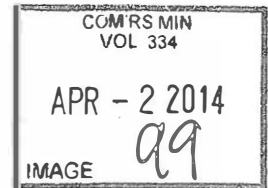


ARTICLE XVIII
MISCELLANEOUS



Section 1805 Policy on Management of Requests for Local Sewer Assessment Projects

- A. General.** It is the policy of the Board of County Commissioners of Hamilton County, Ohio to encourage public sewers and to finance sewer improvements which provide local sewer service by levying special assessments on the properties receiving benefit from a public sewer improvement, as determined by MSD and as provided in Ohio Revised Code (“ORC”) Chapter 6117. Sewer Lateral petitions are included in this policy only if the request for sewer lateral is for a property containing a single-family dwelling and the property utilizes a household sewage treatment system (HSTS) that will be eliminated by construction of the lateral.
- B. Types of Requests.** The Board will categorize requests it receives for local sewer service according to the following classifications:
- 1) **Citizen Petition for Local Sewer.** A petition may be requested by an owner of property within the district if the property has a dwelling or structure that utilizes a household sewage treatment system that would be abandoned as a result of construction of a new local sewer. Requests for petitions shall be in writing.
 - 2) **Petition for Acceptance of Private Sewer.** An owner of a sanitary sewer which is owned, controlled, operated, and/or maintained by a person other than the Board of County Commissioners of Hamilton County (BoCC) through the MSD may petition BoCC to accept dedication of the said sewer for public use, control, operation, and maintenance. See Section 1806 for procedures.
 - 3) **Declaration of Public Health Nuisance.** A Board of Health of a jurisdiction within the MSD may issue a declaration that a public health nuisance exists in a specified location in the sewer district and that the public health nuisance may be remedied by the construction of a sewer improvement.
 - 4) **Order of the Director of the Ohio Environmental Protection Agency (EPA).** Director of the Ohio EPA may issue orders that it is necessary for the public health and welfare that sewer improvements or sewage treatment or disposal works be constructed.
- C. Legislation.**
- 1) For petitions that are supported by property owners representing 100% of the benefited properties, MSD will request property owners to endorse a waiver of process, per Ohio Revised Code, to expedite Board proceedings. Per ORC 6117.28, if the owners of all the lots and lands to be benefited by and to be assessed for a local sewer improvement petition the Board to provide for the construction, maintenance, and operation of any such improvement, consenting that their said lots and lands may be assessed to pay the cost of such improvements, and waive notice and the publication of all resolutions and legal notices, the Board may direct MSD to prepare the necessary plans, specifications, and estimates of cost of construction, and a tentative assessment. When all the owners of all the lots and lands to be benefited by and assessed for the proposed improvements state in writing that they have examined the estimated cost and tentative assessment and that they have no objection thereto, then the Board may proceed to cause such improvements to be constructed and provision to be made for the payment of the cost of construction,

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- maintenance, and operation of the local sewer improvement.
- 2) If the Board decides that a local sewer improvement shall be designed, upon completion of the design MSD will certify final plans, specifications, estimate of cost, and tentative assessments to the Board for its consideration per ORC 6117.06(C).
 - 3) After plans, specifications, estimates of costs and tentative assessments have been accepted by the Board, MSD will notify benefited property owners of tentative assessments and the date of the project's public hearing as per ORC 6117.06(D).
 - 4) MSD will assist the Board in conducting a public hearing on the local public sewer improvement project. The public hearing provides benefited property owners the opportunity to endorse or oppose the local public sewer improvement per ORC 6117.06(E).
 - 5) After the adoption of the tentative assessments and the conclusion of the public hearing, project property owners have five days in which to file any objections per ORC 6117.06(E). MSD will present any objections to the Board for their disposal of the same.
 - 6) MSD will prepare a Resolution to Proceed for the Board's consideration. Objectors who filed objections under ORC 6117.06 will be notified as to this legislation's date of proposed adoption pursuant to ORC 6117.07.
 - 7) MSD or the Board may amend the plans, specifications, estimate and tentative assessments. Any amendments must follow the procedures laid out in ORC 6117.07.
 - 8) The Board, pursuant to ORC 6117.07, will decide whether to proceed with construction of the local public sewer improvement. In making its decision, the Board may consider: whether the sewer improvement is necessary for the preservation and promotion of public health and welfare, any notice of unsanitary conditions or public health hazard from a Board of Health, the cost of the improvement, the boundaries of the assessment district, the tentative apportionment of the district, the recommendations of MSD, and concerns of property owners served by the proposed improvement.
 - 9) Property owners have appeal rights as provided in ORC 6117.09. Appeals must be effected within ten days of the passage of the resolution. Appeals are limited to the following three issues by statute:
 - a. The necessity of the improvement, including the question whether the cost of the improvement will exceed the benefits resulting therefrom;
 - b. The boundaries of the assessment district;
 - c. The tentative apportionment of the assessment.
 - 10) After waiting ten days following the adoption of the Resolution to Proceed, MSD will present resolutions to appropriate funds and advertise and bid the local public sewer improvement pursuant to ORC 6117.08.
 - 11) After the acceptance and use of the local public sewer improvement, MSD will present to the Board legislation to confirm the original or revised tentative assessments and benefits.

D. Procedure for Citizen Petitions for Local Sewer

- 1.) Citizen Petition. MSD will mail sewer petitions to those property owners who request a petition for the planning and design of a sewer improvement. Petitions will include the following items as a minimum:
 - i) Description of the assessment area as determined by MSD.
 - ii) Names and addresses of properties to be served by the proposed local sewer.
 - iii) A signature line and "vote" checkboxes for indicating support for or opposition of the sewer project.

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- iv) A statement that it is Board policy that the actual cost to the property owner will not exceed \$12,000 for the public improvement.
 - v) A statement that costs associated with “private-side” improvements, i.e., connection to the public sewer and abandonment of the existing household sewage treatment system, are not a part of the local public sewer improvement costs.
 - vi) A statement that it is incumbent upon the petitioner to circulate the petition.
 - vii) A statement describing the purpose and benefit of the proposed public improvement.
- 2.) MSD Polling. When a petitioner submits a petition with absolute majority support for the planning and design of a sewer improvement, MSD will poll all project area property owners inquiring as to their support or opposition. The polling will be distributed by MSD and will inform all property owners of a potential local public sewer improvement and afford comment to all. The polling letter will contain the following statements:
- i. It is Board policy that the actual cost to the property owner will not exceed \$12,000 for the public improvement.
 - ii. Costs associated with “private-side” improvements, i.e., connection to the public sewer and abandonment of the existing household sewage treatment system, are not a part of the local public sewer improvement costs.
- 3.) Submittals to Board.
- i. MSD will present all petition and polling results to the Board for its record.
 - ii. MSD will request project funding based upon the establishment of absolute majority support.
 - iii. Should an outfall sewer not exist, MSD will present options to the Board for provision of trunk sewers.
 - iv. MSD will present declarations of public health nuisance received from a Board of Health within Hamilton County, or Orders received from the Ohio EPA to the County Commissioners for review, along with the data available from the Board of Health and/or the Ohio EPA.
 - v. For projects involving declaration of public health nuisance or Ohio EPA orders, MSD will do the following:
 - (a) request the Board of Health to conduct a public informational meeting concerning the nuisance for the residents of the identified area;
 - (b) forego any petition or polling efforts unless directed otherwise by the Board.
- 4.) Actions by the Board on Citizen Petitions after Submittals.
- i) The Board will enter into its official record all citizen petitions received for a local public sewer improvement. Returned petitions that are not supported by property owners representing an absolute majority of properties are not valid under Board policy.
 - ii) The Board will decide whether a local public sewer improvement shall be designed upon receipt of a written petition, initiated by a citizen or citizens of Hamilton County, to provide local sewer service to property within the MSD service area and jurisdiction. The petition will request the construction, operation and maintenance of a local public sewer improvement. In making its decision, the Board may consider one or more of the following factors as significant:
 - (a) Level of Interest: It is the policy of the Board of County Commissioners that to be considered as valid, a citizen petition for the planning and

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design of a sewer improvement shall have affirmative endorsement from property owners representing an absolute majority of the properties that benefit from the local public sewer improvement as determined per Section 1805 (H);

- (b) Whether or not a public sewer outfall presently exists to serve the local public sewer improvement project;
 - (c) The necessity of the improvement, including the question whether the cost of the improvement will exceed the benefits resulting therefrom;
 - (d) The boundaries of the assessment district;
 - (e) The tentative apportionment of the assessment.
- iii) If the Board determines that a sewer improvement shall not be designed, it will direct MSD to dismiss the petition and it will notify the Board of Health of its decision.
 - iv) If the Board decides that a local public sewer improvement shall be designed based upon the level of interest, or if the Board decides a local public sewer improvement is necessary for the preservation and promotion of public health and welfare, or if the Board decides a local public sewer improvement is necessary as a result of a Notice of Public Health Nuisance from a local Board of Health, it will direct MSD to prepare plans, specifications, estimate of cost, and tentative assessments for a local public sewer improvement which serves the properties on the petition or the specified location to remedy the public health nuisance.
 - v) Pursuant to ORC 6117.34, if the Board receives notice from the director of the Ohio EPA that it is necessary for the public health and welfare that sewer improvements or sewage treatment or disposal works be constructed, the Board shall obey such order and proceed to construct such sewers or treatment works, or maintain, repair, or operate the same, as are required by such order and in such manner as is satisfactory to the Director.

E. Notification of Tentative Assessment. MSD will provide to property owners in an assessment district notice of the maximum assessment cost of \$12,000 for a proposed local public sewer improvement. Actual costs and final credit amount are based on construction costs. MSD will provide this information during the following points in the assessment project process:

- 1.) With the petition.
- 2.) With the "polling" of all property owners in a proposed assessment district.
- 3.) With the notice of tentative assessments included in the announcement of the public hearing required by statute.

F. Determination of Benefited Properties. All properties, regardless of type and size, that abut and are specially benefited by the local public sewer improvement, will be allocated one benefit. MSD will assign benefits according to the following criteria:

- 1.) MSD will assess all buildable parcels, regardless of type and size, as 1 benefit per parcel. MSD will apply this policy whether the parcel is a single-family residence, a school, an industrial-use development or undeveloped property.
- 2.) MSD will assess a vacant parcel that is buildable, regardless of type and size, in the local public sewer improvement project area as 1 benefit, except as provided below:
 - i) Vacant parcels that have been placed in a land conservation easement, duly recorded with the Hamilton County Recorder before the date the Board adopts the resolution to proceed for the local public sewer improvement, will receive zero benefit.

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- ii) The Board will determine if a vacant parcel **not** placed in a land conservation easement is buildable and to be included in a sewer assessment district.
- 3.) MSD will report to the Board how it has determined and assigned benefits for each local public sewer improvement, subject to the Board's approval.
- 4.) The Board will confirm benefits after a local public sewer improvement is complete and accepted for use.
- 5.) Subject to the provisions of Chapter 6117 ORC, the Board's determination of benefits shall be final.
- 6.) MSD will report benefits determination to the Board at the time of the local public sewer improvement project's public hearing. Benefits so determined are subject to the provisions of §6117.09 ORC regarding objection and legal challenge. (Properties included in the assessment district as the result of an executed petition, statement and waiver are not subject to provisions of §6117.09 ORC regarding objection and legal challenge.)

G. Financing of Local Public Sewer Improvements. All costs of a local public sewer improvement shall be reported to the Board by MSD. The cost of the aforesaid local public sewer improvement, per Chapter 6117 ORC, shall be paid in part by Special Assessments against the property or properties abutting on and specially benefited by the local public sewer improvement. It is the policy of the Board to structure the financing of local public sewer improvements in the following manner:

- 1.) The total cost of said special assessment shall be the actual cost of the local public sewer improvement.
- 2.) Actual costs are those defined under ORC Chapter 6117, et. seq.
- 3.) Total actual cost shall be divided by the number of benefited properties to determine the per-benefit cost.
- 4.) MSD shall apply all applicable assessment credits, per Section 1216, to the total actual per-benefit cost.
- 5.) Actual costs per benefited property shall apply only to parcels benefited by the local public sewer improvement.
- 6.) Benefited parcels are determined under Section 1805 (H).
- 7.) MSD shall apprise property owners of their ability to apply to the Board for individual Community Block Development Grant (CDBG) funding. MSD shall apprise the political jurisdiction in which the local public sewer improvement is located of their ability to apply to the Hamilton County Department of Community Development for CDBG funding. The use and award of such funding is subject to the rules and regulations associated with it. The Board will endeavor to secure such CDBG funding where available and applicable.

H. Deferred Assessments. Under ORC 6117.061, the Board of County Commissioners may defer collection of up to 75% of the principal amount of a local public sewer improvement assessment for up to 20 years.

- 1.) It is the policy of the Board that the ability of a property owner to place the assessed cost of the local public sewer improvement on the property tax duplicate, over 20 years, constitutes, *de-facto*, a deferment under this chapter of the Revised Code.
- 2.) Per ORC 6117.061, the decision of the Board in this matter is final and no appeal thereof may be taken.
- 3.) MSD will report to the Board on all deferment requests received and request the Board to dispose of the same as a part of the project legislation. Decisions of the Board are final, with no avenue of judicial appeal.



I. **Pump Station Capacity.** It is the policy of the Board of County Commissioners of Hamilton County, Ohio that when an existing pump station requires an upgrade to accommodate the additional flows associated with a local public sewer improvement, the costs for said upgrade should be incorporated into the local sewer public improvement's actual costs, consistent with Sections 1805 (H)-(I). The distribution of those costs among the specially benefited properties shall also follow the provisions of Section 1805 (I), above.

J. **Definitions.**

- 1.) **Absolute Majority:** Voting basis for petitions, whether at the signature stage or polling stage, that requires more than half of *all* the benefited properties within the assessment district (including those not voting) to vote in support of the petition in order for the petition to be considered valid. In practical terms, abstention from voting is equivalent to a *no* vote
- 2.) **Assessment or Special Assessment:** The amount of actual cost assessed against a property benefited by a local public sewer improvement.
- 3.) **Assessment District:** The area consisting of properties benefited from a local public sewer improvement as determined by MSD.
- 4.) **Benefited Property:** A property within the MSD service area that abuts or is adjacent to a local public sewer improvement and will receive sewer service from said public improvement, whether directly connected to the local sewer at the time of the improvement's completion or not.
- 5.) **Buildable Parcel:** A benefited property within the MSD service area that does not have a structure on it at the time the Board of County Commissioners adopt tentative assessments for a local sewer assessment project, but can be developed under existing zoning regulations.
- 6.) **Land Conservation Easement:** An easement recorded to a buildable parcel that governs that parcel's development and use.
- 7.) **Local Public Sewer Improvement or Local Sewer Assessment Project:** A public sewer improvement designed and constructed to serve a specified number of benefited properties in an assessment district within the MSD service area. Costs are borne, in part, by the benefited properties.
- 8.) **MSD Service Area:** Hamilton County Sewer District No. 1.
- 9.) **Household Sewage Treatment System:** The household wastewater disposal system used to serve a property not connected to the MSD service area public sewers.
- 10.) **Net Assessment Amount:** The net assessment amount is the total project cost of the local sewer project divided by the number of benefited parcels within the local sewer project, less the amount of all assessment credits applicable to the particular parcel.
- 11.) **Petition:** A form, containing the names, addresses, parcel identifications, signatures, and per parcel vote of benefited properties of a local sewer assessment project.
- 12.) **Public Sewer Improvement:** A sewer constructed, operated, and maintained by the Board of County Commissioners of Hamilton County Ohio within the service area of the Metropolitan Sewer District of Greater Cincinnati (Sewer District No. 1) under the provisions of Chapter 6117 of the Revised Code of Ohio.
- 13.) **Tentative Assessment:** The estimated amount of cost anticipated to be assessed against a property benefited by a local public sewer improvement.
- 14.) **Vacant Parcel:** A benefited property within the MSD service area that does not have a structure on it at the time the Board of County Commissioners adopt tentative assessments for a local sewer assessment project.