislative body and the new Mayor and place it in the hands of a new agency called the Water and Sewer Commission. The people said in the new section 407 paragraph (a) of the Town Charter

“ there shall be established in the Town of Montville a public water and sewer commission with the authority to plan and direct the development, financing, construction and operation of such water and sewer supply, disposal and distribution facilities as may be required to properly serve the needs of the town”. This language is very clear and concise and not ambiguous. The Water and Sewer Commission would have the exclusive authority over public water and sewer programs. Paragraph (c) reads “ the Water and Sewer Commission shall be designated the Water Pollution Control Authority for the Town of Montville and shall have all powers with regard to sewers as such authority pursuant to Chapter 103 of the Connecticut General Statutes”. Paragraph (d) reads “the Water and Sewer Commission shall exercise all powers of the Town with respect to water pursuant to Chapter 102 of the Connecticut General Statutes except those powers with respect to bonding and use rate establishment which are specifically reserved to the Town Council. With respect to water bonding and water use rates, the Water and Sewer Commission shall make recommendations for such bonding or the establishment of such rates to the legislative body”. These are the only two exceptions to the Commission’s authority and the Commission, not the Town Council, must initiate the process. Paragraph (e) “the Water and Sewer Commission shall have jurisdiction and control over all facilities owned and operated by the Town of Montville for the supply and distribution of water to its residents and property owners and for the collection and treatment of sewage and commercial and industrial waste. The Commission shall establish all policies for the operation of the Water and Sewer Departments of the Town of Montville and shall establish procedures for the collection and posting of fees and assessments consistent with recommendations of the Town auditor. The Commission, not the Town Council has been given the exclusive right to establish policies and procedures with respect to sewers and water. Section 1005 of the Charter “ all general laws of the State of Connecticut applicable to the Town and all ordinances of the Town shall continue in full force and effect except in so far as they are inconsistent with the provisions of this charter. It is obvious that all of the ordinances adopted by the Board of Selectman with respect to sewers and water prior to the Charter Revision of 1990 are inconsistent with Paragraph (e) of the new section 407 which has granted to the Commission the exclusive authority to establish policies and procedures. This means the new Commission would have to decide which of the old ordinances they want to keep, either in whole or in part and make them a part of their policies and procedures by resolution of the Commission. After the Charter Revision went into effect a questions was asked as to the status of the employees of the Water and Sewer Department and what if any was the role of the new Mayor. He was Chairman of the Water and Sewer Commission at that time and Wayne Scott was the first Mayor. They decided to seek advice from three attorney’s, Town Attorney James Divine, the Commission’s attorney, Kevin Booth, and Attorney Harry Heller who was the Chairman of the Charter Revision Commission that proposed the changes. All three attorneys agreed that the employees of the Water and Sewer Department work for the new Water and Sewer Commission and the Commission must determine how their employees would be organized and supervised. If they wanted the Mayor to be involved they would have to hire him by contract so that is what was done. As one of the Commission’s first policies, they established a Water and Sewer Department similar to the original ordinance with the exception that the directors of the two divisions would report directly to the Commission instead of the First Selectman as it was under the old ordinance. They hired Mayor Scott to supervise the employees on a day to day basis, the contract spelled out the Mayor’s limited authority and reserved for the Commission the right to make all final decisions with respect to its employees. The attorney’s also agreed that this contract was not a contract with the office of the Mayor, but with the individual that held that office and any succeeding Mayor would have to have a separately negotiated contract if the Commission decided to hire him or her. In 1994 the Town Council created a new Charter Revision Commission and one of their charges to the Commission was to change the Charter so that the Town Council would have more control over the Water and Sewer Commission. He was a member of that Charter Revision Commission and there was an intense debate over the Town Council’s charge. They finally decided to ask for formal legal opinion from Town Attorney James Divine and this is his legal opinion of March 6, 1995. “I have included copies of Section 7-245 and 7-247 of the Connecticut General Statutes which read in conjunction with Section 407 of the Town Charter delegate’s authority to the Water Pollution Control Authority to hire and set salaries of its employees”. If you read the statutes referenced therein, you can clearly see the basis for Attorney Divine’s legal opinion. Since the Water and Sewer Commission is the WPCA for sewers it has the exclusive authority to hire and set salaries for its employees. The Charter Revision Commission also researched the municipal employees relations act, specifically Section 7-4-74 of the State Statutes. Paragraph (a) of that section reads as follows “except as hereinafter provided, where an employee organization has been designated in accordance with the provisions Section 7-477 inclusive, as the exclusive representative of employees in an appropriate union, the Chief Executive Officer whether elected or appointed, or his designated representative shall represent the municipal employer in collective bargaining with such employee organizations”. However, paragraph (d) of that section provides for exceptions as follows “if the municipal employer is a district, school board, housing authority, or other authority established by law, such district, school board or housing authority or other authority or its designated representative shall represent such a municipal employee in collective bargaining and shall have the authority to enter into collective bargaining agreements with the employee organization which is the exclusive representative of such employees and such agreements shall be binding on the parties hereto and no such agreement or any part thereof shall require approval of the legislative body of the municipality. Since the Water and Sewer Commission is an authority for sewers the Commission is exempt from the provisions of Sections 7-474. To comply with the provisions of Section 474 (d) and Attorney Divine’s legal opinion, the Charter Revision Commission changed Section 901(a) of the Town Charter to read as follows “the classified service shall include all positions which are now or hereafter created designating within a collective bargaining

agreement and any other positions designated and/or established by the Town Council except positions under the control of the Board of Education, Water and Sewer Commission and Housing Authority". The Mayor can not negotiate contracts with the employees of the Water and Sewer Commission without the Commission's approval to act as their representative. The Charter Revision Commission made no changes to Section 407 except to delete one sentence that was inconsistent with State Statutes, the voters of Montville approved these changes in November of 1995 thereby validating their original desire that the Water and Sewer Commission be a separate entity, that the Town Council can only influence by the people they appoint to the Commission. The Town Council can not adopt any ordinance regulating the operations of the Water and Sewer Commission any more than they can adopt ordinances to regulate the operations of the Planning & Zoning Commission or the Inland Wetlands Commission or the Zoning Board of Appeals or the Board of Assessment Appeals or the Housing Authority or the Board of Education because all of these agencies, including the Water and Sewer Commission divide their powers, duties and responsibilities from State Statutes through the Town Charter and the Town Council can not tamper with these laws. With all this history and established legal precedence, why is this proposed ordinance before the Town Council now? Where did it come from? It came from the Water and Sewer Commission itself and its chief components are its Chairman, Timothy May and its Vice-Chairman Robert Thorn. Apparently these two individuals have limited knowledge and understanding of how their commission is supposed to function because if they were knowledgeable they would know that most of the items covered by the proposed ordinance can be adopted by the Commission itself by making it part of their policies and procedures as outlined in Section 407 (e) of the Town Charter and they can do so by resolution of the Commission, not only is an ordinance not needed, it is not legal. Mr. May and Mr. Thorn are the same individuals that last year were responsible for the Commission's failure to conduct a proper use rate study, resulting in an arbitration panel unanimous ruling against the Commission for unethical practices in the conduct of the study and in order to do the study all over again, thereby wasting hundreds of thousands of dollars of rate payers money, and now these two individuals want the Town Council to adopt an illegal ordinance. Mr. May and Mr. Thorn want to be re-appointed so they can continue their sorry legacy of failure, incompetence and ineptness and wastefulness for another four years. This is unforgivable.

Mr. John Geary, 11 Depot Road, Uncasville stated he can not grasp all of the content that was just presented but Mr. Wilson indicated that the first Mayor Scott had an arrangement or written contract with the WPCA. So did Mayor Dougherty and after Mayor Dougherty's term was up, Mr. Geary was Chairman of the WPCA and he recalls the executive session and then the WPCA meeting where they announced they would not continue that contract but that they were in no way capable of dealing with Union issues and they asked Mayor Beetham to handle that aspect and since then that has been the procedure and has remained that way. The tapes that the town was using at that time may or may not have been kept but Mr. Beetham may remember this.

Mr. Timothy May, 1297 Route 163, Oakdale, stated the WPCA and Town Council went into a joint sub-committee meeting to go over what happened in 1995 by advice of the Town's attorney and Attorney Ochsner recommendations were made to what they thought was presented at the time and what was needed in the ordinance to bring it up to what the citizens voted on in 1995, this was not his idea by any means at all, it was brought up to the Town Council. The sub-committee met on three occasions and went over line for line detail, looked at all the data and facts and spent a considerable amount of time and he is sad to say it was minimized by half truths and things that are not correct. Listen to what the attorney's presented to the sub-committee and make a logical decision and he will honor it.

Attorney Ron Ochsner, Counsel for the Water Pollution Control Authority, stated about six months ago he addressed the Council with respect to an issue that was identified with respect to a disparity between what the Charter Revision Commission had recommended and the voters had adopted back in 1995 and the current practice in terms of employment contracts with the WPCA employees. He has had extensive discussions with the Town Attorney concerning this issue, they had a divergence of opinion with respect to the reason that it got where it was and the meaning of the Charter and they agreed upon a joint council or sub-committee made up of members of the Council and members of the WPCA to attempt to address this diversity by way of ordinance rather than attempting to go through the Charter Review process. Both sides were in agreement as to what the clear intention of that Charter Revision Commission was but not in total agreement as to which direction it should take. There were a number of sessions together and they did work line by line with respect to the entire series of ordinances that dealt with both water and sewer with the view towards establishing the autonomy which was the clear intention of the Charter Revision back in 1995. This was a challenging process because they had to consider State Statutes and the constraints of the existing set of ordinances as well as the Town Charter. They came to a resolution by way of ordinance which carries out the clear intent of the Charter Revision as it was adopted in 1995 as it was determined by both the Town Attorney at that time as well as the attorney for the WPCA. He submits the proposed ordinance as presently presented carried out that intent. They may choose to correct the issues that caused this divergence between practice and the intention of the Charter Revision Commission but he feels that what they worked out creates the autonomy that the Charter Revision along with the voters of the Town adopted in 1995. He encouraged the Council to adopt the ordinance amendment.

Chairperson Jacobson asked three times if there was anyone else who wishes to speak regarding this proposed ordinance. There being none, the Public Hearing was closed at 6:25 p.m.

Respectfully Submitted by:

Town of Montville Town Council
Public Hearing Meeting Minutes
January 10, 2010
Page 15 of 15

Audrey Ulmer, Recording Secretary for the Town of Montville