

Special Meeting Minutes
Joint Sub-Committee of the Town Council and Water Pollution Control Authority
Thursday, August 26, 2010 – 5:30 p.m.
Town Council Chambers

1. Call to Order

Commissioner May, Chairman of the Water Pollution Control Authority, called the special meeting of the joint sub-committee to order at 5:40 p.m.

2. Roll Call

Present were Councilors Buebendorf and McFee (5:45 p.m.), Commissioners May and Siragusa from the Water Pollution Control Authority, Attorneys Bruce Chudwick and Ron Ochsner and Mayor Jaskiewicz.

3. Administrative review of the Town Charter relative to Water Pollution Control Authority functions.

Commissioner May stated this meeting has been called in order to hear the opinions of everyone who wants to be included in the discussions regarding Water Pollution Control Authority functions as they pertain to the authority of the WPCA in relationship to the Town Charter, particularly in Sections 7 and 9 of the Town Charter. Commissioner May discussed procedure for authorization of payment for employees of the Water Department. A discussion was held regarding procedure for transferring funds from the Sewer to Water budgets to cover employee salaries.

Attorney Ron Ochsner addressed his point of view and stated he was asked to look into the issue of where the WPCA stands when it pertains to employment and salaries. He discussed the 1995 Charter Revision and a specific section of the charter that expressly addresses that issue in terms of the responsibility of the authority of the WPCA as it pertains to the hiring of employees and setting their salaries. The actual vote by the electors on the 1995 Charter Revision contained a fair amount of dialogue by the Council and the representatives of the WPCA and the Town Attorney relative to what the intent was of that Charter Revision. He distributed a chronology of activities from then to now that clearly express the intention of the revision to the Charter and the revision clearly states the WPCA was to be autonomous when it came to the issues of hiring employees and setting the salaries for those employees. Following that revision there was a change of Council for both the WPCA and the Town and subsequent opinions and changes were rendered and the charter revision got reversed and there was a new ordinance adopted that was contradictory to what the Charter was. He discussed a resolution adopted by the WPCA that states the WPCA shall hire all employees for the Authority and establish all

salaries. He feels the town charter is the constitution for the state and government and it outlines the manner in which the town acts and it is his conclusion that the intention of the Charter Revision Commission was clear the WPCA should be in charge of hiring and setting salaries for employees without the approval of the Town Council to do so.

Attorney Bruce Chudwick disagreed with the opinion of Attorney Ochsner and stated the wording is not correct although it may have been the intention to make the WPCA autonomous. They did not conform other portions of the Charter to this intention; they took out one sentence in section 704(e) and left language in item #6 that states the Town Council sets all salaries and benefits for all town employees and equalize them across the town. If they had carved out and made an exception in the wording for the WPCA like they did with the Board of Education it would be clearer but they did not. He stated the Charter was amended to delete the sentence that states all salaries and benefits shall be referred to the Town Council, but they did not take out the other wording that states the Town Council reserves the right to approve the salaries and benefits.

Commissioner May stated this wording makes it difficult for the WPCA to negotiate with employees. Attorney Chudwick stated that ultimately it is the power of the Town Council to set salaries and benefits for all town employees including WPCA employees.

Discussions were held regarding adopting an ordinance that would clear up the wording and intention of the Charter Revision to make the WPCA and Water Department autonomous. An ordinance can be adopted that would clarify the policy for use by the Town of Montville.

Commissioner May stated there was a legislative body that had an intent to make the WPCA autonomous that is diminished by one sentence in the Charter. Councilor McFee inquired what can be done to correct the wording to make the intention clear.

Attorney Chudwick stated the general rule of law is if something is clear and unambiguous on its face and the result is not absurd and the legislature passes a law that is wrong, you have to live with it until you fix it, you can't just say that you intended to do this, you have to fix it. The Charter states at this time the Town Council shall approve all salaries and benefits. He believes the Council can delegate the authority of authorization of employees and salaries by ordinance. A discussion was held regarding language for legislation of the Water Department. A discussion was held regarding the need for the liaison to the Town Council to convey in more detail the discussions held during WPCA meetings.

Discussions were held regarding the Town Council accepting the water and sewer budgets as opposed to approving them and sharing services used by the town with payment made to the town for these services.

Attorney Chudwick clarified it is the consensus to have the budgets of both the Water Department and WPCA accepted by the Town Council, the hiring, supervision,

contracting, evaluation and financial control of both the water and sewer side transferred to the WPCA by ordinance.

A public hearing must be scheduled to adopt this ordinance and this will give everyone involved the opportunity to review this ordinance prior to adoption if there are any issues on either side.

A summary of the bullet points as discussed are as follows regarding the matters addressed at Joint Sub-Committee meeting conducted on August 26, 2010;

Review of 1995 Charter Revision with respect to an autonomy of Water and Sewer Commission with respect to water and sewer issues.

Review of various and varying Town / WPCA / Charter Review Commission attorney opinion letters from 2004 to 2008

Discussion of past practice concerning employee hiring, budget approval and financial operations

Discussion concerning forms of agreement or resolution of disputed issues:

- a. Charter Revision
- b. Ordinance
- c. Joint resolution / Memorandum of Understanding
- d. No action

Resolution - Initial effort at issue resolution to be by way of amendment to current ordinances to align practice with intent of 1995 Charter Revision

4. Remarks from the Public – none.
5. Adjournment

Motion made by Councilor Buebendorf, seconded by Commissioner Siragusa to adjourn the meeting at 7:15 p.m.

Respectfully Submitted by:

Audrey Ulmer, Recording Secretary for the Town of Montville