



August 15, 2013

On August 5, 2013 City Clerk Galeazzi sent copies of Resolution R-10-13 to the entities listed in the resolution.

On August 6, 2013, Waverly Sanitary District acknowledged receipt of a copy of the resolution indicating that they hired outside legal counsel to help them with this matter and would be arranging to contact Menasha after their attorney had a chance to review relevant information. A copy is attached for your reference.

Also on August 6, 2013, Attorney Captain received a copy of a letter sent by Attorney Andrew Rossmeissl, on behalf of the Town of Harrison to various parties regarding Menasha's resolution. A copy is attached for your reference.

Also on August 6, 2013, the Village of Harrison adopted "Ordinance V2013-07 to accomplish boundary line change" in which it annexed the remainder of the Town of Harrison into the Village of Harrison except for the portions of the Town of Harrison described in written agreements with the Cities of Appleton and Menasha as their growth areas. This has further reduced the number of Town of Harrison patrons in Waverly Sanitary District. Additionally, as a result of the above-mentioned annexation, apparently none of the Waverly Sanitary District commissioners reside in the district.

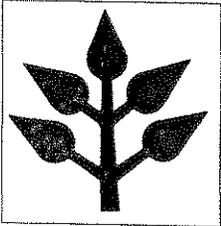
On August 14, City Attorney Pam Captain made telephone contact with John St. Peter, Waverly Sanitary District attorney. Attorney St. Peter stated that he is currently collecting and reviewing information regarding the matter. Attorney Captain and St. Peter scheduled a follow-up telephone conference for Tuesday, August 20. Attorney Captain is prepared to file for a writ of mandamus and/or a declaratory judgment in Calumet County circuit court in the event that transition discussions do not begin soon. A prompt transition is imperative given that there are no commissioners residing in the district.

Melanie Krause, from Menasha Utilities and Pam Captain made initial contact with the Wisconsin Public Service Commission (PSC) staff to inquire about the information PSC may require relative to the transfer, as the transfer pertains to a PSC regulated activity. Telephonic meetings will be scheduled within the next week or two.

Sincerely,

Mark Radtke  
Director of Public Works

MR/cs  
Enclosure



## Waverly Sanitary District

N8722 County Road LP

Menasha, WI 54952 • Phone: (920)731-0002 • Fax: (920)731-2955

August 6, 2013

Mr. Don Merkes, Mayor  
CITY OF MENASHA  
140 Main Street  
Menasha, WI 54952

**Re: Waverly Sanitary District**

Dear Mayor Merkes:

This is to acknowledge the receipt of Resolution R-10-13 concerning the Waverly Sanitary District.

The District has retained special legal counsel John A. St. Peter from Fond du Lac. Mr. St. Peter has been provided with what we believe to be the relevant background historical documents. Mr. St. Peter will be advising the District Commission on its rights and obligations pursuant to the Wisconsin Statutes and existing contracts.

Be assured that we will be contacting the City after Mr. St. Peter has had an opportunity to review the situation and confer with the District Commission.

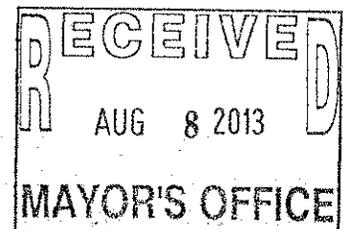
Thank you.

Sincerely,

WAVERLY SANITARY DISTRICT

William C. Helein  
District President

cc: Mr. John A. St. Peter



COPY

800 N. Lynndale Dr.  
Appleton, WI 54914  
920.739.7366  
Fax: 920.739.6352

Green Bay  
920.468.7366

New London  
920.982.9652

Oshkosh  
920.385.0616

August 6, 2013

Waverly Sanitary District  
Attn: Cathy Girdley  
N8722 County Road LP  
Menasha, WI 54952

Village of Harrison  
Travis Parish, Administrator  
W5298 Hwy 114  
Menasha, WI 54952

Neenah Menasha Metropolitan Sewerage Dist.  
Attn: Clerk  
101 Garfield  
Menasha, WI 54952

Attorney James P. Walsh  
City Attorney's Office  
100 N. Appleton Street  
Appleton, WI 54911

East Central Wisc Regional Planning Com.  
Attn: Clerk  
400 Ahnaip St. Suite 100  
Menasha, WI 54952

RE: City of Menasha Resolution No. R-10-13

To Whom This May Concern:

Please be advised that I represent the Town of Harrison.

I recently became aware that the City of Menasha adopted Resolution No. R-10-13, purporting to assert control over the Waverly Sanitary District.

In our view, said Resolution has no legal effect. In other words, the Waverly Sanitary District will continue to operate as it always has until and unless the parties agree otherwise or until the City of Menasha maintains a court order to the contrary.

By its own math, the City of Menasha contains less than half of the Waverly Sanitary District's total patrons. Wisconsin Statute §60.79(2)(d) and (dm) do not allow a municipality to assert control over a town sanitary district until the "majority" of patrons reside in said municipality.

More importantly, the City of Menasha's recent resolution is prohibited by an existing Intergovernmental Agreement, which was entered into between the City of Menasha, Town of Harrison, and Waverly Sanitary District on or about October 28, 1999.

John D. CLAYPOOL  
Greg P. CURTIS  
Richard T. ELROD  
Paula A. HAMER  
Charles J. HARTZHEIM  
Kelly S. KELLY  
Kristen S. KNUTSON  
Charles D. KOEHLER  
Kevin LONERGAN  
Robert B. LOOMIS  
Michael C. MENGHINI  
Andrew J. ROSSMEISSL  
Michael S. SIDDALL  
OF COUNSEL  
Don R. HERRLING  
Roger W. CLARK

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The purpose of this communication is simply to convey the Town of Harrison's position and reaffirm the Town's position that the Waverly Sanitary District will operate as usual until an agreement is reached or until a court rules to the contrary.

Very truly yours,



Andrew J. Rossmeissl  
*Direct Dial: (920) 882-3219*

AJR/smw  
Encl.

cc: Attorney John A. St. Peter

bcc: Sam Captain