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## MEMORANDUM

**TO:** Tim Young - City Manager  
**FROM:** Andy Welch  
**CC:** Priya Patel; Lajuana Ransaw  
**DATE:** January 31, 2019  
**RE:** Hapeville Water and Sewer Authority

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Dear Mr. Young,

The Council has inquired about the status of the Hapeville Water and Sewage Authority and the relative powers of the City to provide water and sewer services. As requested, I have outlined the legislative history, the City's powers, and provided a status update on our title research.

### **Local Legislation**

In 1979, the General Assembly passed local legislation creating the Hapeville Water and Sewer Authority (hereinafter referred to as "HWSA") (Ga. L. 1979, p. 3461). On or about May 2, 2017, an Act was passed that repealed the HWSA, and in Section 2 of the Act, it was expressly stated that all assets of the HWSA were transferred to the City of Hapeville. (Ga. L., 2017, p. 298). Both of these acts are attached.

### **City of Hapeville's Powers**

Article 9, Section 2, Paragraph 3 of our State constitution expressly grants cities with the power to provide water and sewer and storm water services within their jurisdiction.

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- (a) In addition to and supplementary of all powers possessed by or conferred upon any county, municipality, or any combination thereof, any county, municipality, or any combination thereof may exercise the following powers and provide the following services: ...
- (6) Storm water and sewage collection and disposal systems.
  - (7) Development, storage, treatment, purification, and distribution of water.

In addition, the City's charter authorizes it to provide water and sewer services. Subsection (a) of Section 1-103, sets forth the specific powers of the City as follows:

The city may acquire, construct, operate and maintain, by condemnation or otherwise, inside or outside the city limits, public ways, streets, sidewalks, parks, public grounds, cemeteries, public buildings, libraries, sanitary landfill, **sewers, drains, sewage treatment or waterworks systems**, electrical or gas systems, airports, hospitals, and charitable, educational, **flood control**, recreational, sport, curative, corrective, detentional, penal and medical institutions, areas and facilities, and any other public improvement. The city, by ordinance, may establish and enforce rules and regulations necessary to preserve order, peace, and dignity on any property or facilities so acquired inside or outside the corporate limits of the city.

Section 5-108 of the charter states that the mayor and council may set the fees for water and sewer services: "mayor and council, by ordinance, shall have the authority to assess and collect fees, charges, and tolls for water, sewer, sanitary and health services, or any other services rendered within and without the corporate limits of the city. If unpaid, these charges or fees shall be collected as provided in section 5-112."

Thus, the City – through its mayor and council – has the power to construct, operate and maintain a city water and sewer system as well as a storm water system independent of and regardless of the HWSA. To that end, the HWSA was effectively repealed and its systems are now the property of the City.

### **Status Update on Title Research**

It is our understanding, though we have not reviewed documents to that effect, that the initial construction of the water and/or wastewater system for the City of Hapeville was done by the constitutional development authority known as the Hapeville Development Authority ("HDA"). Interestingly, there is a deed of transfer that conveys assets pertaining to the storm water facilities within the City of Hapeville from the HDA to the HWSA.

We are researching the title records to determine what other transfers from the HDA to the City or to the HWSA may exist. In this way, we can best determine what entities hold ownership interest in the City's water and sewer systems. With that information, we will be able to advise on whether or not corrective action should be taken to ensure that the City is in control of the water and sewer systems in the City. I anticipate that we will complete the research in time for the Council meeting next week, and I will advise the Council accordingly.

Please let us know if there are any further issues that require our assistance.