

**Town of Montville Town Council
Special Meeting Minutes for Tuesday, June 21, 2011
7:00 p.m. – Town Council Chambers – Town Hall**

The Montville Town Council will conduct a special meeting on Tuesday, June 21, 2011, to consider overriding each line-item veto exercised by the Mayor on June 13, 2011, in the General Government fiscal year 2011-2012 budget adopted by this Council on June 9, 2011.

1. Call to Order

Chairperson Jacobson called the meeting to order at 7:00 p.m.

2. Pledge of Allegiance followed by a moment of silence in honor and support of our troops.

3. Roll Call

Present were Councilors Beetham, Buebendorf, Caron, Hillman, McFee, Murphy and Jacobson. Also present was Mayor Jaskiewicz and Town Attorney Bruce Chudwick.

4. Remarks from the Public Regarding Items on the Agenda with a three minute limit.

Mr. Dick Wilson, 6 Richard Lane, stated the vetoes exercised by the Mayor on the budget are illegal because they increase the budget by forty one thousand two hundred and fifty dollars. The Town Charter says the Mayor may veto one or more line items contained in the budget, thereby decreasing the budget. A veto can never be used to increase the budget. He stated he brought this to the attention of the Town Council at the June 13, 2011 meeting and Chairwoman Donna Jacobson asked the Town Attorney for a legal opinion and he refused and stated the Mayor can do what he did because of past precedent. He was referring to the fact that former Mayor Russ Beetham did the same thing and got away with it because no one challenged him. Attorney Chudwick's statement is akin to saying that if a store is robbed, and the robber is never caught then it is ok for anyone else to continue to rob the same store because a precedent has been set. Attorney Chudwick has done a great disservice to the taxpayers of Montville and an even greater disservice to the legal profession.

Chairperson Jacobson asked three times if there was anyone from the public who would like to come forward to address the Council.

5. Executive Session –None

6. New Business-

A. The Town of Montville Hereby Resolves to overrule the Mayor's veto of the increase of \$6,750.00 to the line-item 10330-53019 "Town Council Misc Supplies". (D. Jacobson)

Motion made by Councilor Buebendorf to vote on items A-F all together as consent agenda. Motion seconded by Councilor Caron. Discussion, Attorney Chudwick stated the resolution would then read "The Town of Montville hereby resolves to over rule the following vetoes" and list the vetoes to be voted on, stating it is a proper motion and can be grouped together as a consent agenda. Roll call vote on the amendment to the agenda, 3-4, voting in favor were Councilors Buebendorf, Caron, and Murphy, voting in opposition were Councilors Beetham, Hillman, McFee and Jacobson, amendment fails to pass.

Motion made by Councilor Beetham, seconded by Councilor McFee on the original motion, discussion; Attorney Chudwick addressed Mr. Wilson's comments and the legal analysis of the veto process. He stated looked at the definition in the Charter and how the whole process works with the Mayor's vetoes and the over rules of those and there are many undefined terms in the Charter and some uncertainty as to what a line item in the budget is, what is the General Government portion of the budget and if it is separate from Capital Improvements vs. General Government and how the whole process is generally intended to work. Based on this he looked at what happened in the year 2000 where this exact same process was followed, where then Mayor Beetham vetoes six or seven items resulting in a net increase in

the budget and some of the vetoes were over ruled and some of them were not. The Council then came back and in order to balance the budget there was a resolution to reopen the budget with the vetoes that were over ruled taken out of the budget and the ones that were sustained stayed in the budget. There was an adjustment made to the Fund Balance in order to balance out the revenue side of the budget. The intent of the Charter is what is reflective of what the drafters of the Charter intended and it makes sense. The way the budget process works is the Mayor puts together a budget, sends it to the Council for review and the Council amends the budget for the best interest of the Town and the Charter then has the provision for the budget as amended to go back to the Mayor for a veto and then the Council can over ride the veto with a two thirds vote of the entire Council. Five affirmative votes are needed to over ride an item. This properly balances the power between the Mayor's office and the Town Council and ultimately the Council has the final say on the budget by having the power to over ride any veto of the Mayor. Given that there is no definition of what a line item veto means specifically, it is appropriate that the Council come back and follow the procedure that was used in the year 2000 to over ride specific vetoes that the Mayor has put in place and in ultimately deciding what the budget is going to be. This process was not based entirely on past practice, but it was very helpful because given the uncertainty and unclarity in the Charter as to what the terms mean, he could research this but it would take a long time and he is not sure he would ever get to a proper legal answer because they are terms of art, not terms of science and what they really mean in this context would take a great deal of time to research and he is not sure he would ever get a final answer. Looking at the way it was done ten years ago makes sense as to how the whole process would work and based on this he advised the Chairwoman that the Council should come forward if it wants to in a veto session as they are doing tonight and on each of the items vote to over rule them or let them stand and at the end if there is any adjustment to be made, and if the budget ends up with a sustaining or over ruling vetoes whereby the budget is decrease the mill rate does not change, the tax rate will not change but any additional taxes that come in will go to the subsequent year's budget, and if more revenue is needed the money will have to come from the Fund Balance as it was done eleven years ago as this is the one place where there is flexibility. Councilor Hillman asked if the money could come from somewhere else in the budget and Attorney Chudwick stated it could but it seems the Undesignated Fund Balance would be the most logical place for a net over ride to land because then if there are other revenue items the Council would be opening up the question of when the budget was originally approved and what has changed to make it any different after a week's time. If there were changes in the anticipated tax collection rate or some other revenues it would be one thing, but if there is no further information it would seem most logical to go to the Fund Balance to balance out any net increases in the budget. He stated his interpretation works well in accordance with the Town Charter and allows the Town to move forward to get a balanced budget and proceed. Chairperson Jacobson asked Attorney Chudwick to explain the yes and no vote for clarity to the Council members. Attorney Chudwick stated each of the motions is worded to over rule or over ride the Mayor's veto, a "yes" vote would be to sustain the vote of the Council, the veto of the Mayor is taking out or adding in and over ruling what the Council did at the June 9, 2011 meeting that approved the budget. A "yes" vote would be to over ride that and stay with the vote the Council approved on June 9th and a "no" vote would be to sustain the Mayor's veto and allow those items to be adjusted as he has recommended. A vote requires five affirmative votes to over rule as the Charter reads it is a two thirds vote of the entire Council, so it takes five affirmative votes to over rule any veto. Councilor Beetham asked if someone could circulate a petition that would be to over ride whatever happens tonight. Attorney Chudwick stated the Charter provides that any resolution of the Council can be petitioned to a Town Meeting, any one of the individual resolutions can be petitioned to a Town Meeting. Councilor Beetham stated if there is a petition does everything stop until it is resolved and Attorney Chudwick stated the tax bills are going out and the mill rate has been set so the mill rate will continue, but the final budget would be up in the air as far as what it would be. If it goes to a Town Meeting and the Council's over ride is reversed then the Mayor's veto would be sustained. Each resolution would require a Town Meeting as a separate resolution. In the year 2000 all but one veto was over ruled and that resulted in a one hundred seventy thousand dollar increase in the budget that came from the Fund Balance. The Fund Balance went from nine hundred thousand to seven hundred thirty thousand, a one hundred seventy thousand dollar difference at the end of the day and the Council went to the Unreserved Surplus to balance out the budget. Councilor Beetham stated Mr. Wilson was trying to state that two wrongs do not make a right. Attorney Chudwick stated his interpretation of the Charter makes sense and will balance off the Mayor's powers and the Council's powers, and ultimately the Council has final say on the budget by being allowed to over ride the vetoes. The Mayor should be able to veto any of the amendments made by the Council to his or her budget and the Council then has the

right to over rule the vetoes. He does not think the process was done wrong in the year 2000; it was a proper interpretation of how to best handle the Charter in the way it is written.

Roll call vote, 4-3, voting yes were Councilors Beetham, Hillman, McFee and Jacobson, voting no were Councilors Buebendorf, Murphy and Caron. The Mayor's veto is sustained; the resolution fails to over ride.

B. The Town of Montville Hereby Resolves to overrule the Mayor's veto of the decrease of \$40,000.00 to the line-item 10910-53018 "Public Works Sand & Salt". (D. Jacobson)

Motion made by Councilor Beetham, seconded by Councilor McFee, discussion, none, Roll call vote, 4-3, voting yes were Councilors Beetham, Hillman, McFee and Jacobson, voting no were Councilors Buebendorf, Murphy and Caron. The Mayor's veto is sustained and the resolution fails to over ride.

C. The Town of Montville Hereby Resolves to overrule the Mayor's veto of the decrease of \$24,000.00 to the line-item 10910-53045 "Public Works Road Striping". (D. Jacobson)

Motion made by Councilor Beetham, seconded by Councilor McFee, discussion, none, Roll call vote, 4-3, voting yes were Councilors Beetham, Hillman, McFee and Jacobson, voting no were Councilors Buebendorf, Murphy and Caron. The Mayor's veto is sustained and the resolution fails to over ride

D. The Town of Montville Hereby Resolves to overrule the Mayor's veto of the decrease of \$25,000.00 to the line-item 10910-53046 "Public Works Drainage". (D. Jacobson)

Motion made by Councilor Beetham, seconded by Councilor McFee, discussion, none, Roll call vote, 4-3, voting yes were Councilors Beetham, Hillman, McFee and Jacobson, voting no were Councilors Buebendorf, Murphy and Caron. The Mayor's veto is sustained and the resolution fails to over ride.

E. The Town of Montville Hereby Resolves to overrule the Mayor's veto of the increase of \$49,000.00 to the line-item 10960-52012 "Capital Improvement Road Construction". (D. Jacobson)

Motion made by Councilor Beetham, seconded by Councilor McFee, discussion, none, Roll call vote, 4-3, voting yes were Councilors Beetham, Hillman, McFee and Jacobson, voting no were Councilors Buebendorf, Murphy and Caron. The Mayor's veto is sustained and the resolution fails to over ride.

F. The Town of Montville Hereby Resolves to overrule the Mayor's veto of the decrease of \$8,000.00 to the line-item 10820-51071 "Police Part-Time Officer". (D. Jacobson)

Motion made by Councilor Beetham, seconded by Councilor Caron, discussion; Councilor Caron asked if approval of this resolution will put the SRO back into the schools. Chairperson Jacobson stated it is not to put the SRO back into the schools, the money will provide funding for a part time officer that could be utilized as an SRO position. Councilor Buebendorf stated the police personnel has been up to speed and there are a couple of new police officers still in training but there is increased need for police officers and she feels this is very important that the Council restore this funding so that the Town can maintain the twenty three officers as well as the part time officer that has been a part of the plan for the past few years. Councilor Hillman stated if this is broken out to a new police officer, this amounts to about two and one half hours per week and it is not the plan to fund a police officer for two and one half hours, this was not the SRO position, the SRO position was a full time position and it would be up to the administrator of the department to find a full time SRO, this has nothing to do with the SRO, this has to do with a person who was doing a job under a grant and working for the police department thus having two separate line items. To leave eight thousand dollars in there for a two and one half hour police officer is absurd, she suggested moving the money to over time, and it is not responsible to fund the part time position. Councilor Caron stated Lt. Bunnell knows the safety of the children and the needs of the town. He came to the meeting and expressed his concerns regarding this position. He stated the Lieutenant knows the safety needs in the schools and there is a need for an SRO in the school system. Councilor Buebendorf stated this is not a new position, it is maintaining the vision. Mayor Jaskiewicz stated the part time position does a lot more than the Council realizes and is helpful in the police department. Chairperson Jacobson stated there is a need for a part time officer, but the Council was presented with an SRO, and the SRO should be for all

intent and purpose a full time position and if that is what the Council decides to do she does not have qualms with this, but to say the eight thousand dollars is slated for the SRO position is false. It is going to be a part time position. Councilor Murphy stated Lt. Bunnell stated to the Council this money will be used for an SRO because as of right now there is not an SRO in the schools. This position would allow a person in the schools until they reinstate a full time SRO. Mayor Jaskiewicz stated this is a part time position that has helped out when it is needed. Councilor Jacobson stated she spoke with Lt. Bunnell regarding this subject and it is her understanding that Lt. Bunnell has had discussions with Mayor Jaskiewicz and Superintendent Aubin as far as trying to find supplements through the Board of Education to make the SRO a full time position, and she does not have a problem with this, but the Council is talking about utilizing the eight thousand dollars for the part time position as the SRO position as opposed to a catch all position, this is two different things. The Chief of Police, Mayor Jaskiewicz is stating this is a catch all position, so she asked what the Council will be funding.

Roll call vote, 4-3, voting yes were Councilors Beetham, Hillman, McFee and Jacobson, voting no were Councilors Buebendorf, Murphy and Caron. The Mayor's veto is sustained and the resolution fails to over ride

G. Resolution #2011-067. The Town of Montville Hereby Resolves to amend Resolution No 2011-50, wherein the fiscal year 2011-2012 budget was adopted, to reflect the Mayoral veto on the increase of (six thousand seven hundred and fifty (\$6,750) dollars to the expenditures line item "Town Council Misc Supplies"; to reflect the Mayoral veto on the decrease of (forty thousand (\$40,000) dollars to the expenditures line item "Public Works Sand & Salt"; to reflect the Mayoral veto on the decrease of (twenty-four thousand (\$24,000) dollars to the expenditures line item "Public Works Road Striping"; to reflect the Mayoral veto on the decrease of (twenty-five thousand (\$25,000) dollars to the expenditures line item "Public Works Drainage"; to reflect the Mayoral veto on the increase of (forty-nine thousand (\$49,000) dollars to the expenditures line item "Capital Improvement Road Construction"; and to reflect the Mayoral veto on the decrease of (eight thousand (\$8,000) dollars to the expenditures line item "Police Part-Time Officer". The total appropriations to the revenue line-item "Use of Undesignated/Unreserved Surplus is hereby increased from zero dollars to forty-one thousand two hundred and fifty (\$41,250) dollars. Further, the total budget for fiscal year 2011-2012 is hereby amended to fifty-five million, six hundred and two thousand, three hundred and fifty-five (\$55,602,355) dollars, it being determined that the use of the Undesignated Unreserved Surplus is in the best interest of the Town. (D. Jacobson)

Net Grand List FY 09-10
1,519,656,255

Adopted Budget for Fiscal 2011-2012

Total General Gov't Expenses	18,408,420
Town Capital Improvement	561,200
Board of Education	<u>36,632,735</u>
Subtotal	55,602,355
CT & Other Revenue	(20,079,791)
Other Taxes	(740,000)
Interest & Lien Fees	(314,000)
use of designated fund	(41,250)
General Levy	<u><u>34,427,314</u></u>

Mil Calculation

99% Collection	22.8835
98.5 Collection	23.00

Motion made by Councilor Buebendorf, seconded by Councilor Beetham, discussion; Councilor McFee asked what will happen if this resolution gets voted down and Attorney Chudwick stated this would result in an unbalanced budget and the Council would have to do something at some time to balance the budget. The Town now has a budget that has expenses that exceed the revenues and something has to be done about that eventually. Councilor Hillman asked if rather than taking the money from the Undesignated Fund Surplus if the money could be taken out of individual line items. Mayor Jaskiewicz stated there is potential revenue in there that was not used in the budget. Councilor Buebendorf stated if the Town does not spend as much as the budget suggests then the forty one thousand dollars still remains in the Undesignated Fund Balance. Councilor Jacobson requested an amendment to the resolution based on discussion with Attorney Chudwick as follows; after the amount of forty one thousand two hundred and fifty dollars to add the sentence “it being determined that the use of the Undesignated Unreserved Surplus is in the best interest of the Town”, this sentence would then coordinate with the Fund Balance Policy. Motion made by Councilor Buebendorf, seconded by Councilor Caron, discussion on the amendment, none, roll call vote on the amendment, 6-1, voting in favor of the amendment were Councilors Beetham, Buebendorf, Caron, McFee, Murphy and Jacobson, voting in opposition was Councilor Hillman, amendment passed.

Attorney Chudwick stated the issue was if the money was taken out of the Undesignated Fund Balance and the Town goes below the eight percent threshold in the policy, it requires a two thirds vote of the Council to do so, but there is another sentence in the police that states “notwithstanding that provision, generally the Town can always do what is in the best interest of the Town and use Fund Balance” and in this case the Town must balance the budget and the language is appropriate to add to the resolution to show that the Town is taking money out of the Undesignated Fund Balance to balance the budget because it is in the best interest of the Town and this syncs together the Fund Balance policy with this action by the Council so that there is conformity with the policy and the budget has been balanced by taking the money out of the Fund Balance. A yes vote means that the Council is authorizing taking forty one thousand two hundred and fifty dollars, adding it as a revenue line item to the budget and this offsets the increase of expenses that are now in the budget by virtue of the Council not over riding any of the Mayor’s vetoes, it adds a revenue item of forty one two fifty out of Fund Balance to balance the revenues with expenditures. Councilor Hillman asked if the money has to come out of the Undesignated Fund Balance or if the money can come from the department itself to offset the expense instead of coming out of the Undesignated Surplus. Attorney Chudwick stated his concern with this would be the Council would be opening up the entire budget and there is no prohibition against doing this, but if you do this the Mayor could override that particular action and the Council would be coming back again. The proposal to take the money out of Undesignated Fund balance is just one way of doing this to balance out the budget. Mayor Jaskiewicz stated the two hundred and fourteen thousand dollars is a potential new grant. Finance Director Hart stated during the discussions with the Governor’s budget he proposed new revenues and came up with a property tax relief program and the Town would be entitled to about two hundred fourteen thousand dollars and this money was not included in the Mayor’s budget because there was so much discussion regarding Union concessions and Plan B, it was discussed and proposed but not included but at this point if the money is received the Town will have an additional two hundred and fourteen thousand dollars of additional revenue that will end up going into the General Fund Surplus at the end of the fiscal year next year provided the town does not expend over budget or have something catastrophic happen with revenue. Councilor Jacobson stated this is based on the Union concessions. Ms. Hart stated she did not add it to the budget because there is not exact certainty the money is coming in as it is not fact as of yet. Councilor Buebendorf stated the whole budget process is a best guess at what the expenses are going to be and what the revenue is, so taking forty one thousand dollars out of the Undesignated Fund Balance is really just part of the best guess and if the town does not spend as much money as they think the money will never be taken. Ms. Hart stated the town does not know until the end of the fiscal year how much money will be needed. Attorney Chudwick stated the Town can not finish the budget process and have revenues exceeding expenditures, there has to be a balanced budget.

Roll call vote on the original resolution as amended, Roll call vote, 4-3, voting in favor were Councilors Buebendorf, Caron, Murphy and Jacobson. Voting in opposition were Councilors Beetham, Hillman and McFee. Resolution adopted.

7. Remarks from the Councilors

Councilor Murphy was informed that Oakdale Pizza will re-open on Thursday, this is great news for the area, and the complex has been renovated and is a great addition to the area.

Councilor Jacobson stated she did not vote for the resolution because she agrees with the cuts, she did not vote for it because she agrees with the vetoes, she thinks they were at best politically motivated, however she does not agree with blocking or stopping the budget at this juncture as it would be detrimental on the long run, this should not have happened as far as she is concerned.

8. Remarks from the Mayor

Mayor Jaskiewicz stated it was not politically motivated, the original shut down was politically motivated, and the proposed cuts were politically motivated.

9. Adjournment

Motion made by Councilor Beetham, seconded by Councilor Caron to adjourn the meeting at 8:00 p.m. Discussion, none, voice vote, 7-0, all in favor, motion carried.

Respectfully Submitted by:

Audrey Ulmer, Recording Secretary for the Town of Montville.