

MSD RULES AND REGULATIONS
ARTICLE 3, SECTION 304 MODIFICATION

LEGISLATIVE REQUEST:

Resolution modifying Article 3 ("Combined Sewers"), Section 304 ("Basement Flooding Problems in Areas Served by Combined Sewers"), of the Rules and Regulations of the Metropolitan Sewer District of Greater Cincinnati repealing a portion thereof. The Board of County Commissioners last discussed this item at its Staff Meeting held September 8, 2003.

EXPLANATION:

Per direction of the Board at its September 8, 2003 staff meeting, MSD presents revisions to the Rules and Regulations to repeal the first and last paragraphs of Section 304. Repeal of these paragraphs will:

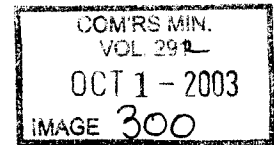
- Rescind cost-sharing between the Board and a local jurisdiction as a specific policy-based condition for improvements made to the combined sewer system to alleviate chronic basement flooding;
- Rescind the requirement that MSD's share of a combined sewer improvement be less than 50% of the total project cost.

There are 12 cost-sharing combined sewer basement flooding remediation projects approved by the Board since 1995. Of these 12, 6 are completed. Below is a summary of these projects:

<u>PROJECT</u>	<u>SS#/CIP</u>	<u>LOCALITY</u>	<u>STATUS</u>
Bethesda Oak Hospital Site	5001 98-97	Cincinnati	INACTIVE ¹
Cedar Avenue	4915 98-53	Cincinnati	COMPLETE
Clearview Avenue	4946 98-78	Cincinnati	IN DESIGN
Covedale, Phs. 1 & 2	3758 94-39	Cincinnati	COMPLETE
Hull & Epworth	4914 98-98	Cincinnati	COMPLETE
Ivy Hills Drive	5205 2000-55	Delhi Twp.	COMPLETE
Northern Avenue	5003 98-99	Cincinnati	CONSTRUCTION
North Bend, Wardall, & Harrison	5004 98-100	Cheviot	INACTIVE ²
Samohrt Ridge	5203 2000-56	Delhi Twp.	EASEMENT ACQUISITION
Tweed & Wakefield	5005 98-101	Cincinnati	COMPLETE
Toluca Court	4916 98-54	Cincinnati	BID
Wardall & Epworth	5003 98-98	Cincinnati	COMPLETE

On motion of Mr. Heimlich, seconded by Mr. Portune the following resolution was adopted.

1. Current property owner has not been willing to perform, at their expense, necessary internal plumbing separation required for project.
2. Study completed; City of Cheviot had not committed cost-sharing dollars to the project.



MSD requests direction from the Board on the following issue that manifests itself from the repeal of these paragraphs of this Section of the Rules and Regulations:

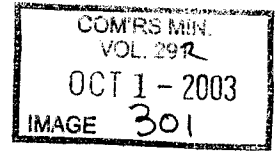
- Applicability of previously-adopted Intergovernmental Flood Control Agreements (IFCA) cost-sharing provision for the projects in the above-referenced list that are not complete. Specifically, does the Board desire to assume all financial responsibility on these projects? IFCAs were adopted for the Northern Avenue and Toluca Court projects; pending for the Sahmot Ridge project; and was drafted for the Clearview Avenue project. Following are the IFCA share amounts for the outstanding projects:

<u>PROJECT</u>	<u>LOCALITY</u>	<u>TOTAL ESTIMATE/ MSD SHARE</u>
Clearview Avenue	Cincinnati	NOT ESTABLISHED
Northern Avenue	Cincinnati	\$317,500 \$158,750
Samoht Ridge	Delhi Twp.	\$250,000 \$10,000 ³
Toluca Court	Cincinnati	\$205,000 \$102,500

A public hearing has been held, per Section 5.2(b) of the 1968 City-County management agreement for MSD, for these proposed modifications to the Rules and Regulations.

3. \$240,000 of project funded by Delhi Twp. obtained CDBG funds.

City of Cincinnati



Valerie A. Lemmie
City Manager

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September 24, 2002

Honorable Board of County Commissioners
Hamilton County, Ohio
% Mr. David J. Krings
Hamilton County Administrator
County Administration Building, Room 603
Cincinnati, OH 45202

Honorable Commissioners:

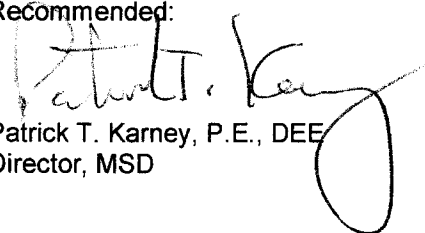
Enclosed for your consideration and approval are two Resolutions pertaining to a proposed changes to the Rules and Regulations for the Metropolitan Sewer District of Greater Cincinnati:

1. Resolution concluding the public hearing.
2. Resolution amending Article III Section 304.

The proposed amendment modifies Section 304 deleting the first and last paragraphs of that section. This amendment removes the cost-sharing between the Board and Hamilton County political jurisdictions as a specific policy-based condition for improvements made to the combined sewer system to alleviate chronic basement flooding, as well as the requirement that MSD's share of this type of a combined sewer improvement be less than 50% of the total project cost.

The Board reviewed this item at the staff meetings held on September 15 and 22, 2003. A public hearing on the revisions to the MSD Rules and Regulations will be conducted by the Board on October 1, 2003.

Recommended:


Patrick T. Karney, P.E., DEE
Director, MSD

Approved:


Valerie A. Lemmie
City Manager

Reviewed by  and recommended by County Administration.

On motion of Mr. Heimlich, seconded by Mr. Portune, the following resolution was adopted.....



RESOLUTION
CONCLUDING THE PUBLIC HEARING
TO CONSIDER CHANGES TO ARTICLE III OF
THE RULES AND REGULATIONS OF THE METROPOLITAN SEWER DISTRICT
OF GREATER CINCINNATI

WHEREAS, the Board of County Commissioners of Hamilton County, Ohio, on the 1st day of October, 2003, conducted a public hearing to receive and consider comments, remonstrances and objections to proposed modifications to Article III, Section 304 of the Rules and Regulations of the Metropolitan Sewer District of Greater Cincinnati, Hamilton County, Ohio, and the names of persons appearing at said hearing have been entered in the minutes.

NOW, THEREFORE, BE IT RESOLVED that the aforesaid hearing be and the same hereby is concluded, and

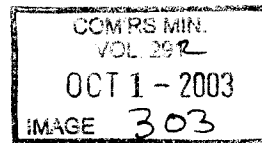
BE IT FURTHER RESOLVED, that this Board of County Commissioners hereby finds and determines that all formal actions relative to the adoption of this Resolution were taken in an open meeting of the Board of County Commissioners and that all deliberations of this Board of County Commissioners and of its committees, if any, which resulted in formal action were taken in meetings open to the public in full compliance with applicable legal requirements, including Section 121.22 of the Ohio Revised Code.

ADOPTED at a regularly adjourned meeting of the Board of County Commissioners of Hamilton County, Ohio, this 1st October, 2003.

Mr. Dowlin NO

Mr. Heimlich AYE

Mr. Portune AYE



Handwritten initials

RESOLUTION

AMENDING THE RULES AND REGULATIONS OF THE METROPOLITAN SEWER DISTRICT OF GREATER CINCINNATI ARTICLE III, SECTION 304

WHEREAS, Section 6117.01 of the Revised Code of Ohio, and Section IV of the 1968 Management Agreement (hereinafter "1968 Agreement") between Hamilton County and the City of Cincinnati for the Metropolitan Sewer District authorize the Board of County Commissioners of Hamilton County, Ohio, to adopt Rules and Regulations for the Metropolitan Sewer District of Greater Cincinnati, and

WHEREAS, the Board of County Commissioners of Hamilton County, Ohio, did, after public hearing, adopt revised Rules and Regulations for the Metropolitan Sewer District on January 24, 2001, and compiled new book

WHEREAS, pursuant to and consistent with Article V, Paragraph 2(b) of the 1968 Agreement the Director of the Metropolitan Sewer District has recommended to the Board proposed modifications to Article III, Section 304 of the Rules and Regulations, and

WHEREAS, the Board did conduct a public hearing to consider public comments on the proposed said modifications to the Rules and Regulations of the Metropolitan Sewer District on October 1, 2003.

NOW, THEREFORE, BE IT RESOLVED, that the Rules and Regulations of the Metropolitan Sewer District are hereby amended to delete the first and last paragraphs of Article III, Section 304, which is attached hereto and by this reference made a part hereof, and

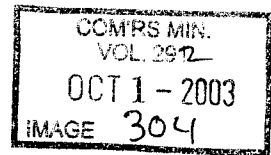
BE IT FURTHER RESOLVED, that this Board of County Commissioners hereby finds and determines that all formal actions relative to the adoption of this Resolution were taken in an open meeting of the Board of County Commissioners and that all deliberations of this Board of County Commissioners and of its committees, if any, which resulted in formal action were taken in meetings open to the public, in full compliance with applicable legal requirements, including Section 121.22 of the Ohio Revised Code.

ADOPTED at a regularly adjourned meeting of the Board of County Commissioners of Hamilton County, Ohio, this 1st day of October, 2003.

Mr. Dowlin NO

Mr. Heimlich AYE

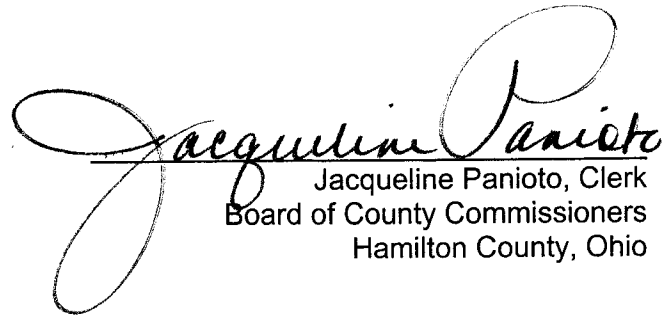
Mr. Portune AYE

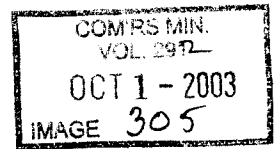


CERTIFICATE OF CLERK

IT IS HEREBY CERTIFIED that the foregoing is a true and correct transcript of resolutions adopted by the Board of County Commissioners in session the 1st day of October, 2003.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of the Office of the Board of County Commissioners of Hamilton County, Ohio, this 1st day of October, 2003.


Jacqueline Panioto, Clerk
Board of County Commissioners
Hamilton County, Ohio



ARTICLE III COMBINED SEWERS

Section 304 Basement Flooding Problems In Areas Served By Combined Sewers

~~The policy of the Board allows for consideration of cost sharing between the Board and a local jurisdiction for improvements made in an area served by a combined sewer system to alleviate chronic basement flooding, as provided below:~~

The Director of the Metropolitan Sewer District shall identify to the Board of County Commissioners each project proposed for the reduction of combined sewer basement flooding, and he shall describe the project scope, its estimated total cost, and his recommendation for apportionment of costs among participating agencies. The Board shall approve in advance of any such project being undertaken.

The Director shall recommend only those projects where he has determined that the combined sewer contributes to chronic basement flooding.

The Director shall determine that the combined sewer does not presently have the capacity to convey the flow from a 10-year, 24-hour storm.

The basement flooding must be localized to a small area.

The improvement must significantly reduce the incidence of basement flooding.

The proposed project shall be the most cost effective alternative for the resolution of the chronic basement flooding problem.

~~The MSD share of the proposed improvement shall be less than 50%.~~