MEMORANDUM

TO: Members of Christiansburg Town Council
Barry Helms
FROM: Jim H. Guynn, Jr.
DATE: October 14, 2010
RE: Membership on Authority boards

I have reviewed the articles of incorporation for the Montgomery Regional Solid Waste Authority and the Blacksburg-Christiansburg VPI Water Authority. These documents define the governing body for each Authority. Basically, the documents provide that each member government appoint someone to serve on the boards of the Authorities. The articles do not place any requirement such as elected official or employee of the government on the appointment. Thus, I am of the opinion that Mr. Terpenny, as a resident of the Town of Christiansburg, continues to qualify to be a member of these boards.

In addition to the articles of incorporation, the attorney for the Montgomery Regional Solid Waste Authority sent me an opinion of the Attorney General and a Virginia Supreme Court decision from 2002 that he considered to be applicable to this situation. Both the Attorney General opinion and the Supreme Court decision indicate that Authority board members cannot be removed in the absence of malfeasance or dereliction of duties. After review these authorities and performing independent research myself, I am of the opinion that the Town could only remove Mr. Terpenny from the Authority boards in a case of malfeasance or dereliction of duty.

Of course, there is nothing to prevent Mr. Terpenny from resigning from the Authority boards. Further, there is no requirement that the Town reappointment him when his term expires. Please let me know if you have any further questions.