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VILLAGE TREASURERS: Responsibility for billing and collecting water and sewer charges

VILLAGE TREASURERS: Removal by village council

VILLAGE OFFICERS AND EMPLOYEES: Reduction in compensation

A village council may prescribe by ordinance when and to whom water rates shall be paid and if the village council so decides, the village treasurer is not required to bill and collect water and sewer charges but retains the duty of receiving such moneys.

A village council, on proof of violation of certain prohibited acts by the village treasurer, may remove the village treasurer from office.

The salary of all village officers, except the village president and trustees, may be reduced by the village council.

Opinion No. 5020

May 25, 1976.

Honorable Loren S. Armbruster
State Representative, 84th District
State Capitol
Lansing, Michigan

You have written asking for an opinion on the duties and responsibilities of the treasurer of the Village of Mayville. Your letter and the attached materials cover three questions which I will answer in order.

1. Can the Mayville Village Council relieve the village treasurer of the responsibility of billing and collecting water and sewer charges?

Mayville was incorporated as a village by the legislature by Local Act 326 of 1887. It was reincorporated by section 7 of the Village Act,¹ thereby making it a general law village.

1895 PA 3, Ch IV, § 9; MCLA 64.9; MSA 5.1251, sets forth the general powers, and duties of the village treasurer providing in relevant part:

"The treasurer . . . shall receive all moneys belonging to, and receivable by the corporation, and keep an account of all receipts and expenditures thereof; . . . he shall collect and keep an account of and be charged with all taxes and moneys appropriated, raised, or received for each fund of the corporation, and shall keep a separate account of each fund, and shall credit thereto all moneys raised, paid in, or appropriated therefor, and shall pay every warrant out of the particular fund raised for the purpose for which the warrant was issued."

Since 1895 PA 3, Ch IV, § 9, *supra*, requires the treasurer to collect "moneys . . . received," the treasurer has the duty to collect the moneys for each fund *after* it has been received by the village. It follows that a

¹ 1895 PA 3, as amended by 1954 PA 119 and 1962 PA 186, MCLA 61.1 *et seq*; MSA 5.1201 *et seq*.

village treasurer is not required by 1895 PA 3, Ch IV, § 9, *supra*, to "bill and collect" water and sewer charges.

This interpretation of 1895 PA 3, Ch IV, § 9, *supra*, is compatible with 1895 PA 3, Ch XI, § 6; MCLA 71.6; MSA 5.1414, which gives the village council the power to determine the manner and to whom water bills may be paid, providing in its relevant part:

" . . . the council may prescribe by ordinance, when and to whom such water rates shall be paid, and what steps shall be taken to enforce payment thereof, . . ."

Thus, the Mayville Village Council may determine to whom water and sewer revenues shall be paid. All moneys collected, however, must be turned over to the custody of the village treasurer.

2. Can the Mayville Village Council remove the village treasurer?

1895 PA 3, Ch IV, § 12; MCLA 64.12; MSA 5.1254, provides:

"The treasurer shall keep all moneys in his hands belonging to the village separate and distinct from his own moneys, and he is hereby prohibited from using, either directly or indirectly, the corporation moneys, warrants, or evidences of debt in his custody or keeping, for his own use or benefit, or that of any other person; any violation of the provisions of this section shall work a forfeiture of his office, and the council, on proof of the fact, are authorized to declare the office vacant and appoint his successor for the remainder of his term."

Therefore, the treasurer can be removed by the council on proof of specified violation of law subject, of course, to any rights the treasurer may be afforded by statute or the Constitution.

3. Can the Mayville Village Council reduce the compensation of the treasurer?

1895 PA 3, Ch IV, § 21; MCLA 64.21; MSA 5.1263, provides in part:

" . . . All other officers excepting the village president and trustees except where other provision is made herein or by law regulating fees for services shall receive such compensation as council shall prescribe . . ."

Since neither the Constitution nor any law now provides that the salary of the treasurer of a general law village cannot be reduced, the council ordinarily can reduce the salary it sets for the treasurer. See *Chapoton v City of Detroit*, 38 Mich 636 (1878); 4 McQuillin, *Municipal Corporations* (3rd ed), § 12.196, p. 89.

FRANK J. KELLEY,
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