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OCT 07 1998  
Board of Representatives

# Memorandum

**To:** Carmen Domonkos, President, Board of Representatives  
**CC:** Mayor Dannel Malloy  
Water Pollution Control Authority  
**From:** Thomas M. Cassone, Director of Legal Affairs  
**Date:** 10/07/98  
**Re:** Yours of October 6, 1998

A handwritten signature in black ink, appearing to be "Tom Cassone", written over a horizontal line.

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This is in response to your request for an opinion of the "legal and factual basis" for my belief that the Board of Representatives' approval of the WPCA budget is an approval of its rate structure. In your request, you also furnished Board minutes from the November 6, 1996 Board meeting.

I gather from the timing of your request that the recent rate increase by the WPCA has likely stirred a debate among the legislative body, leading to your inquiry. As you may know, the Board of Representatives has broad legislative authority, which for passage of an ordinance generally requires a minimum of two meetings before the full board following two or more committee meetings and at least one public hearing. It was an exercise of this formal legislative power that both established the Water Pollution Control Authority in 1996, and amended its charter in 1997. In fact, within the confines of our DEP discharge permit and State law, the Board may choose again to rewrite this legislation, after what I would presume will be renewed debate in the plain view of the voting public.

It was after such renewed debate, both at the WPCA and the Board of Representatives that the ordinance was amended by the full Board on October 17, 1997. Among the myriad changes made at that time was an amendment to the section previously codified as § 2.15 in Ordinance No. 803. The repealed portion of that section provided in part: "The rate structure set by the WPCA shall be subject to the approval of the Board of Representatives, such approval to be in accordance with the provisions of this section." The rest of that section, which I have attached together with the balance of the original and amended ordinances, essentially provided that the WPCA's budget would be the basis of the charges, proportionately divided among the sewerage system's users in accordance with relevant statutory criteria and procedures. The new section codified in Ordinance No. 836 as §200-28 delegates wholly the setting of the rates, which would otherwise be within the Board's jurisdiction<sup>1</sup>, to the WPCA. Still, as was true with the original Ordinance No. 803, Ordinance No. 836 reserved budget approval to the City fiscal Boards, although it established a different procedure. And, since the setting of the rate is essentially confined to generating the revenue needed to support the budget, it is still true that the fiscal Boards exercise control over the rates ultimately set.

I have also attached the Legislative & Rules report of August 25, 1997 for the September 3, 1997 meeting. While I was apparently personally not present during this session, the amendments were evidently discussed in depth. You will note under L&R 24.127 a summary reference to the amendments proposed, which among others provides "charges will be established and revised by the WPCA (Bd. of Reps. approves the rate when it approves the budget)".

After reviewing this, please let me know if you require anything further.

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<sup>1</sup> Stamford Charter §§C2-10-1, 2-10-2 (6).