

VILLAGE OF ASHVILLE  
UTILITIES COMMITTEE MEETING  
APRIL 12, 2010

Glenn Cook called the meeting to order at 8:55 PM. Answering roll call was Keith Moore. Brian Garvine was excused. Also present were Dave Ballard, Mayor Wise, Brian Stewart and Franklin Christman.

PRESENTATION - None

UNFINISHED - None

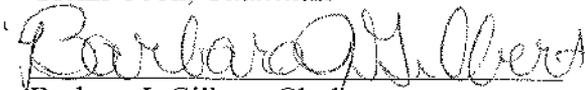
NEW BUSINESS:

1. Request for compensation of repairs @ 24 West Station Street – After careful consideration and background of the work completed Keith Moore moved, seconded by Glenn Cook, not to reimburse the landlord for repairs. All votes were yea.

At 9:08 PM Glenn Cook adjourned the meeting.

ACCEPTED AND ATTESTED

  
\_\_\_\_\_  
Glenn Cook, Chairman

  
\_\_\_\_\_  
Barbara J. Gilbert, Clerk

VILLAGE OF ASHVILLE  
UTILITIES COMMITTEE MEETING  
MAY 25, 2010

Glenn Cook called the meeting to order at 6:37 PM with the Pledge of Alliance. Answering roll call was Brian Garvine. Keith Moore was excused. Also present were Nelson Embrey, Brian Stewart, Chris Tebbe, John Albers and Franklin Christman.

PRESENTATION – None

Glenn Cook moved, seconded by Brian Garvine, to approve the May 17, 2010 minutes as presented. All votes were yea.

UNFINISHED - None

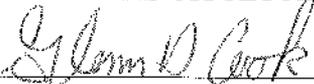
NEW BUSINESS:

1. EPA Report/Expansion of the Wastewater Plant – John Albers from Albers and Albers highlighted what a regional water and sewer district was and how it would be established. The process takes approximately fifty-five days from the date of filing the petition with the court. A 6119 district makes the area stronger and reduces cost. Brian Garvine stated that a 6119 district seemed beneficial to all parties. Glenn Cook would like to see the district include water, sewer and storm water. Brian Garvine moved, seconded by Glenn Cook, to recommend to council the authorization for the Village Administrator to contact the CEDA/Northgate Alliance entity concerning the possibility of the formation of a 6119 regional district. All votes were yea.

2. Statement of Qualifications and Letters of Interest – Franklin Christman stated that Chris Tebbe, Jim Welsh and he had reviewed the 12 firms' Statement of Qualifications and Letter of Interest regarding the Wastewater Treatment Plant Expansion Project and would like to have permission for the top five companies to update their information. After update completion council would then have the opportunity to interview key personnel from the top five companies before selecting an engineering firm. Brian Garvine moved, seconded by Glenn Cook, to recommend to council to have the short list companies [ie URS, DLZ, Poggemeyer, Gannett Fleming and ADR] update their Statement of Qualifications and Letters of Interest and to be interviewed by council as engineering consultants for water and sewer. All votes were yea.

At 7:44 PM Glenn Cook adjourned the meeting.

ACCEPTED AND ATTESTED

  
\_\_\_\_\_

Glenn Cook, Chairman

  
\_\_\_\_\_

Barbara J. Gilbert, Clerk



# District Formation Services

*Over 30 regional water and sewer districts formed*

*Founders of Coalition of Ohio Regional Districts (CORD), an association of regional districts*

*Ongoing representation of multiple regional districts, counties, municipalities and townships*

*Practice devoted to water and sewer development issues*

*Big firm expertise*

*Small firm rates*

## ALBERS AND ALBERS

88 North Fifth Street  
Columbus, Ohio 43215

[www.alberslaw.com](http://www.alberslaw.com)

Phone: 614-464-4414

Fax: 614-464-0604

[John.Albers@Alberslaw.com](mailto:John.Albers@Alberslaw.com)

[Eric.Luckage@Alberslaw.com](mailto:Eric.Luckage@Alberslaw.com)

[Anita.Doran@Alberslaw.com](mailto:Anita.Doran@Alberslaw.com)

Among the legal services we provide with respect to the formation of Districts:

- ◆ Preparation of all pleadings and other documents including the Resolution to Establish the District, the Petition, the Entry of the Presiding Judge appointing the Sitting Judge, the Entry approving the Petition as to Form and Content and setting the time for the final hearing and ordering service of process, and any necessary redraft of these pleadings;
- ◆ Completing certified mail service to the Director of the EPA;
- ◆ Notice to residents and public meeting(s);
- ◆ Completing service of process by publication;
- ◆ Miscellaneous correspondence with clients, as necessary;
- ◆ Miscellaneous meetings with clients, as necessary;
- ◆ Review of records at the Ohio Department of Natural Resources;
- ◆ Review of records at Ohio EPA;
- ◆ Review of records at County Sanitary Engineer's Office and County Health Department, all as may be necessary;
- ◆ Such meeting as may be necessary with the presiding judge;
- ◆ Such meeting as may be necessary with representatives of opposing political entities;
- ◆ Compilation of materials for legal briefs; preparation of legal briefs;
- ◆ Preparation of supplemental legal briefs;
- ◆ Preparation of evidence for presentation at Court; correspondence and meeting with District Engineers, as may be necessary;
- ◆ Preparation of the Entry Establishing the District;
- ◆ Review of drafts and redrafts of Plan of Operation;
- ◆ Review of any other information presented by client relevant to establishment of District or plan;
- ◆ Preparation of Expert Witnesses for Court trial;
- ◆ Preparation for trial including preparation of opening statement, direct examination, cross examination, closing statement, trial briefs, and other items as may be necessary;
- ◆ Preparation of Affidavits and Letters of Support.

# Attorney Profiles

*Over 40 regional water and sewer districts formed*

*Founders of Coalition of Ohio Regional Districts (CORD), an association of regional districts*

*Ongoing representation of multiple regional districts, counties, municipalities and townships*

*Practice devoted to development-related areas including water and sewer, JEDDs, township home rule and intergovernmental agreements*

## ALBERS AND ALBERS

88 North Fifth Street  
Columbus, Ohio 43215

[www.alberslaw.com](http://www.alberslaw.com)

Phone: 614-464-4414

Fax: 614-464-0604

[John.Albers@Alberslaw.com](mailto:John.Albers@Alberslaw.com)

[Eric.Luckage@Alberslaw.com](mailto:Eric.Luckage@Alberslaw.com)

[Anita.Doran@Alberslaw.com](mailto:Anita.Doran@Alberslaw.com)

### **John B. Albers, II:**

John Albers attended Wake Forest University for his undergraduate studies, where he graduated Cum Laude with honors in history. John received his law degree from The Ohio State University College of Law in 1982. He has been practicing in the area of local government law for approximately 28 years, and his practice is substantially devoted to representing local governments and individuals with a variety of development-related issues, including water and sewer issues, annexations, JEDD's, CEDA's, and zoning. He is also one of the co-authors of the Township Home Rule Handbook. John frequently speaks and writes articles on various topics for the Ohio Township Association, the Ohio Rural Water Association, and the Ohio State Bar Association. He is also one of the founders of the Coalition of Ohio Regional Districts, CORD, an association of regional water and sewer districts. He has also been active in the enactment and modification of proposed legislation affecting water and sewer issues, annexation, and other issues.

### **Eric J. Luckage:**

Eric Luckage attended The Ohio State University for his undergraduate studies in History and Political Science. He received his law degree from Capital University Law School in Columbus, Ohio in 1997. He has been with Albers and Albers since 2000, and his practice is substantially devoted to representing local governments and individuals with a variety of development-related issues, including water and sewer issues, annexations, JEDD's, CEDA's, and zoning. He is also one of the co-authors of the Township Home Rule Handbook. While attending law school in the evenings, Eric worked as a Legislative Aide in the Ohio Senate and has extensive experience in the General Assembly's legislative process and most aspects of state and local government. He also worked for five years at the U.S. Department of Agriculture's Rural Development office, one of the major funding agencies for water and sewer projects. He is also one of the founders of the Coalition of Ohio Regional Districts, CORD, an association of regional water and sewer districts, and testifies before the General Assembly on behalf of CORD. Eric is a member of the Ohio State Bar Association.

### **Anita T. Doran:**

Anita Doran attended Miami University for her undergraduate studies in History and Political Science. She received her law degree from the University of Cincinnati in 1987. She worked for ten years with the Defense Supply Center Columbus, specializing in the investigation and prosecution of government contract fraud and serving as a Special Assistant United States Attorney. Anita has been with Albers and Albers since 2008, and has assisted in the formation of water and sewer districts, as well as represented local governments regarding a variety of development-related issues. She is a member of the Ohio Bar and the U.S. District Court for the Southern District of Ohio.

CHAPTER 6119  
REGIONAL WATER AND SEWER DISTRICTS

Check List

- Supply water and waste water inside and outside district 6119.01
- Public meeting by signers (municipal corporation, counties, & townships) before filing petition, receiving comments on the proposed district. At the meeting, a representative of the signer or signers of the petition shall present a preliminary study of the reasons for the proposed establishment of the district.
  - Signer or signers of petition provide written notice, U.S. Mail. Failure to notify an elector does not invalidate any proceeding before a court under this chapter.
- Legislative authorization of petition
- Filing a signed petition in office of the clerk of common please.
  - Petition contains.
    - Name of the district;
    - Place in which its principal office is to be located;
    - Contain information on the public health, safety, convenience, or welfare;
    - A general description of the purpose of the proposed district;
    - Description of the territory
    - Board of Trustees:
      - selection process,
      - the number,
      - the term,
      - compensation of the members of the governing body.
      - procedures for subsequent changes in the composition of and other provisions relating to the board of trustees.
  - The plan for financing the cost of the operations of the district until it is in receipt of revenue from its operations or proceeds from the sale of bonds;
  - A prayer for the organization of the district by the name proposed, either before or after a preliminary hearing as provided in section 6119.04 of the Revised Code.

Board of Trustee Checklist:

- Vested authority in board manage & conduct affairs of district
- The board shall by its rules and resolutions provide the procedure for its actions,
  - Election of a president, a secretary and other officers
  - Titles, term of office, compensation, duties, number, & qualifications
- Other lawful subject necessary to the operation of the district and the exercise of the powers granted.
- Removal of member of board of trustees. misfeasance, nonfeasance, or malfeasance in office. Prior to removing a member, the appointing authority shall notify the member of the facts supporting the proposed removal and shall provide the member an opportunity to appear before the appointing authority or at a public hearing held by the appointing authority and show cause why the member should not be removed from office. A member of a board of trustees who has been removed pursuant to this section may appeal the removal not later than thirty days after the removal

Rights, powers, and duties Checklist

- Adopt bylaws for regulation of affairs, conduct of business, & notice of actions
- Adopt an official seal;
- Maintain a principal office & sub-offices at such places within district as it designates;
- Sue and plead in its own name; be sued and impleaded in its own name with respect to its contracts or torts of its members, employees, or agents acting within the scope of their employment, or to enforce its obligations and covenants
- Assume any liability or obligation of any person or political subdivision, including a right on the part of such district to indemnify and save harmless the other contracting party from any loss, cost, or liability by reason of the failure, refusal, neglect, or omission of such district to perform any agreement assumed by it or to act or discharge any such obligation;
- Make loans and grants to political subdivisions for the acquisition or construction of water resource projects by such political subdivisions and adopt rules, regulations, and procedures for making such loans and grants;
- Acquire, construct, reconstruct, enlarge, improve, furnish, equip, maintain, repair, operate, lease or rent to or from, or contract for operation by or for, a political subdivision or person, water resource projects within or without the district;
- Make available the use or service of any water resource project to one or more persons, one or more political subdivisions, or any combination thereof;
- Levy and collect taxes and special assessments;
- Issue bonds and notes and refunding bonds and notes;
- Acquire by gift or purchase, hold, and dispose of real and personal property in the exercise of its powers and the performance of its duties;

- Dispose of, by public or private sale, or lease any real or personal property determined by the board of trustees to be no longer necessary or needed for the operation or purposes of the district;
- Acquire, in the name of the district, by purchase or otherwise, on such terms and in such manner as it considers proper, or by the exercise of the right of condemnation in the manner provided by section 6119.11 of the Revised Code, such public or private lands, including public parks, playgrounds, or reservations, or parts thereof or rights therein, rights-of-way, property, rights, easements, and interests as it considers necessary for carrying out Chapter 6119, of the Revised Code, but excluding the acquisition by the exercise of the right of condemnation of any waste water facility or water management facility owned by any person or political subdivision, and compensation shall be paid for public or private lands so taken;
- Adopt rules and regulations to protect augmented flow by the district in waters of the state, to the extent augmented by a water resource project, from depletion so it will be available for beneficial use, to provide standards for the withdrawal from waters of the state of the augmented flow created by a water resource project which is not returned to the waters of the state so augmented, and to establish reasonable charges therefor, if considered necessary by the district;
- Make and enter into all contracts and agreements and execute all instruments necessary or incidental to the performance of its duties and the execution of its powers;
- Enter into contracts with any person or any political subdivision to render services to such contracting party for any service the district is authorized to provide;
- Make provision for, contract for, or sell any of its by-products or waste;
- Exercise the power of eminent domain in the manner provided;
- Remove or change the location of any fence, building, railroad, canal, or other structure or improvement located in or out of the district, and in case it is not feasible or economical to move any such building, structure, or improvement situated in or upon lands required, and if the cost is determined by the board to be less than that of purchase or condemnation, to acquire land and construct, acquire, or install therein or thereon buildings, structures, or improvements similar in purpose, to be exchanged for such buildings, structures, or improvements under contracts entered into between the owner thereof and the district;
- Receive and accept, from any federal or state agency, grants for or in aid of the construction of any water resource project, and receive and accept aid or contributions from any source of money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions are made;
- Purchase fire and extended coverage and liability insurance for any water resource project and for the principal office and sub-offices of the district, insurance protecting the district and its officers and employees against liability for damage to property or injury to or death of persons arising from its operations, and any other insurance the district may agree to provide under any resolution authorizing its water resource revenue bonds or in any trust agreement securing the same;
- Charge, alter, and collect rentals and other charges for the use of services of any water resource project as provided in section 6119.09 of the Revised Code. Such district may refuse the services of any of its projects if any of such rentals or other charges, including penalties for late payment, are not paid by the user thereof, and, if such rentals or other

charges are not paid when due and upon certification of nonpayment to the county auditor, such rentals or other charges constitute a lien upon the property so served, shall be placed by him upon the real property tax list and duplicate, and shall be collected in the same manner as other taxes;

- Provide coverage for its employees under Chapters 145, 4123, and 4141;
  - Merge or combine with any other regional water and sewer district into a single district, which shall be one of the constituent districts, on terms so that the surviving district shall be possessed of all rights, capacity, privileges, powers, franchises, and authority of the constituent districts and shall be subject to all the liabilities, obligations, and duties of each of the constituent districts and all rights of creditors of such constituent districts shall be preserved unimpaired, limited in lien to the property affected by such liens immediately prior to the time of the merger and all debts, liabilities, and duties of the respective constituent districts shall thereafter attach to the surviving district and may be enforced against it, and such other terms as are agreed upon, provided two-thirds of the members of each of the boards consent to such merger or combination. Such merger or combination shall become legally effective unless, prior to the ninetieth day following the later of the consents, qualified electors residing in either district equal in number to a majority of the qualified electors voting at the last general election in such district file with the secretary of the board of trustees of their regional water and sewer district a petition of remonstrance against such merger or combination. The secretary shall cause the board of elections of the proper county or counties to check the sufficiency of the signatures on such petition;
  - Exercise the powers of the district without obtaining the consent of any other political subdivision, provided that all public or private property damaged or destroyed in carrying out the powers of the district shall be restored or repaired and placed in its original condition as nearly as practicable or adequate compensation made therefor by the district;
  - Require the owner of any premises located within the district to connect his premises to a water resource project determined to be accessible to such premises and found to require such connection so as to prevent or abate pollution or protect the health and property of persons in the district. Such connection shall be made in accordance with procedures established by the board of trustees of such district and pursuant to such orders as the board may find necessary to ensure and enforce compliance with such procedures;
  - Do all acts necessary or proper to carry out the powers granted in Chapter 6119.
- Judge of the court of common pleas shall determine if the petition complies with the requirements. No petition shall be declared void by the judge on account of alleged defects. The court may permit the petition to be amended in form and substance to conform to the facts by correcting any errors in the description of the territory or in any other particular.

## **Water, Sewer and Storm Sewer Districts Ohio Township News, March/April 2002**

### **Water, Sewer and Storm Sewer Districts, Revisited**

by John B. Albers, Esquire  
Albers & Albers  
Attorneys-at-Law

#### **Formation Of Districts**

A regional water, sewer or storm sewer district is an independent political subdivision of the State of Ohio. It is not a subdivision of the township or the county. Additionally, the finances of the district, once established, are completely independent of the township.

Townships, counties or municipalities can establish regional districts for purposes of providing central potable water services, central sanitary sewer services and for storm water management purposes. (More about that later). A district can be established for a portion of a township or county or municipality, for the entire township or county or municipality, or for any combination of territory in several political subdivisions.

Typically, the first step to establish a district is for the governing body of the political subdivision (township, county, municipality) forming the district to obtain professional legal and engineering services. For my clients, I usually advise that they obtain a preliminary feasibility report from an engineering firm to determine the economic feasibility of establishing a district within the territory in question. This preliminary feasibility report is a simple document which reviews the territory in question to determine whether services can be provided economically to the customer within the proposed district and the approximate costs of providing such services. If this report is favorable, the political subdivision(s) forming the district can take the next step, which is to have a public meeting regarding the proposed establishment of a district. Electors residing within the proposed district must be notified by regular U.S. mail of this meeting. At the meeting a study of reasons for the proposed establishment of the district is presented for discussion. After the meeting is concluded, the township, county, municipality, etc. is free to file a petition to establish the district in the court of common pleas of the county where the district is to be located.

After the petition is filed, a Plan for the Operation of the district must be filed. The Plan is typically prepared by an engineering firm; it establishes how the district intends to provide central water and/or sanitary sewer services and/or storm sewer management services to the residents of the district. The Plan also contains estimates of costs for providing such services and providing for alternatives, including the possible purchase of services from neighboring service providers as well as possible construction by the district of its own facilities. Thereafter, the court of common pleas holds a hearing on the establishment of the district at which anyone "affected by the organization of the district" may object to the formation or the Plan of Operation. Over the years, I have seen objections by neighboring municipalities, counties, residents of the proposed district, the Ohio EPA and many others. The courts have almost uniformly viewed such objections with skepticism. They recognize when objections are made by self-serving entities who, after all, only seek to advance their own interests.

After disposing of objections, if it appears that the proposed district is necessary and conducive to the public health, safety, convenience and welfare, and that the Plan is economical, feasible, fair and reasonable, the court may enter a final finding and order declaring the district to be organized and established as a political subdivision of the State of Ohio.

In Yellow

This is why, if Earnhart Hill ever filed to provide services south of Duval Road, they are not likely to be stopped.

## **Storm Sewer Districts**

An emerging area of concern to local governments, including townships, is the 1972 Clean Water Act/NPDES Phase II Storm Water Regulations. That federal law is administered by the Ohio Environmental Protection Agency which is developing and enforcing regulations related to storm water runoff. Townships which own or maintain roadways, catch basins, curbs, gutters, ditches or storm drains may qualify as having a "municipal separate storm sewer system" under 40 CFR 122.26(b)8. Townships which operate such systems may be regulated by the Ohio EPA and can be required to comply with the regulations for such systems. Such regulations include notice to EPA by March 10, 2003, and preparation of a storm water management plan. Storm water runoff is water that flows over land from rainfall or storm melts, often causing flooding, erosion and pollution problems. It includes water from storm drains and natural drainage courses, serving industrial, commercial, residential, undeveloped, recreational and agricultural lands. It is considered by the EPA to be a leading cause of water pollution to our rivers and streams.

Townships have traditionally provided limited storm sewer services within their jurisdictions, including ditch cleaning, storm sewer repair, emergency storm water pumping, etc. To pay for such maintenance activities, townships must rely on general revenues, and in some cases, moneys received from gas tax and license plate fees.

By contrast, if a township establishes a storm sewer district, such district can perform the full range of construction and maintenance activities required for those facilities, including EPA compliance, the construction of all storm sewer improvements, catch basin cleaning, ditch maintenance and upgrade, log jam and debris removal, pollution prevention, water quality maintenance, planning and public education, etc. The district can also implement storm water management plans and standards, and enforce those standards. Further, the district can levy assessments against benefitted landowners for the construction of such facilities, and can levy user charges on properties benefitted by such construction or maintenance. Finally, the district can hire its own employees to perform such construction, maintenance and enforcement activities. With respect to financing, a storm sewer district has independent means of funding such facilities including loans from the Ohio Water Development Authority (OWDA) for the planning and construction of such projects, developer financing and payment for such projects, use of tax increment financing (TIFs) as well as the full range of grant and low interest loans, including the Ohio Public Works Commission (OPWC) (Issue II Funds), the Ohio Department of Development, the Ohio Environmental Protection Agency and the United States Department of Agriculture, Rural Development.

## **Powers, Duties Upon Formation**

Once established, districts have very broad authority and power to provide central water and/or sanitary sewer, and/or storm sewer management services, and the district is not regulated by the Public Utilities Commission of Ohio. Districts may enter into agreements with other service providers and political subdivisions; acquire property by eminent domain, if necessary; issue bonds and notes to finance projects of the district; borrow planning and construction monies from the OWDA; levy taxes and property assessments; adopt rules and regulations to protect projects of the district; etc. Basically, districts have the same authority that municipalities and counties have to construct central water, sewer and storm sewer facilities, or purchase such services from others. Districts even have authority to sell services outside their district boundaries.

## **Financing Of District Planning And Construction Projects**

Districts have several means of financing their activities. They can, for example, borrow funds from the OWDA, an agency of the State of Ohio, for planning purposes. Such loans can be used for any number of items, for example hydrogeological testing to locate water well sites and to drill test wells; options to purchase real estate; the engineering design of facilities; professional legal and accounting services; survey work; payment for employees of the district, etc. They can also be used to reimburse townships, counties or municipalities for costs advanced to establish the district. OWDA planning loans need not be repaid for a five-year period, and are a line of credit. For start-up districts, the OWDA may require the district to levy a planning assessment in order to receive an OWDA planning loan.

When it comes to constructing facilities, there are many financing options available for districts. Districts may issue bonds and notes, and may borrow funds from the OWDA, the USDA Rural Development (formerly the Farmer's Home Administration), and other governmental agencies. Also, OPWC Issue II low-interest loans and grant funds are often available for district projects; federal Community Development Block Grant Funds (CDBG) are sometimes available for low and moderate income areas. Typically, districts finance their improvements with assessments of benefitted landowners, and often enter into tap agreements with developers. At least one district, the Carroll Water & Sewer District in Carroll Township, Ottawa County, financed a township-wide water project through a voted tax levy.

### **Annexation: The Effect of Regional Districts**

Many people view Districts solely as tools to hinder annexation. It is no secret that regional districts, since they provide necessary services, discourage annexation.

However, the fact is, that the prohibition of annexation is not a legitimate reason for the formation of a Regional District. Districts may only be formed if it is necessary and conducive to the public health, safety, convenience, and welfare of the community served. In other words, the District typically must be correcting a problem unaddressed by other entities. Who could fault political leaders who take the initiative to abate pollution or bring potable water to a community in need?

Municipalities, counties, and Regional Districts are all political subdivisions able to provide water and sewer services. Each entity wishes to provide for its citizens. If one entity provides a service when no other entity was willing or able to provide that service in that community, then the District spells good news for the beneficiaries. And, since Ohio law does not grant exclusive rights to provide these services, community leaders who take initiative and solve problems should be applauded, not accused of political maneuvering to somehow stop annexation.

### **Cost to Establish a District**

The cost to establish a district depends upon your situation. Smaller districts providing fewer services to fewer customers will be less expensive to establish than larger districts servicing a larger number of customers. You can expect to spend in the neighborhood of \$10,000 to \$50,000, sometimes more, to establish a district. This sum includes legal, engineering, surveying, hydrogeological engineering and other professional services which may be required.

### **The Future of Regional Water and Sewer Districts**

The future of regional water, sewer and storm sewer districts looks bright. Many districts have been established, providing much needed services to previously ignored areas.

Nevertheless, as the demographics of Ohio change and as the population within townships increases, it can be expected that water and sewer districts will play an ever increasingly important role in providing needed water, sewer and storm sewer services.

*John B. Albers is an attorney with the law firm of Albers & Albers in Columbus, Ohio, where he focuses his practice on local government law. Mr. Albers has lectured for the Ohio Township Association, the Ohio State Bar Association, and the Ohio Rural Water Association on water, sewer, and storm sewer districts. He is a graduate of Wake Forest University and received his law degree in 1982 from The Ohio State University College of Law. He has assisted in the establishment of approximately 35 regional districts in Ohio.*

## **Formation of Regional Water and Sewer Districts**

### **FORMATION OF REGIONAL WATER AND SEWER DISTRICTS**

#### **1. What is a Regional Water and Sewer District?**

A regional water and sewer district is an independent political subdivision of the State of Ohio established under Ohio Revised Code Chapter 6119 to provide water and/or sewer services to users of the District.

#### **2. Who Can Establish a District?**

The following political subdivisions or combination of political subdivisions of the State of Ohio, including one or more Townships, Counties, Villages, and Cities, can petition the Court to establish a District.

#### **3. Why Are Regional Water and Sewer Districts Established?**

- To provide needed central sanitary sewer and/or water services to residents of the District.
- To provide for administration of water and waste water facilities by a single public entity instead of by several public entities or privately owned companies or associations.
- To prevent and abate pollution and protect the environment and natural resources located within the District
- To promote and encourage economic growth, population growth and the overall quality of life in the District.
- To promote fire protection and decreased insurance rates.
- Additional benefits: increased property values where central services are provided; lower cost of services to individual users; promote and encourage local government.

#### **4. How is a Regional Water and Sewer District Established?**

- A legal analysis and preliminary feasibility study is prepared to determine the feasibility of establishing the District. (Optional).
- The petitioning political subdivision(s) adopt a resolution authorizing the filing of a Petition in the County Court of Common Pleas.
- The political subdivision (s) approve a Petition to be filed in the Court of Common Pleas. The Petition must state the following:
  - The proposed name of the district;

- The place in which its principal office is to be located;
  - The necessity for the proposed district and that it will be conducive to the public health, safety, convenience, or welfare;
  - A general description of the purpose of the proposed district (central water services, waste water services, storm sewer services, or any combination of the three);
  - A general description of the territory to be included in the district. This does not have to be given by metes and bounds or by legal subdivisions, but it is sufficient if an accurate description is given of the territory to be organized as a district. The territory of the district does not have to be contiguous, provided it is so situated that the public health, safety, convenience, or welfare will be promoted by the organization as a single district of the territory described;
  - The manner of selection, the number, the term, and the compensation of the members of the governing body of the district, which body shall be called a board of trustees. Such petition may set forth procedures for subsequent changes in the composition of and other provisions relating to such board of trustees;
  - The plan for financing the cost of the operations of the district until it is in receipt of revenue from its operations or proceeds from the sale of bonds;
  - A prayer for the organization of the district by the name proposed, either before or after a preliminary hearing as provided in section 6119.04 of the Revised Code.
- Written notice is provided to electors of the proposed district of a meeting on whether to establish the District. Thereafter a meeting is held for the purpose of receiving comments on the proposed establishment of the District. At the meeting, a representative of the petitioners shall present a preliminary study of the reasons for the proposed establishment of the District.
  - The Petition and other documents are filed in Court of Common Pleas.
  - The Plan for Provision of Services is prepared by the engineering firm.
  - Legal counsel prepares evidence to show that the establishment of the District is necessary and conducive to the public health, safety, convenience and welfare and the Plan for Provision of Services is economical, feasible, fair and reasonable.
  - Objections can be filed to the establishment of the District.
  - Legal counsel prepares briefs and supplemental briefs as necessary; legal counsel prepares witnesses for the hearing on the establishment of the District.
  - A hearing is held on the establishment of the District. The hearing is typically approximately fifty-five (55) days from the date of the filing of the Petition. The Court is asked to establish the District at that time.

*Issue: June 2004*

### **AMENDEMENT SCARE FROM GENERAL ASSEMBLY**

Last year, the Ohio senate adopted an amendment that would have prevented regional districts from installing any water lines or other "water resource projects" within 1,000 feet of an existing county or municipal water facility (which included lines). As you can imagine, this would have been particularly devastating to many regional water & sewer districts, but it also would have wrecked havoc among some counties and municipalities as well. Our office worked closely with the Ohio Township Association and Senate staff to fully educate the General Assembly about the ramifications of this amendment. In the end, the amendment was removed by the Conference Committee charged with reconciling the different Senate and House versions of the Bill.

### **THE COALITION OF OH. REGIONAL DISTRICTS (CORD)**

We have just about completed the formation of a trade association comprised of regional water & sewer districts ("6119 Districts"). The latest attempt to restrict regional districts (see above) has convinced us that now is the time for action. Future attempts to limit 6119 Districts are imminent, based on the things we've been hearing. Thus, we have commenced the formation of **the Coalition of Ohio Regional Districts, or "CORD"** to further and protect the interests of 6119 Districts, especially before the Ohio General Assembly. CORD will also advance the interests of Districts with such state and federal agencies as the Ohio Environmental Protection Agency, the Ohio Water Development Authority, and USDA Rural Development. CORD is NOT intended to replace any other association or entity. We urge you to continue membership, or join if you are not a member, the Ohio Rural Water Association, which has been providing excellent information and guidance to local governments related to water and sewer systems. CORD is intended to act solely as an active and loud voice in behalf of regional districts statewide. We will provide further information in the near future. We encourage all districts to consider membership in this very much needed organization. Please call us if you'd like to discuss it more.

In case you haven't seen it yet, the Albers and Albers web site is now complete and posted for view at [www.alberslaw.com](http://www.alberslaw.com). We hope the site will benefit our existing clients while serving as a source of information for everyone. The site will be a work in progress, so check back periodically for new information. If you have any suggestions for the site, please contact us and we'll see what we can do.

### **Legal Update**

#### **SUPREME COURT CONFIRMS OUR ADVICE**

Over the years, we've heard a lot of confusion expressed over the effect of annexation on water or

#### **ADDITIONAL CHANGES IN BUDGET BILL**

The state budget DID include two provisions worth mentioning. First, **the competitive bidding threshold for Regional Water and Sewer Districts and for Counties was increased from \$15,000 to \$25,000**.

sewer lines within the annexed territory. The Ohio Supreme Court confirmed our advice in Hudson v. Summit County, 97 Ohio St.3d 296, 779 N.E.2d 758. Between 1977 and 1993, several housing developers had built certain water lines in Hudson Township. After their construction, the water lines were conveyed to Summit County and connected to the County's system. In 1994, the Village of Hudson and Hudson Township merged to create the City of Hudson. The water lines in question were now physically within the City of Hudson. Summit County subsequently sought buyers for the water system and planned to sell the water system to the City of Akron. The City of Hudson sought a restraining order to block the purchase, claiming that it had acquired ownership of the lines automatically upon its incorporation. Hudson also claimed that the County could not transfer the lines to Akron because none of the lines were physically located within Akron.

The Court ruled that the Ohio Constitution states that a municipality "may acquire, construct, own, lease and operate within or without its corporate limits any public utility." Similarly, R.C. 6103.22 provided that a water system within a

In addition, it created ORC Section 153.691, the Professional Design Services selection process (hiring of engineering services). Although it was understood prior to the enactment of this Section, the law now specifically prohibits public authorities planning to contract for professional design services from seeking any form of fee estimate, fee proposal, or other estimate or measure of compensation from a professional design firm prior to the public authority's ranking and selection of the firms who have submitted statements of Qualification. Any fee estimates or discussions must be reserved until the subsequent contract negotiation phase of the selection process. Another change also clarifies that when establishing criteria to rank the firms, the public authority may use "any other relevant factors as determined by the public authority."

### **ANOTHER USDA DECISION FROM FEDERAL COURT**

As many of you are aware, we have, in the past, frequently provided speeches for the Ohio Township Association and the Ohio Rural Water Association regarding "conflicts over service territory". Now, a new case has been decided related to this topic. In Northern Ohio Rural Water v. Erie County Board of County Commissioners (2004), the U.S. District Court for the Northern District of Ohio, Western Division, examined the protections of 7 U.S.C. Section 1926(b), otherwise known as the "USDA protection". Both NORW and Erie County claimed the right to provide water service in a disputed territory. In this case, NORW applied for and received a USDA loan to provide services in the disputed area. The County opposed the District's plan to service the area, proceeded to secure Ohio Water Development Authority (OWDA) financing, and installed the lines. The District filed suit claiming the USDA protection precluded the County from installing the lines and providing services and that the District enjoyed exclusive rights to service the area. Ultimately, the Court ruled in favor of the County and issued a preliminary injunction prohibiting the District from installing any new lines or providing new service in the disputed area where there is existing County water service. Because the District had lines in the areas surrounding the disputed territory, but not within or adjacent to the areas at issue, and because the District had not procured necessary easements for their project, the Court decided that the District had no present legal right or lawful ability to install lines in the disputed area. The Court also used the "balancing test" we've mentioned in our speeches. As we often state, the "first in the ground" will usually prevail. Here, it was the County.

municipal corporation may be conveyed to such municipal corporation. Neither of these makes transfer automatic." **In other words, when a municipality acquires land through annexation or incorporation and that land contains water lines, those lines are not automatically conveyed to the municipality. The municipality would be required to commence eminent domain proceedings to acquire the lines, and even then, the exercise of eminent domain may only occur if the taking will not result in the destruction of an existing public use.**

CHAPTER 6119  
REGIONAL WATER AND SEWER DISTRICTS

Section

- 6119.01. Organization of district; purpose.
- 6119.01.1] 6119.011. Definitions.
- 6119.02. Organization procedure; public meeting before filing petition.
- 6119.03. Court for district.
- 6119.04. Hearing on petition; procedure.
- 6119.05. Application for inclusion in district; procedure.
- 6119.05.1] 6119.051. Petition for change.
- 6119.06. Rights, powers, and duties.
- 6119.07. Powers vested in a board of trustees.
- [6119.07.1] 6119.071. Removal of member of board of trustees.
- 6119.08. Rules and regulations.
- 6119.09. Service agreements; rentals; bonds.
- 6119.10. Competitive bidding.
- 6119.11. Condemnation of land.
- 6119.11.1] 6119.111. Acquisition of property.
- 6119.12. Revenue bonds and notes.
- 6119.13. Exemption from uniform bond law.
- 6119.14. Trust agreements.
- 6119.14.1] 6119.141. Rights of bondholders and trustees.
- 6119.15. Bonds not a debt of state or subdivision.
- 6119.15.1] 6119.151. Depositories.
- 6119.16. Investment in United States obligations.
- 6119.17. Levy to amortize indebtedness.

Tax Levy; Assessments.

- 6119.18. Levy for current expenses of district; anticipation notes.
- 6119.18.1] 6119.181. [Repealed]
- 6119.18.2] 6119.182. [Repealed]
- 6119.18.3] 6119.183. [Repealed]

Plan.

- 6119.19. System of sewerage.
- 6119.20. Division of district into sewer districts.
- 6119.21. Contents of plan.

6119.22. Notice of plan; objections; amendments or corrections.

6119.23. Amendment of plan.

6119.24. Designation of work; estimates.

6119.25. Resolution of necessity; publication.

6119.26. Resolution to proceed with improvement.

6119.27. Assessment of real estate.

6119.28. Award and payment of construction contracts.

6119.29. Construction without plans.

6119.30. Bonds and notes in anticipation of assessments.

Tax Levy.

6119.31. Resolution for levy of tax.

6119.32. Approval of tax levy by electors.

6119.33. Appropriation of funds from tax levy.

6119.34. Right of entry; reimbursement for damage.

6119.35. Approval or rejection of plans by environmental protection agency.

6119.36. Issuance of securities in lieu of tax levy.

6119.37. Administrative service status of employees.

6119.38. Audit by auditor of state; report.

6119.39. Employees in public employees retirement system.

6119.40. District exempt from taxation.

6119.41. Contractual power of board of trustees.

6119.42. Special assessments.

6119.43. Purposes for assessments.

6119.44. Designation of property to be assessed.

6119.45. Payment by annual installments.

6119.46. Filing of resolution of necessity.

6119.47. Notices of estimated assessments to owners.

6119.48. Owners may file objections.

6119.49. Assessment equalization board.

6119.50. Filing damage claims.

6119.51. Resolution of intent to proceed with improvement.

6119.52. Revision of estimates; resolution of assessments.

6119.53. Interest and penalties.

6119.54. Collection of unpaid installments, collection cost to be added.

6119.55. Proceedings to recover.

6119.56. Lien of assessment.

6119.57. Additional assessments.

6119.58. Assessments for planning purposes.

## CHAPTER 6119 REGIONAL WATER AND SEWER DISTRICTS

### § 6119.01. Organization of district; purpose.

Any area situated in any unincorporated part of one or more contiguous counties or in one or more municipal corporations, or both, may be organized as a regional water and sewer district in the manner and subject to the conditions provided in Chapter 6119. of the Revised Code, for either or both of the following purposes:

- (A) To supply water to users within and without the district;
- (B) To provide for the collection, treatment, and disposal of waste water within and without the district.

### [§ 6119.01.1] § 6119.011. Definitions.

As used in Chapter 6119. of the Revised Code:

(A) "Court of common pleas" or "court" means, unless the context indicates a different meaning or intent, the court of common pleas in which the petition for the organization of a regional water and sewer district is filed.

(B) "Political subdivision" includes departments, divisions, authorities, or other units of state governments, watershed districts, soil and water conservation districts, park districts, municipal corporations, counties, townships, and other political subdivisions, special water districts, including county and regional water and sewer districts, conservancy districts, sanitary districts, sewer districts or any other public corporation or agency having the authority to acquire, construct, or operate waste water or water management facilities, and all other governmental agencies now or hereafter granted the power of levying taxes or special assessments, the United States or any agency thereof, and any agency, commission, or authority established pursuant to an interstate compact or agreement.

(C) "Person" means any natural person, firm, partnership, association, or corporation other than a political subdivision.

(D) "Beneficial use" means a use of water, including the method of diversion, storage, transportation, treatment, and application, that is reasonable and consistent with the public interest in the proper utilization of water resources, including, but not limited to, domestic, agricultural, industrial, power, municipal, navigational, fish and wildlife, and recreational uses.

(E) "Waters of the state" means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, which are situated wholly or partly within, or border upon, this state, or are within its jurisdiction, except those private waters which do not combine or effect a junction with natural surface or underground waters.

(F) "Water resources" means all waters of the state occurring on the surface in natural or artificial channels, lakes, reservoirs, or impoundments, and in subsurface aquifers, which are available or may be made available to agricultural, commercial, recreational, public, and domestic users.

(G) "Project" or "water resource project" means any waste water facility or water management facility acquired, constructed, or operated by or leased to a regional water and sewer district or to be acquired, constructed, or operated by or leased to a regional water and sewer district under Chapter 6119. of the Revised Code, or acquired or constructed or to be acquired or constructed by a political subdivision with a portion of the cost thereof being paid from a loan or

grant from the district under Chapter 6119, of the Revised Code, including all buildings and facilities which the district considers necessary for the operation of the project, together with all property, rights, easements, and interest which may be required for the operation of the project. Any water resource project shall be determined by the board of trustees of the district to be consistent with any applicable comprehensive plan of water management approved by the director of natural resources of the state or in the process of preparation by such director and to be not inconsistent with the standards set for the waters of the state affected thereby by the water pollution control board of the state.

Any resolution of the board of trustees of the district providing for acquiring, operating, leasing, or constructing such projects or for making a loan or grant for such projects shall include a finding by the board of trustees of the district that such determinations have been made.

(H) "Pollution" means the placing of any noxious or deleterious substances in any waters of the state or affecting the properties of any waters of the state in a manner which renders such waters harmful or inimical to the public health, or to animal or aquatic life, or to the use of such waters for domestic water supply, industrial or agricultural purposes, or recreation.

(I) "Sewage" means any substance that contains any of the waste products or excrementitious or other discharge from the bodies of human beings or animals, which pollutes the waters of the state.

(J) "Industrial waste" means any liquid, gaseous, or solid waste substance resulting from any process of industry, manufacture, trade, or business, or from the development, processing, or recovery of any natural resource, together with such sewage as is present, which pollutes the waters of the state.

(K) "Waste water" means any storm water and any water containing sewage or industrial waste or other pollutants or contaminants derived from the prior use of such water.

(L) "Waste water facilities" means facilities for the purpose of treating, neutralizing, disposing of, stabilizing, cooling, segregating, or holding waste water, including, without limiting the generality of the foregoing, facilities for the treatment and disposal of sewage or industrial waste and the residue thereof, facilities for the temporary or permanent impoundment of waste water, both surface and underground, and storm and sanitary sewers and other systems, whether on the surface or underground, designed to transport waste water, together with the equipment and furnishings thereof and their appurtenances and systems, whether on the surface or underground, including force mains and pumping facilities therefor when necessary.

(M) "Water management facilities" means facilities for the purpose of the development, use, and protection of water resources including, without limiting the generality of the foregoing, facilities for water supply, facilities for stream flow improvement, dams, reservoirs, and other impoundments, water transmission lines, water wells and well fields, pumping stations and works for underground water recharge, stream monitoring systems, facilities for the stabilization of stream and river banks, and facilities for the treatment of streams and rivers, including, without limiting the generality of the foregoing, facilities for the removal of oil, debris, and other solid waste from the waters of the state and stream and river aeration facilities.

(N) "Cost" as applied to water resource projects means the cost of acquisition and construction, the cost of acquisition of all land, rights-of-way, property rights, easements, franchise rights, and interests required by the district for such acquisition and construction, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the cost of acquiring or constructing and equipping a principal office and sub-offices of the district, the cost of diverting highways, interchange of highways, access roads to private property, including the cost of land or

easements therefor, the cost of all machinery, furnishings, and equipment, financing charges, interest prior to and during construction and for no more than eighteen months after completion of acquisition or construction, engineering, expenses of research and development with respect to waste water or water management facilities, legal expenses, plans, specifications, surveys, estimates of cost and revenues, working capital, other expenses necessary or incident to determining the feasibility or practicability of acquiring or constructing any such project, administrative expense, and such other expense as may be necessary or incident to the acquisition or construction of the project, the financing of such acquisition or construction, including the amount authorized in the resolution of the district providing for the issuance of water resource revenue bonds to be paid into any special funds from the proceeds of such bonds and the financing of the placing of any such project in operation. Any obligation or expense incurred by any political subdivision, and approved by the district, for surveys, borings, preparation of plans and specifications, and other engineering services in connection with the acquisition or construction of a project shall be regarded as a part of the cost of such project and may be reimbursed by the district.

(O) "Owner" includes all individuals, partnerships, associations, corporations, or political subdivisions having any title or interest in any property rights, easements, and interests authorized to be acquired by Chapter 6119, of the Revised Code.

(P) "Revenues" means all rentals and other charges received by a district for the use or services of any project, all special assessments levied by the district pursuant to Chapter 6119, of the Revised Code, any gift or grant received with respect thereto, and moneys received in repayment of and for interest on any loan made by the district to a political subdivision, whether from the United States or a department, administration, or agency thereof, or otherwise.

(Q) "Public roads" includes all public highways, roads, and streets in the state, whether maintained by the state, county, city, township, or other political subdivision.

(R) "Public utility facilities" includes tracks, pipes, mains, conduits, cables, wires, towers, poles, and other equipment and appliances of any public utility.

(S) "Construction," unless the context indicates a different meaning or intent, includes reconstruction, enlargement, improvement, or providing furnishings or equipment.

(T) "Water resources bonds," unless the context indicates a different meaning or intent, includes water resource notes and water resource refunding bonds.

(U) "Regional water and sewer district" means a district organized or operating for one or both of the purposes described in section 6119.01 of the Revised Code and, if organized or operating for only one of such purposes, may be designated either a regional water district or a regional sewer district, as the case may be.

#### § 6119.02. Organization procedure; public meeting before filing petition.

(A) Proceedings for the organization of a regional water and sewer district shall be initiated only by a petition filed in the office of the clerk of the court of common pleas of one of the counties all or part of which lies within the proposed district. The petition shall be signed by one or more municipal corporations, one or more counties, or one or more townships, or by any combination of them, after having been authorized by the legislative authority of the political subdivision. The legislative authority of any municipal corporation, the board of county commissioners of any county, and the board of trustees of any township may act in behalf of any part of their respective political subdivisions. The petition shall specify all of the following:

(1) The proposed name of the district;

- (2) The place in which its principal office is to be located;
- (3) The necessity for the proposed district and that it will be conducive to the public health, safety, convenience, or welfare;
- (4) A general description of the purpose of the proposed district;
- (5) A general description of the territory to be included in the district, which need not be given by metes and bounds or by legal subdivisions, but is sufficient if an accurate description is given of the territory to be organized as a district. The territory need not be contiguous, provided that it is so situated that the public health, safety, convenience, or welfare will be promoted by the organization as a single district of the territory described.
- (6) The manner of selection, the number, the term, and the compensation of the members of the governing body of the district, which shall be called a board of trustees. The petition may set forth procedures for subsequent changes in the composition of and other provisions relating to the board of trustees.
- (7) The plan for financing the cost of the operations of the district until it is in receipt of revenue from its operations or proceeds from the sale of bonds;
- (8) A prayer for the organization of the district by the name proposed, either before or after a preliminary hearing as provided in section 6119.04 of the Revised Code.

(B) Prior to filing a petition under division (A) of this section, a municipal corporation, county, or township shall hold a public meeting for the purpose of receiving comments on the proposed establishment of a regional water and sewer district. If a combination of municipal corporations, counties, or townships signed the petition, the signers jointly shall hold the public meeting. At the meeting, a representative of the signer or signers of the petition shall present a preliminary study of the reasons for the proposed establishment of the district.

The signer or signers of the petition shall provide written notice of the public meeting to each elector residing in the territory of the proposed district. Failure to notify an elector does not invalidate any proceeding before a court under this chapter.

(C) Upon the filing of the petition, the judge of the court of common pleas of the county in which the petition is filed or, in the case of a county having more than one such judge, a judge of that court assigned by its presiding judge shall determine if the petition complies with the requirements of this section as to form and content. No petition shall be declared void by the judge on account of alleged defects. The court in subsequent proceedings at any time may permit the petition to be amended in form and substance to conform to the facts by correcting any errors in the description of the territory or in any other particular.

§ 6119.03. Court for district.

Upon the determination of the judge of the court of common pleas that a sufficient petition has been filed in such court in accordance with section 6119.02 of the Revised Code, he shall give notice to the court of common pleas of each county included in whole or in part within the proposed regional water and sewer district. Thereafter the judge of the court of common pleas of each such county or, in the case of any county having more than one such judge, the judge of such court assigned by order of its presiding judge shall sit as the court of common pleas of the county wherein the petition was filed to exercise the jurisdiction conferred on it by Chapter 6119. of the Revised Code. If the judge in any county having only one judge is unable to serve, the chief justice of the supreme court shall assign a judge from another county to serve as a judge

for such county during the disability of its judge. Except as provided in Chapter 6119 of the Revised Code, such court shall have for all purposes of such sections original and exclusive jurisdiction coextensive with the boundaries of the district or proposed district and of the lands and property included in, or proposed to be included in, such district without regard to the usual limits of its jurisdiction. The judge of the county wherein the petition was filed, within a reasonable time after his determination of the sufficiency of the petition, shall issue a call to the other judges of the court created in this section, specifying the time and place of its first meeting. At this meeting the court shall elect one of its number presiding judge. Each judge when sitting as a member of the court shall receive such compensation and allowance for expenses as provided by law for a judge serving by assignment outside the county wherein he resides, which shall be paid as other expenses of the organization or operation of the district are paid. If such court is composed of an even number of judges and a majority is unable to agree, the chief justice of the supreme court shall designate a judge of the court of common pleas of some other county to sit and vote as a member of the court until a decision is reached. A majority of the court shall prevail.

§ 6119.04. Hearing on petition; procedure.

(A) The court of common pleas constituted as provided in section 6119.03 of the Revised Code, at its first meeting, shall fix the time and place of a hearing on the petition for the establishment of the proposed regional water and sewer district. The hearing shall be either preliminary or final as the petition may request and shall be held not later than sixty days thereafter. The clerk of the court shall give notice of the hearing by publication once each week for four consecutive weeks in a newspaper having a general circulation in each of the counties, in whole or in part, within the district. The clerk shall send a notice of the hearing by certified mail to the director of environmental protection.

Any person or any political subdivision residing or lying within an area affected by the organization of the district, on or before the date set for the cause to be heard, may file an objection to the granting of the requests made in the prayer of the petition.

(B) Upon a preliminary hearing, if it appears that the proposed district probably is necessary and that it probably will be conducive to the public health, safety, convenience, or welfare, the court, after disposing of all objections as justice and equity require and by its findings, entered of record, shall issue a preliminary order declaring the district to be organized and an independent political subdivision of the state with a corporate name designated in the order for the purpose of all of the following:

- (1) The election or appointment of the board of trustees in the manner provided in the petition;
- (2) The election, appointment, or employment of officers, employees, accounting experts, engineers, attorneys, financial consultants, architects, other consultants, and independent contractors or other persons that may be necessary to prepare a plan for the operation of the district;
- (3) The collection of the funds in the manner provided in the petition to be used and disbursed by the district;
- (4) The preparation of a plan for the operation of the district.

The district shall possess powers that may be necessary to carry out those purposes.

The preliminary order shall direct the district to file a plan for the operation of the district within six months from the date of the preliminary order or within the further time or times that the court from time to time may order.

Upon the filing by the district of a plan for the operation of the district, the court shall fix the time and place for a final hearing on the petition for the establishment of the proposed district and the plan for the operation of the district as filed in the proceeding. The hearing shall be held not later than sixty days thereafter, and the clerk of the court of common pleas again shall give notice of the hearing as required in division (A) of this section.

Any person or any political subdivision residing or lying within the area affected by the organization of the district or by the plan for the operation of the district, on or before the date set for the cause to be heard, may file any objections to the final organization of the district or the plan for the operation of the district.

(C) If, prior to granting a final order, the court determines that additional study is needed of the feasibility of establishing the district, the court shall order the signers of the petition to conduct an additional feasibility study. If the court has ordered such a study, the court shall not grant a final order prior to receiving the results of the study. Nothing in division (C) of this section precludes the awarding of a contract for a project or improvement undertaken under this chapter to an entity that conducts a feasibility study pursuant to division (C) of this section.

The court, upon good cause shown at any time before the granting of a final order, may do any or all of the following:

(1) Grant a right to any municipal corporation or county acting in behalf of a sewer district within the county to become a party to the proceeding if the intervening party requests to have some part or all of its territory included within the district;

(2) Grant in part or in toto an intervening petition of a municipal corporation or a county acting in behalf of a sewer district within the county, which is not wholly included within territory described in the petition, to have some part or all of its territory included within the district;

(3) Grant a request filed by any party to the petition or intervening party to modify any request set forth in the petition, including any or all of the following:

(a) A reduction in the territory to be included within the district;

(b) Addition to or deletion of a purpose or purposes of the proposed district as set forth in the petition so long as the purposes that remain are those included within section 6119.01 of the Revised Code;

(c) The manner of selection, the number, the term, and the compensation of the members of the board of trustees.

After the filing of any intervening petition or request to modify, the court shall fix a time and place for a hearing thereof, which shall be held not less than sixty days after the filing thereof. The clerk of the court of common pleas shall give notice of the hearing as required in division (A) of this section.

(D) Upon final hearing, whether or not a preliminary hearing is requested in the petition, if it appears that the proposed district is necessary, that it and the plan for the operation of the district are conducive to the public health, safety, convenience, and welfare, and that the plan for the operation of the district is economical, feasible, fair, and reasonable, the court, after disposing of all objections as justice and equity require and by its findings, entered of record, shall declare the district finally and completely organized and to be, or to be empowered to continue as, a political subdivision. Thereupon the district shall have power to sue and be sued; to incur debts, liabilities, and obligations; to exercise the right of eminent domain and of taxation and assessment as provided in this chapter; to issue bonds; and to perform all acts authorized in this chapter and to execute and carry out the plan for the operation of the district and to amend, modify, change, or alter the plan for its operation as the board of trustees from time to time may determine necessary.

(E) If the court finds that the organization of the district is not necessary or will not be conducive to the public health, safety, convenience, or welfare, or that the plan for the operation of the district is not economical, feasible, fair, or reasonable, or if the district fails to file a plan for the operation of the district within the time prescribed by the court, it shall dismiss the proceedings and adjudge the costs against the petitioners. If a preliminary order has been made organizing the district, the court shall declare the district dissolved and enter its order for the distribution of any and all assets that may be owned by the district after the payment of its liabilities.

(F) Any municipal corporation, board of county commissioners, or board of township trustees may advance to the district sums of money that the legislative authority of the municipal corporation, the board of county commissioners, or the board of township trustees determines will not be in excess of the benefits that can be anticipated to be derived by the municipal corporation, county, or township from the establishment of the district at times that are requested by the district and authorized by the legislative authority or board and pursuant to an agreement between the district and the municipal corporation, county, or township setting forth whether and when the sums shall be repaid. The sums when paid to the district at any time after the preliminary order of the court shall be used by the district for its purposes in the preparation of a plan for the operation of the district and for other purposes of the district. The district shall keep proper records showing the amount so advanced and disbursed. If the court orders the district dissolved as permitted in this section, the interest any municipal corporation, board of county commissioners, or board of township trustees has in the assets of the district shall be limited to those assets remaining after the payment of all other liabilities of the district.

6119.05. Application for inclusion in district; procedure.

At any time after the creation of a regional water and sewer district, any county, township, or municipal corporation whose territory is not wholly included within such district may file an application with such district setting forth a general description of the territory it desires to have included within such district, the necessity for the inclusion of such territory within the district, that it will be conducive to the public health, safety, convenience, or welfare, and that it will be practical and feasible for such territory to be included within the district. If said application is approved by a majority of the board of trustees of said district, the territory described in said application shall thereupon become part of such district. If such application fails to receive the approval of a majority of the board within sixty days after the filing of said application with said district, the county, township, or municipal corporation filing such application may file a petition in the court of common pleas requesting the order of such court upon the board directing the board to include the territory described in said application within said district. Upon the filing of such petition the court shall set a date for hearing and notify the district by service of process on the secretary of the board of the filing of such petition and of the date set for the hearing. If at such hearing the court finds that it will be conducive to the public health, safety, convenience, or welfare of the district and to the territory described in the petition and that it will be practical and feasible for such territory to be included within such district, the court shall order that such territory be included within the district and the terms for its inclusion therein. If the court finds that it will not be conducive to the public health, safety, convenience, or welfare of the district or to the territory described in the petition, or that it will not be practical or feasible for such territory to be included within such district, it shall dismiss the petition and adjudge the costs against the petitioner.

Such inclusion shall become legally effective unless, prior to the ninetieth day following the approval of the board or the order of the court for inclusion, qualified electors residing in the area proposed to be included in such district equal in number to a majority of the qualified electors voting at the last general election in such area file with the secretary of the board of trustees of the district in which inclusion is proposed a petition of remonstrance against such inclusion. The secretary shall cause the board of elections of the proper county or counties to check the sufficiency of the signatures on such petition.

[§ 6119.05.1] § 6119.051. Petition for change.

At any time after the creation of a water and sewer district, the district, after action by its board of trustees, may file a petition in the court of common pleas requesting the order of such court permitting the district to:

(A) Increase or add to its purposes heretofore approved by the court so long only as its purposes are those described in section 6119.01 of the Revised Code, or

(B) Abandon or surrender any purpose heretofore approved by the court, or

(C) Amend any provision of the petition filed pursuant to section 6119.02 of the Revised Code.

Upon the filing of petition pursuant to this section the court shall set a date for hearing and the clerk of the court shall give notice thereof by publication once each week for four consecutive weeks in a newspaper having a general circulation in each of the counties, in whole or in part, within the district. Any person or any political subdivision residing or lying within an area affected by the operation of the district, on or before the date set for hearing, may file an objection to the granting of the petition. Upon hearing, if it appears that the request of the petition is conducive to the public health, safety, convenience or welfare and will not if granted adversely affect the continued operation of the district, the court shall grant the prayer of the petition. Otherwise, it shall dismiss the petition.

§ 6119.06. Rights, powers, and duties.

Upon the declaration of the court of common pleas organizing the regional water and sewer district pursuant to section 6119.04 of the Revised Code and upon the qualifying of its board of trustees and the election of a president and a secretary, said district shall exercise in its own name all the rights, powers, and duties vested in it by Chapter 6119 of the Revised Code, and, subject to such reservations, limitations and qualifications as are set forth in this chapter, such district may:

(A) Adopt bylaws for the regulation of its affairs, the conduct of its business, and notice of its actions;

(B) Adopt an official seal;

(C) Maintain a principal office and suboffices at such places within the district as it designates;

(D) Sue and plead in its own name; be sued and impleaded in its own name with respect to its contracts or torts of its members, employees, or agents acting within the scope of their employment, or to enforce its obligations and covenants made under sections 6119.09, 6119.12 and 6119.14 of the Revised Code. Any such actions against the district shall be brought in the court of common pleas of the county in which the principal office of the district is located, or in the court of common pleas of the county in which the cause of action arose, and all summonses, exceptions, and notices of every kind shall be served on the district by leaving a copy thereof at the principal office with the person in charge thereof or with the secretary of the district;

(E) Assume any liability or obligation of any person or political subdivision, including a right on the part of such district to indemnify and save harmless the other contracting party from any loss, cost, or liability by reason of the failure, refusal, neglect, or omission of such district to perform any agreement assumed by it or to act or discharge any such obligation;

(F) Make loans and grants to political subdivisions for the acquisition or construction of water resource projects by such political subdivisions and adopt rules, regulations, and procedures for making such loans and grants;

(G) Acquire, construct, reconstruct, enlarge, improve, furnish, equip, maintain, repair, operate, lease or rent to or from, or contract for operation by or for, a political subdivision or person, water resource projects within or without the district;

(H) Make available the use or service of any water resource project to one or more persons, one or more political subdivisions, or any combination thereof;

(I) Levy and collect taxes and special assessments;

(J) Issue bonds and notes and refunding bonds and notes as provided in Chapter 6119, of the Revised Code;

(K) Acquire by gift or purchase, hold, and dispose of real and personal property in the exercise of its powers and the performance of its duties under Chapter 6119, of the Revised Code;

(L) Dispose of, by public or private sale, or lease any real or personal property determined by the board of trustees to be no longer necessary or needed for the operation or purposes of the district;

(M) Acquire, in the name of the district, by purchase or otherwise, on such terms and in such manner as it considers proper, or by the exercise of the right of condemnation in the manner provided by section 6119.11 of the Revised Code, such public or private lands, including public parks, playgrounds, or reservations, or parts thereof or rights therein, rights-of-way, property, rights, easements, and interests as it considers necessary for carrying out Chapter 6119, of the Revised Code, but excluding the acquisition by the exercise of the right of condemnation of any waste water facility or water management facility owned by any person or political subdivision, and compensation shall be paid for public or private lands so taken;

(N) Adopt rules and regulations to protect augmented flow by the district in waters of the state, to the extent augmented by a water resource project, from depletion so it will be available for beneficial use, to provide standards for the withdrawal from waters of the state of the augmented flow created by a water resource project which is not returned to the waters of the state so augmented, and to establish reasonable charges therefor, if considered necessary by the district;

(O) Make and enter into all contracts and agreements and execute all instruments necessary or incidental to the performance of its duties and the execution of its powers under Chapter 6119, of the Revised Code;

(P) Enter into contracts with any person or any political subdivision to render services to such contracting party for any service the district is authorized to provide;

(Q) Make provision for, contract for, or sell any of its by-products or waste;

(R) Exercise the power of eminent domain in the manner provided in Chapter 6119, of the Revised Code;

(S) Remove or change the location of any fence, building, railroad, canal, or other structure or improvement located in or out of the district, and in case it is not feasible or economical to move any such building, structure, or improvement situated in or upon lands required, and if the cost is determined by the board to be less than that of purchase or condemnation, to acquire land and construct, acquire, or install therein or thereon buildings, structures, or improvements similar in purpose, to be exchanged for such buildings, structures, or improvements under contracts entered into between the owner thereof and the district;

(T) Receive and accept, from any federal or state agency, grants for or in aid of the construction of any water resource project, and receive and accept aid or contributions from any source of money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions are made;

(U) Purchase fire and extended coverage and liability insurance for any water resource project and for the principal office and suboffices of the district, insurance protecting the district and its

officers and employees against liability for damage to property or injury to or death of persons arising from its operations, and any other insurance the district may agree to provide under any resolution authorizing its water resource revenue bonds or in any trust agreement securing the same;

(V) Charge, alter, and collect rentals and other charges for the use of services of any water resource project as provided in section 6119.09 of the Revised Code. Such district may refuse the services of any of its projects if any of such rentals or other charges, including penalties for late payment, are not paid by the user thereof, and, if such rentals or other charges are not paid when due and upon certification of nonpayment to the county auditor, such rentals or other charges constitute a lien upon the property so served, shall be placed by him upon the real property tax list and duplicate, and shall be collected in the same manner as other taxes;

(W) Provide coverage for its employees under Chapters 145., 4123., and 4141. of the Revised Code;

(X) Merge or combine with any other regional water and sewer district into a single district, which shall be one of the constituent districts, on terms so that the surviving district shall be possessed of all rights, capacity, privileges, powers, franchises, and authority of the constituent districts and shall be subject to all the liabilities, obligations, and duties of each of the constituent districts and all rights of creditors of such constituent districts shall be preserved unimpaired, limited in lien to the property affected by such liens immediately prior to the time of the merger and all debts, liabilities, and duties of the respective constituent districts shall thereafter attach to the surviving district and may be enforced against it, and such other terms as are agreed upon, provided two-thirds of the members of each of the boards consent to such merger or combination. Such merger or combination shall become legally effective unless, prior to the ninetieth day following the later of the consents, qualified electors residing in either district equal in number to a majority of the qualified electors voting at the last general election in such district file with the secretary of the board of trustees of their regional water and sewer district a petition of remonstrance against such merger or combination. The secretary shall cause the board of elections of the proper county or counties to check the sufficiency of the signatures on such petition;

(Y) Exercise the powers of the district without obtaining the consent of any other political subdivision, provided that all public or private property damaged or destroyed in carrying out the powers of the district shall be restored or repaired and placed in its original condition as nearly as practicable or adequate compensation made therefor by the district;

(Z) Require the owner of any premises located within the district to connect his premises to a water resource project determined to be accessible to such premises and found to require such connection so as to prevent or abate pollution or protect the health and property of persons in the district. Such connection shall be made in accordance with procedures established by the board of trustees of such district and pursuant to such orders as the board may find necessary to ensure and enforce compliance with such procedures;

(AA) Do all acts necessary or proper to carry out the powers granted in Chapter 6119. of the Revised Code.

§ 6119.07. Powers vested in a board of trustees.

All the capacity of a regional water and sewer district shall be vested in and its authority shall be exercised by a board of trustees which shall manage and conduct the affairs of the district.

The board shall by its rules and resolutions provide the procedure for its actions, the manner of selection of its president and secretary and other officers of the district, their titles, terms of

office, compensation, duties, number, and qualifications, and any other lawful subject necessary to the operation of the district and the exercise of the powers granted.

**[§ 6119.07.1] § 6119.071. Removal of member of board of trustees.**

A member of the board of trustees of a regional water and sewer district who has been appointed to the board may be removed by the appointing authority for misfeasance, nonfeasance, or malfeasance in office. Prior to removing a member, the appointing authority shall notify the member of the facts supporting the proposed removal and shall provide the member an opportunity to appear before the appointing authority or at a public hearing held by the appointing authority and show cause why the member should not be removed from office.

A member of a board of trustees who has been removed pursuant to this section may appeal the removal not later than thirty days after the removal to the court of common pleas constituted as provided in section 6119.03 of the Revised Code.

**6119.08. Rules and regulations.**

In order to accomplish the purposes of a regional water and sewer district, to protect its projects, to secure the best results from the construction, operation, and maintenance thereof, and to prevent damage by the misuse of any such projects or by the pollution or misuse of the waters of the state within the district or without the district and served or affected by a project or projects of the district, the board of trustees may make and enforce such rules and regulations as are necessary and advisable:

(A) To protect and preserve the projects of such district, prescribe the manner of their use by any person or political subdivision and preserve order within and adjacent thereto;

(B) To prescribe the manner in which ditches, sewers, pipelines, or other works shall be adjusted to or connected with the projects of the district and the manner in which waste is disposed of within the district;

(C) To prescribe the permissible uses of the water supply and the manner of its distribution and to prevent the pollution or unnecessary waste of such water supply;

(D) To prohibit or regulate the discharge into the waste water facilities of the district of any liquid or solid waste detrimental to its works and improvements.

Such rules and regulations shall not be inconsistent with the laws of the state or the rules and regulations or requirements of the environmental protection agency.

The board may enforce by mandamus, injunction, or other legal remedy rules and regulations made by it pursuant to this section, and may remove any harmful or improper construction or obstruction or may close any opening or connection made improperly or in violation of such rules and regulations. The board may bring such suit in mandamus in the court of appeals in the first instance, if it deems it advisable. Any person or political subdivision which willfully fails to comply with such rules and regulations shall be liable for damage caused by such failure and for the cost of restoring or replacing any construction damaged or destroyed.

**§ 6119.09. Service agreements; rentals; bonds.**

A regional water and sewer district may charge, alter, and collect rentals or other charges, including penalties for late payment, for the use or services of any water resource project or any benefit conferred thereby and contract in the manner provided by this section with one or more persons, one or more political subdivisions, or any combination thereof, desiring the use or services thereof, and fix the terms, conditions, rentals, or other charges, including penalties for

late payment, for such use or services. Such rentals or other charges shall not be subject to supervision or regulation by any authority, commission, board, bureau, or agency of the state or any political subdivision, and such contract may provide for acquisition by such political subdivision of all or any part of such water resource project for such consideration payable over the period of the contract or otherwise as the district in its sole discretion determines to be appropriate, but subject to the provisions of any resolution authorizing the issuance of water resource revenue bonds or notes or water resource revenue refunding bonds of the district or any trust agreement securing the same. Any political subdivision, which has power to construct, operate, and maintain waste water facilities or water management facilities may enter into a contract or lease with the district whereby the use or services of any water resource project of the district will be made available to such political subdivision and pay for such use or services such rentals or other charges as may be agreed to by the district and such political subdivision.

Any political subdivision or combination thereof may cooperate with the district in the acquisition or construction of a water resource project and shall enter into such agreements with the district as are necessary, with a view to effective cooperative action and safeguarding of the respective interests of the parties thereto, which agreements shall provide for such contributions by the parties thereto in such proportion as may be agreed upon and such other terms as may be mutually satisfactory to the parties, including without limitation the authorization of the construction of the project by one of the parties acting as agent for all of the parties and the ownership and control of the project by the district or one or more of the other parties or any combination thereof to the extent determined necessary or appropriate. Any political subdivision may provide the funds for the payment of such contribution as is required under such agreements by the levy of taxes, assessments, or rentals and other charges for the use of the system of which the water resource project is a part or to which it is connected, if otherwise authorized by the laws governing such political subdivision in the construction of the type of water resource project provided for in the agreements, and may pay the proceeds from the collection of such taxes, assessments, rentals, or other charges to the district pursuant to such agreements; or the political subdivision may issue bonds or notes, if authorized by such laws, in anticipation of the collection of such taxes, assessments, rentals or other charges and may pay the proceeds of such bonds or notes to the district pursuant to such agreements. In addition, any political subdivision may provide the funds for the payment of such contribution by the appropriation of money or, if otherwise authorized by law, by the issuance of bonds or notes and may pay such appropriated money or the proceeds of such bonds or notes to the district pursuant to such agreements. The agreement by the political subdivision to provide such contribution, whether from appropriated money or from the proceeds of such taxes, assessments, rentals, or other charges, or such bonds or notes, or any combination thereof, is not subject to Chapter 133 of the Revised Code. The proceeds from the collection of such taxes or assessments, and any interest earned thereon, shall be paid into a special fund

immediately upon the collection thereof by the political subdivision for the purpose of providing such contribution at the times required under such agreements.

When the contribution of any political subdivision is to be made over a period of time from the proceeds of the collection of special assessments, the interest accrued and to accrue before the first installment of such assessments is collected, which is payable by such political subdivision on such contribution under the terms of such an agreement, shall be treated as part of the cost of the improvement for which such assessments are levied, and that portion of such assessments as is collected in installments shall bear interest at the same rate as such political subdivision is obligated to pay on such contribution under the terms and provisions of such agreement and for the same period of time as the contribution is to be made under such agreement. If the assessment or any installment thereof is not paid when due, it shall bear interest until the payment thereof at the same rate as such contribution and the county auditor shall annually place on the tax list and duplicate the interest applicable to such assessment and the penalty and any additional interest thereon as otherwise authorized by law.

Any political subdivision, pursuant to a favorable vote of the electors in an election held before or after November 19, 1971, for the purpose of issuing bonds to provide funds to acquire, construct, or equip, or provide real estate and interests in real estate for, a waste water facility or a water management facility, whether or not the political subdivision, at the time of such election, had the authority to pay the proceeds from such bonds or notes issued in anticipation thereof to a regional water and sewer district as provided in this section, may issue such bonds or notes in anticipation of the issuance thereof and pay the proceeds thereof to the district in accordance with its agreement with the district; provided, that the legislative authority of the political subdivision determines that the water resource project to be acquired or constructed by the district in cooperation with such political subdivision will serve the same public purpose and meet substantially the same public need as the facility otherwise proposed to be acquired or constructed by the political subdivision with the proceeds of such bonds or notes.

#### § 6119.10. Competitive bidding.

The board of trustees of a regional water and sewer district or any officer or employee designated by the board may make any contract for the purchase of supplies or material or for labor for any work, under the supervision of the board, the cost of which shall not exceed twenty-five thousand dollars. When an expenditure, other than for the acquisition of real estate and interests in real estate, the discharge of noncontractual claims, personal services, the joint use of facilities or the exercise of powers with other political subdivisions, or the product or services of public utilities, exceeds twenty-five thousand dollars, the expenditures shall be made only after a notice calling for bids has been published not less than two consecutive weeks in at least one newspaper having a general circulation within the district. If the bids are for a contract for the construction, demolition, alteration, repair, or reconstruction of an improvement, the board may let the contract to the lowest and best bidder who meets the requirements of section 153.54 of the Revised Code. If the bids are for a contract for any other work relating to the improvements for which a regional water and sewer district was established, the board of trustees of the regional water and sewer district may let the contract to the lowest or best bidder who gives a good and approved bond with ample security conditioned on the carrying out of the contract. The contract shall be in writing and shall be accompanied by or shall refer to plans and specifications for the work to be done, approved by the board. The plans and specifications shall at all times be made and considered part of the contract. The contract shall be approved by the board and signed by its president or other duly authorized officer and by the contractor. In case of a real and present emergency, the board of trustees of the district, by two-thirds vote of all members, may authorize the president or other duly authorized officer to enter into a contract for work to be done or for the purchase of supplies or materials without formal bidding

or advertising. All contracts shall have attached the certificate required by section 5705.41 of the Revised Code duly executed by the secretary of the board of trustees of the district. The district may make improvements by force account or direct labor, provided that, if the estimated cost of supplies or material for any such improvement exceeds twenty-five thousand dollars, bids shall be received as provided in this section. For the purposes of the competitive bidding requirements of this section, the board shall not sever a contract for supplies or materials and labor into separate contracts for labor, supplies, or materials if the contracts are in fact a part of a single contract required to be bid competitively under this section.

§ 6119.11. Condemnation of land.

The board of trustees of a regional water and sewer district may condemn for the use of the district any public or private land, easement, rights, rights of way, franchises or other property within or without the district required by it for the accomplishment of its purposes according to the procedure set forth in sections 163.01 to 163.22, inclusive, of the Revised Code.

§ 6119.11.1] § 6119.111. Acquisition of property.

A regional water and sewer district may acquire by purchase, whenever it considers such purchase expedient, any land, property, rights-of-way, franchises, easements, and other interests in lands as it considers are necessary or convenient for the construction and operation of any water resource project, upon such terms and at such price as it considers reasonable and can be agreed upon between the district and the owner thereof, and take title thereto in the name of the district.

All political subdivisions may lease, lend, grant, convey or otherwise make available to a regional water and sewer district at its request, upon such terms as the proper authorities of such political subdivisions consider reasonable and fair, without the necessity for an advertisement, auction, order of court, or other action or formality, other than the regular and formal action of the political subdivision concerned, any real property or interests therein including improvements thereto or thereon or personal property which is necessary or convenient to the effectuation of the authorized purposes of the district, including public roads and other real property or interests therein together with improvements thereto or thereon or personal property already devoted to public use.

§ 6119.12. Revenue bonds and notes.

A regional water and sewer district may, from time to time, issue water resource revenue bonds and notes of the district in such principal amount as, in the opinion of the board of trustees of the district, are necessary for the purpose of paying any part of the cost of one or more water resource projects or parts thereof. The district may, from time to time, issue renewal notes, issue bonds to pay such notes and, whenever it considers refunding expedient, refund any bonds by the issuance of water resource revenue refunding bonds of the district, whether the bonds to be refunded have or have not matured, and issue bonds partly to refund bonds then outstanding and partly for any other authorized purpose. The refunding bonds shall be sold and the proceeds applied, to the extent necessary, to the purchase, redemption, or payment of the bonds to be refunded. Except as may otherwise be expressly provided by the district, every issue of its water resource revenue bonds or notes shall be obligations of the district payable out of the revenues of the district, which are pledged for such payment, without preference or priority of the first bonds issued, subject only to any agreements with the holders of particular bonds or notes pledging any particular revenues; provided that, if special assessments levied by the district pursuant to Chapter 6119 of the Revised Code are pledged to secure the payment of any issue of such bonds or notes, the board may covenant with the holders of such bonds or notes to limit the total principal amount of the financing anticipated to be paid from such

assessments to any principal amount less than one hundred per cent of such assessments. Such pledge shall be valid and binding from the time the pledge is made, the revenues so pledged and thereafter received by the district shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge is valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the district, irrespective of whether such parties have notice thereof, except as provided in section 319.61 of the Revised Code with respect to special assessments. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the district and except as provided in section 319.61 of the Revised Code with respect to special assessments.

Whether or not the district bonds or notes are of such form and character as to be negotiable instruments, the bonds or notes shall have all the qualities and incidents of negotiable instruments, subject only to the provisions of the bonds or notes for registration.

The water resource revenue bonds and notes shall be authorized by resolution of the board of trustees of the district, shall bear such date or dates, and shall mature at such time or times, in the case of any such note or any renewals thereof not exceeding five years from the date of issue of such original note, and in the case of any such bonds not exceeding forty years from the date of issue, as such resolution or resolutions may provide. The water resource revenue bonds and notes shall bear interest at such rate or rates, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption as the board may authorize. The water resource revenue bonds and notes of the district may be sold by the district, at public or private sale, at or not less than such price or prices as the board determines. The bonds and notes shall be executed by two officers of the district as provided in the resolution authorizing the same, either or both of whom may use a facsimile signature, the official seal of the district or a facsimile thereof may be affixed thereto or printed thereon as provided in such resolution, and attested, manually or by facsimile signature, by the secretary of the district, and any coupons attached thereto shall bear the signature or facsimile signature of one officer of the district as provided in the authorizing resolution. In case any officer whose signature, or a facsimile of whose signature, appears on any bonds, notes, or coupons ceases to be such officer before delivery of bonds or notes, such signature or facsimile is nevertheless sufficient for all purposes the same as if he had remained in office until such delivery, and in case the seal of the district has been changed after a facsimile has been imprinted on such bonds or notes, such facsimile seal will continue to be sufficient for all purposes.

Any resolution or resolutions authorizing any water resource revenue bonds or notes or any issue thereof may contain provisions, subject to such agreements with bondholders or noteholders as may then exist, which provisions shall be a part of the contract with the holders thereof, as to: pledging all or any part of the revenues of the district to secure the payment of the water resource revenue bonds or notes or of any issue thereof; the use and disposition of revenues of the district; a covenant to fix, alter, and collect rentals and other charges so that pledged revenues will be sufficient to pay costs of operation, maintenance, and repairs, pay principal of and interest on bonds or notes secured by the pledge of such revenues, and provide such reserves as may be required by the applicable resolution or trust agreement; the setting aside of reserve funds, sinking funds, replacement and improvement funds, or other special funds and the regulation and disposition thereof; the crediting of the proceeds of the sale of bonds or notes to and among the funds referred to or provided for in the resolution authorizing the issuance of the bonds or notes; the use, lease, sale, or other disposition of any water resource project or any other assets of the district; limitations on the purpose to which the proceeds of sale of bonds or notes may be applied and pledging such proceeds to secure the

payment of the bonds or notes or of any issue thereof; as to notes issued in anticipation of the issuance of water resource revenue bonds, the agreement of the district to do all things necessary for the authorization, issuance, and sale of such bonds in such amounts as may be necessary for the timely retirement of such notes; limitations on the issuance of additional bonds or notes; the terms upon which additional bonds or notes may be issued and secured; the refunding of outstanding bonds or notes; the procedure, if any, by which the terms of any contract with bondholders or note holders may be amended or abrogated, the amount of bonds or notes the holders of which must consent thereto, and the manner in which such consent may be given; limitations on the amount of moneys to be expended by the authority for operating, administrative, or other expenses of the district; securing any bonds or notes by a trust agreement in accordance with section 6119.14 of the Revised Code; and any other matters, of like or different character, which in any way affect the security or protection of the bonds or notes.

Neither the members of the board of trustees of the district nor any person executing the bonds or notes shall be liable personally on the bonds or notes or be subject to any personal liability or accountability by reason of the issuance thereof.

§ 6119.13. Exemption from uniform bond law.

The issuance of water resource revenue bonds and notes or water resource revenue refunding bonds under Chapter 6119 of the Revised Code need not comply with any other law applicable to the issuance of bonds or notes.

§ 6119.14. Trust agreements.

In the discretion of a regional water and sewer district, any water resource revenue bonds or notes or water resource revenue refunding bonds or notes issued under Chapter 6119 of the Revised Code may be secured by a trust agreement between the district and a corporate trustee, which trustee may be any trust company or bank having the powers of a trust company within or without the state.

Any such trust agreement may pledge or assign revenues of the district to be received, but shall not convey or mortgage any water resource project or any part thereof. Any such trust agreement or any resolution providing for the issuance of such bonds or notes may contain such provisions for protecting and enforcing the rights and remedies of the bondholders or noteholders as are reasonable and proper and not in violation of law, including covenants setting forth the duties of the district in relation to the acquisition of property, the construction, improvement, maintenance, repair, operation, and insurance of the water resource project or projects in connection with which such bonds or notes are authorized, the rentals or other charges to be imposed for the use or services of any water resource project, the custody, safeguarding, and application of all moneys, and provisions for the employment of consulting engineers in connection with the construction or operation of such water resource project or projects. Any bank or trust company, incorporated under the laws of this state which may act as depository of the proceeds of bonds or notes or of revenues may furnish such indemnifying bonds or may pledge such securities as are required by the district. Any such trust agreement may set forth the rights and remedies of the bondholders and noteholders and of the trustee, and may restrict the individual right of action by bondholders and noteholders as is customary in trust agreements or trust indentures securing similar bonds or notes. Such trust agreement may contain such other provisions as the district considers reasonable and proper for the security of the bondholders or noteholders. All expenses incurred in carrying out the provisions of any such trust agreement may be treated as a part of the cost of the operation of the water resource project or projects. Any such trust agreement or resolution may provide the method whereby the

general administrative overhead expenses of the district shall be allocated among the several projects acquired or constructed by it as a factor of the operation expense of each such project.

[§ 6119.14.1] § 6119.141. Rights of bondholders and trustees.

Any holders of water resource revenue bonds or notes issued under Chapter 6119 of the Revised Code, or any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights given by such chapter may be restricted by the applicable resolution or such trust agreement, may, by suit, action, mandamus, or other proceedings protect and enforce any rights under the laws of the state or granted under such chapter, trust agreement, or the resolution authorizing the issuance of such bonds or notes, and may enforce and compel the performance of all duties required by such chapter, or by the trust agreement or resolution, to be performed by the regional water and sewer district or any officer thereof, including the fixing, charging, and collection of rentals or other charges.

§ 6119.15. Bonds not a debt of state or subdivision.

Water resource revenue bonds and notes and water resource revenue refunding bonds issued pursuant to Chapter 6119 of the Revised Code, do not constitute a debt, or a pledge of the faith and credit, of the state or of any political subdivision thereof, and the holders or owners thereof have no right to have taxes levied by the general assembly or taxing authority of any political subdivision of the state for the payment of the principal thereof or interest thereon, but such bonds and notes are payable solely from the revenues and funds pledged for their payment as authorized by such chapter, unless the notes are issued in anticipation of the issuance of bonds or the bonds are refunded by refunding bonds issued under Chapter 6119 of the Revised Code, which bonds or refunding bonds shall be payable solely from revenues and funds pledged for their payment as authorized by such chapter. All such bonds and notes shall contain on the face thereof a statement to the effect that the bonds or notes, as to both principal and interest, are not debts of the state or any political subdivision thereof, but are payable solely from revenues and funds pledged for their payment.

All expenses incurred in carrying out Chapter 6119 of the Revised Code are payable solely from under such sections. Such sections do not authorize regional water and sewer districts to incur indebtedness or liability on behalf of or payable by the state or any other subdivision thereof.

[§ 6119.15.1] § 6119.151. Depositories.

All moneys, funds, properties, and assets acquired by a regional water and sewer district under Chapter 6119 of the Revised Code, whether as proceeds from the sale of water resource revenue bonds or as revenues, or otherwise, shall be held by it in trust for the purposes of carrying out its powers and duties, shall be used and reused as provided in such sections, and shall at no time be part of other public funds. Such funds, except as otherwise provided in any resolution authorizing its water resource revenue bonds or in any trust agreement securing the same, or except when invested pursuant to section 6119.16 of the Revised Code, shall be kept in depositories as selected by the district in the manner provided in section 135.12 of the Revised Code, and the deposits shall be secured as provided in section 135.18 of the Revised Code. The resolution authorizing the issuance of such bonds of any issue or the trust agreement securing such bonds shall provide that any officer to whom, or any bank or trust company to which, such moneys are paid shall act as trustee of such conditions as Chapter 6119 of the Revised Code and such resolution or trust agreement provided.

§ 6119.16. Investment in United States obligations.

Moneys in the funds of a regional water and sewer district, except as otherwise provided in any resolution authorizing the issuance of its water resource revenue bonds or in any trust agreement securing the same, in excess of current needs, may be invested in notes, bonds, or other obligations of the United States or of any agency or instrumentality thereof, or in obligations of this state or any political subdivision thereof. Income from all such investments of moneys in any fund shall be credited to such funds as the district determines, subject to the provisions of any such resolution or trust agreement, and such investments may be sold at such times and at such prices as the district determines.

§ 6119.17. Levy to amortize indebtedness.

Upon the creation of a regional water and sewer district, the board of trustees thereof may submit to the electors within the territorial limits of the district the question of issuing bonds of such district and also the necessity of the levy of a tax outside the limitation imposed by Section 2 of Article XII, Ohio Constitution, to pay the interest on and to retire the bonds. Such bonds when so approved by the electors may be issued to pay any portion of the cost of one or more water resource projects or parts thereof and may include any portion of the cost of water resource projects to be specially assessed. The proceedings for such election and for the issuance and sale of such bonds shall be as provided by Chapter 133 of the Revised Code. If a majority of those voting upon the proposition vote in favor thereof, the board of trustees of such district may proceed to issue such bonds and to levy a tax outside the ten-mill limitation sufficient in amount to pay the interest on and retire such bonds at maturity. Notes may be issued in anticipation of such bonds as provided in section 133.22 of the Revised Code.

TAX LEVY; ASSESSMENTS

6119.18. Levy for current expenses of district; anticipation notes.

The board of trustees of a regional water and sewer district, by a vote of two-thirds of all its members, may declare by resolution that it is necessary to levy a tax in excess of the ten-mill limitation for the purpose of providing funds to pay current expenses of the district or for the purpose of paying any portion of the cost of one or more water resource projects or parts thereof or for both of such purposes, and that the question of such tax levy shall be submitted to the electors of the district at a general or primary election. Such resolution shall conform to the requirements of section 5705.19 of the Revised Code, except as otherwise permitted by this section and except that such levy may be for a period not longer than ten years. The resolution shall go into immediate effect upon its passage and no publication of the resolution is necessary other than that provided for in the notice of election. A copy of such resolution shall, immediately after its passage, be certified to the board of elections of the proper county or counties in the manner provided by section 5705.25 of the Revised Code, and such section shall govern the arrangements for the submission of such question and other matters with respect to such election to which such section refers. Publication of the notice of such election shall be made in one or more newspapers having a general circulation in the district once a week for four consecutive weeks.

If a majority of the electors voting on the question vote in favor thereof, the board may make the necessary levy within the district at the additional rate or at any lesser rate on the tax list and duplicate for the purpose or purposes stated in the resolution.

The taxes realized from such levy shall be collected at the same time and in the same manner as other taxes on such tax list and duplicate and such taxes, when collected, shall be paid to the district and deposited by it in a special fund which shall be established by the district for all

revenues derived from such levy and for the proceeds of anticipation notes which shall be deposited in such fund.

After the approval of such levy, the district may anticipate a fraction of the proceeds of such levy and, from time to time, during the life of such levy, issue anticipation notes in an amount not exceeding fifty per cent of the estimated proceeds of such levy to be collected in each year up to a period of five years after the date of issuance of such notes, less an amount equal to the proceeds of such levy previously obligated for each year by the issuance of anticipation notes, provided that the total amount maturing in any one year shall not exceed fifty per cent of the anticipated proceeds of such levy for that year. Each issue of notes shall be sold as provided in Chapter 133 of the Revised Code, and shall, except for such limitation that the total amount of such notes maturing in any one year shall not exceed fifty per cent of the anticipated proceeds of such levy for that year, mature serially in substantially equal installments during each year over a period not to exceed five years after their issuance.

[§ 6119.18.1] § 6119.181. Repealed.

Repealed, 134 v S 166, § 2 [127 v 766]. Eff 11-19-71

[§ 6119.18.2] § 6119.182. Repealed.

Repealed, 134 v S 166, § 2 [127 v 766]. Eff 11-19-71.

[§ 6119.18.3] § 6119.183. Repealed.

Repealed, 134 v S 166, § 2 [127 v 766]. Eff 11-19-71.

#### Plan.

§ 6119.19. System of sewerage.

In addition to the power conferred by sections 6119.01 to 6119.42, inclusive, of the Revised Code, to construct sewers and levy assessments therefor, and in the absence or insufficiency of a plan provided for in section 6119.31 of the Revised Code, the board of trustees of a regional water and sewer district may provide a system of sanitary and/or storm water sewerage, herein referred to only as sewerage, for any part of the area included within the district. Such a plan shall be devised with regard to the present and prospective needs and interests of the area, and shall be confirmed by the board.

§ 6119.20. Division of district into sewer districts.

The plan devised in accordance with section 6119.19 of the Revised Code shall be formed with a view to the division of the regional water and sewer district into as many sewer districts as are necessary for securing efficient sewerage. Each of the districts shall be designated by name or number and shall consist of one or more main sewers with the necessary branch or connecting sewers, the main sewers having their outlets in a proper place. The districts shall be so arranged as to be independent of each other so far as practicable.

**§ 6119.21. Contents of plan.**

The plan devised in accordance with section 6119.19 of the Revised Code shall be so prepared as to show the size, location, inclination, and depth below the surface of all main sewers and all branch sewers connected therewith.

**§ 6119.22. Notice of plan; objections; amendments or corrections.**

When a plan of sewerage devised in accordance with section 6119.19 of the Revised Code has been prepared, the board of trustees of the regional water and sewer district shall give at least ten

days notice in one newspaper of general circulation in such area, stating that such plans have been prepared and are filed in the office of the secretary of the board for examination and inspection by the parties interested.

Any objection to such plan shall then be made to the board and it may amend or correct such plan, and shall thereupon file it as amended, or if no amendments are made, it shall file the original plan in the office of the secretary.

**§ 6119.23. Amendment of plan.**

Before or after the construction of all or a part of the sewers provided for by a plan of sewerage devised in accordance with section 6119.19 of the Revised Code, the board of trustees of the regional water and sewer district may amend such plan by providing for such intercepting sewers, without regard to sewer districts, as are necessary to furnish an additional outlet for the system so adopted, and to provide for the construction thereof as provided in sections 6119.01 to 6119.42, inclusive, of the Revised Code, and apportion the cost and expense thereof equitably among the districts directly or indirectly sewered, in whole or in part thereby, or assess and collect the amount apportioned to each district, or the board may apportion a part only of such cost and expense among the districts directly or indirectly sewered, in whole or in part thereby, and provide for the payment of the residue thereof by the district. The board may also amend such plan by making new sewer districts, by subdividing districts already established, giving a name and number thereto, or provide for the construction of the main and branch sewers therein, and may assess the cost and expense thereof upon the lots and lands within the area or district according to benefits.

**§ 6119.24. Designation of work; estimates.**

After the plan of sewerage devised in accordance with section 6119.19 of the Revised Code has been adopted and approved, the board of trustees of the regional water and sewer district shall designate such portions of the work as are required for immediate use. The designation shall be by districts or areas and shall show what districts, areas, or parts thereof are to be improved. The board may order its officers to make an estimate of the cost and expense of constructing the work or such portions thereof as have been designated and report them to the board.

**§ 6119.25. Resolution of necessity; publication.**

When the board of trustees of a regional water and sewer district deems it necessary to construct all or a part of the sewers provided for in the plan devised in accordance with section 6119.19 of the Revised Code, the board shall declare by resolution the necessity thereof. Such resolution shall contain a declaration of the necessity of such improvement, a statement of the districts, areas, or parts thereof proposed to be constructed, the character of the materials to be used, a reference to the plans and specifications, where they are on file, and the mode of payment therefor, and shall publish the resolution once a week for not less than two nor more than four consecutive weeks in one newspaper of general circulation in the area.

**§ 6119.26. Resolution to proceed with improvement.**

After the publication of the notice required by section 6119.25 of the Revised Code, the board of trustees of the regional water and sewer district shall determine whether it will proceed with the proposed improvement or not. If the board decides to proceed with the improvement a resolution

for that purpose shall be passed. Such resolution shall contain a statement naming the districts or parts thereof proposed to be constructed, the character of the material to be used, a reference to the plans and specifications, the mode of payment thereof, and shall provide for assessing the cost of the improvement upon the lots and land in each district as other assessments are levied.

**§ 6119.27. Assessment of real estate.**

If it deems it expedient, the board of trustees of the regional water and sewer district may assess the real estate as provided in the resolution to improve and collect such assessments, or may issue bonds in anticipation of the collection of such assessments before the work is done or contracted for. The board may delay such assessment until the work is completed and upon the filing of a certificate showing the completion of the work assess the real estate as provided in the resolution to improve. Any person so assessed may pay his proportion of the assessment in cash within thirty days from the date of the levy thereof upon due notice being given. If any such assessment is twenty-five dollars or less or if any unpaid balance of an assessment is twenty-five dollars or less, it shall be paid in full and not in installments at the time the first or next installment would otherwise become payable.

**§ 6119.28. Award and payment of construction contracts.**

The construction contracts authorized in Chapter 6119, of the Revised Code shall be awarded to the lowest and best bidder in the manner provided in section 6119.10 of the Revised Code and shall be paid for in the same manner as provided for payment of municipal contracts in Chapter 735, of the Revised Code.

**§ 6119.29. Construction without plans.**

If in its opinion it is expedient, the board of trustees of a regional water and sewer district may provide for the construction of main sewers and drains and branch sewers and drains connecting therewith without previously adopting any plan of sewerage or division of the area or any part thereof into districts, and may assess the cost and expense of such construction upon such lots and lands as are designated in the resolution to improve, or such cost and expense may be paid from the general fund of the district, as the board determines. Such proceedings shall be had in respect to such improvements and assessments as are provided for in sections 6119.01 to 6119.42, inclusive, of the Revised Code, for the construction of main or branch sewers according to a previously adopted plan.

**§ 6119.30. Bonds and notes in anticipation of assessments.**

The issuance of bonds and notes in anticipation of the collection of special assessments shall be accomplished as provided in Chapter 6119, of the Revised Code.

**TAX LEVY**

**§ 6119.31. Resolution for levy of tax.**

The board of county commissioners at any time not less than seventy-five days before the general election in any year, by a vote of two-thirds of its members, may declare by resolution that the amount of taxes which may be raised within the ten-mill limitation will be insufficient to provide an adequate amount for the necessary requirements of the county, and that it is necessary to levy a tax in excess of such limitation for the purpose of paying the cost of the preparation of plans, specifications, surveys, soundings, drillings, maps, and other data needed or determined necessary in order to develop plans for the proper purification, filtration, and distribution of

water or proper collection and treatment of sewage within the county or a part thereof, or beyond the limits of the county but within the same drainage area as is in part within the county.

Such resolution shall be confined to a single purpose and shall specify the amount of increase in rate which it is necessary to levy, not to exceed three-tenths of a mill, the purpose thereof, the number of years during which such increase shall be in effect, not to exceed five years, which increase may or may not include a levy upon the duplicate of the current year.

Such resolution shall go into effect upon its passage and no publication of it is necessary other than that provided for in the notice of election.

**§ 6119.32. Approval of tax levy by electors.**

A copy of the resolution provided for in section 6119.31 of the Revised Code shall be certified to the board of elections for the county not less than seventy-five days before the general election in any year and said board shall submit the proposal to the electors of the county at the succeeding November election in accordance with section 5705.25 of the Revised Code.

If the per cent required for approval of a levy as set forth in section 5705.26 of the Revised Code vote in favor thereof, the board of county commissioners may levy a tax within the county at the additional rate outside the ten-mill limitation during the period and for the purpose stated in the resolution, or at any less rate or for any less number of years.

**§ 6119.33. Appropriation of funds from tax levy.**

All funds and proceeds received from the levy of the tax approved as provided in section 6119.32 of the Revised Code may be appropriated in whole or in part by the board of county commissioners to the regional planning commission, the county planning commission, or to any regional water and sewer district for the purpose of preparing plans for the proper purification, filtration, and distribution of water or proper collection and treatment of sewage.

**§ 6119.34. Right of entry; reimbursement for damage.**

The regional planning commission, the county planning commission, or any regional water and sewer district undertaking the preparation of plans for the proper purification, filtration, and distribution of water or proper collection and treatment of sewage, or their authorized agents and employees, after proper notice, may enter upon any lands, waters, and premises in the state for the purpose of making or preparing surveys, soundings, drillings, examinations, maps, or other data needed or determined necessary or proper for the preparation of such plans. Such entry is not a trespass, nor is an entry for such purposes an entry under any condemnation proceedings which are then pending. The owner of such lands, waters, or premises shall be reimbursed for any actual damage resulting to such lands, waters, and premises, and to private property located in, on, along, over, or under such lands, waters, and premises, as a result of such activities.

**§ 6119.35. Approval or rejection of plans by environmental protection agency.**

Upon the completion of plans for the proper purification, filtration, and distribution of water or proper collection and treatment of sewerage, the board of county commissioners, the regional planning commission, the county planning commission, or any regional water and sewer district which has prepared such plans shall file a copy thereof with the environmental protection

agency, which may approve or reject any provisions thereof. In deciding whether to approve or reject the plan, the agency shall consider, among other factors, the protection of the public health, and compliance with air and water quality standards and regulations and solid waste disposal requirements. If such agency rejects such plans or refers them back for amendment, other or amended plans shall be prepared. If the agency approves such plans, it shall certify a copy of its action and thereafter any district may proceed to carry such plans into effect.

**§ 6119.36. Issuance of securities in lieu of tax levy.**

In lieu of submitting to the electors for approval the question of a tax levy outside the ten-mill limitation and levying that tax following approval, as provided for in sections 6119.31 and 6119.32 of the Revised Code, the board of county commissioners may issue securities, as defined in section 133.01 of the Revised Code, including anticipatory securities, for the purpose of paying the cost of the preparation of the data needed or determined to be necessary or appropriate in order to plan for the proper supply, purification, filtration, and distribution of water, the proper collection, treatment, and disposal of sewage, or the proper collection, control, abatement, or treatment of surface and subsurface drainage, each and all within the limits of the county or a part of the county or beyond the limits of the county but within the same drainage area as is in part within the county, and, if the board determines it to be necessary or appropriate, for the purpose of paying the costs of acquiring real estate or interests in real estate for improvements for one or more of those purposes. The data may include, but are not limited to, plans, specifications, estimates of cost, drillings, maps, soundings, surveys, and tentative assessments against properties that are potentially benefited. The securities shall be in an amount not exceeding the total estimated cost of the preparation of the data and of making any acquisitions of real estate or interests in real estate, together with all other items of cost that are incident to that preparation or those acquisitions and that are described in division (B) of section 133.15 of the Revised Code.

Prior to the issuance or the first issuance of the securities, the board shall determine that the funds allocated for general operating expenses of the county are insufficient to pay both those operating expenses for the current year and the total estimated cost to be financed under authority of this section.

The securities shall be Chapter 133. securities, and their issuance shall be subject to that chapter, except that the maximum maturity of the securities shall not exceed ten years. The proceeds of securities issued for the purpose of paying costs of the improvements for which the data is prepared or for which any acquisition of real estate or interest in real estate is made may be applied, without reduction of their maximum maturity, to retire anticipatory securities issued pursuant to this section.

All moneys raised by the issuance of securities pursuant to this section shall be applied to the purposes provided for in section 6119.31 of the Revised Code and in this section.

**§ 6119.37. Administrative service status of employees.**

(A) Any employees of a political subdivision who are in the classified service under Chapter 124, of the Revised Code, and who because of the transfer of a facility of such political subdivision to a regional water and sewer district become the employees of such district, shall,

while in the continuous employment of such district, not be reduced in pay or position, suspended, or removed except in accordance with section 124.34 of the Revised Code.

(B) Division (C) of this section applies to the persons described in that division and to all former employees of a municipal corporation who:

(1) Were employed in the municipal departments responsible for supplying water or for collecting, treating, and disposing of waste water;

(2) Were granted employment rights and protection under the charter of the municipal corporation or provisions adopted pursuant to the charter similar to those granted to employees in the classified state service under Chapter 124. of the Revised Code; and

(3) Lost their employment with the municipal corporation because of the creation or expansion of a regional water and sewer district or because of the transfer of a facility of the municipal corporation to a regional water and sewer district and became employees of the district after the creation, expansion, or transfer.

(C) All persons described in division (B) of this section shall, while employed by the district, be subject to the provisions of Chapter 124. of the Revised Code that govern the appointment, promotion, transfer, reinstatement, lay-off, reduction in pay or position, suspension, removal, and political activity of employees in the classified state service, and for the purposes of these provisions shall be treated as if they were employees in the classified state service. This division also applies to all persons employed by a regional water and sewer district after persons described in divisions (B)(1), (2), and (3) of this section become employees of the district.

(D) As used in this section:

(1) "Regional water and sewer district" includes a district organized under this chapter that has been designated as either a regional water district or a regional sewer district as provided in division (U) of section 6119.011 [6119.01.1] of the Revised Code.

(2) "State service" has the same meaning as given in section 124.01 of the Revised Code.

**§ 6119.38. Audit by auditor of state; report.**

Any regional water and sewer district is subject to audit by the auditor of state, who shall furnish to each political subdivision whose territory is in whole or in part within such district a copy of his audit report.

**§ 6119.39. Employees in public employees retirement system.**

A regional water and sewer district is an employer and all employees of such district are public employees within the meaning of section 145.01 of the Revised Code. Such district and its employees are subject to Chapter 145. of the Revised Code.

**6119.40. District exempt from taxation.**

The exercise of the powers granted by Chapter 6119. of the Revised Code, will in all respects be for the benefit of the people and for the increase of their prosperity and the improvement of their health and living conditions. The operation and maintenance of public works by the board of trustees of a regional water and sewer district constitute the performance of essential

governmental functions. Such district shall not be required to pay any taxes or assessments upon any real or personal property acquired, owned, used, or controlled by it under Chapter 6119, of the Revised Code, or upon the income or gross receipts therefrom, and the bonds and notes issued under such sections and the transfer of income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation within the state.

**§ 6119.41. Contractual power of board of trustees.**

The board of trustees of a regional water and sewer district may enter into contracts or other arrangements with the United States government or any department thereof, with persons, firms, or corporations, with public corporations and the state government of this state or other states, with drainage, conservation, conservancy, sewer, park, or other improvement districts in this or other states for co-operation or assistance in planning, constructing, maintaining, using, and operating the works of the district, or in minimizing or preventing damage to its properties, works, and improvements, or for making surveys, investigations, or reports thereon.

**§ 6119.42. Special assessments.**

Any regional water and sewer district may levy and collect special assessments as provided in Chapter 6119 of the Revised Code. The board of trustees of such district may assess upon abutting, adjacent, contiguous, or other specially benefited lots or lands in the district all or any part of the cost connected with the improvement of any street, alley, or public road or place, or a property or easement of the district by constructing any water resource project or part thereof which the board declares conducive to the public health, safety, convenience, or welfare by any one or more of the following methods:

- (A) By a percentage of the tax value of the property assessed;
- (B) In proportion to the benefits which result from the project;
- (C) By the foot front of the property bounding and abutting upon the project.

The proceedings looking to such assessment may include more than one street, alley, or public road or place, or parcel of property or easement of the district.

**6119.43. Purposes for assessments.**

The cost of constructing a water resource project to be paid for directly or indirectly, in whole or in part, by funds derived from special assessments may include but need not be limited to:

- (A) The purchase price of real estate or any interest therein when acquired by purchase, or when acquired by appropriation;
- (B) The cost of preliminary and other surveys;
- (C) The cost of preparing plans, specifications, profiles, and estimates;
- (D) The cost of printing, serving, and publishing notices and any legislation required;
- (E) The cost of all special proceedings;
- (F) The cost of labor and material, whether furnished by contract or otherwise;
- (G) Interest on bonds or notes issued in anticipation of the levy and collection of the special assessments;
- (H) The total amount of damages resulting from the project which are assessed in favor of any owner of lands affected by the project, and interest thereon;
- (I) The cost incurred in connection with the preparation, levy, and collection of the special assessments, including legal expenses incurred by reason of the project;
- (J) Incidental costs connected with the project.

**§ 6119.44. Designation of property to be assessed.**

In all proceedings in which lots or lands are to be charged with special assessments to provide funds for the construction of a water resource project, such lots and lands bounding and abutting upon the project may be described as all the lots and lands bounding and abutting upon such project between and including the termini of the project and those lots and lands which do not so bound and abut may be described by their appropriate lot numbers or by metes and bounds.

**§ 6119.45. Payment by annual installments.**

Special assessments for the construction of a water resource project under Chapter 6119, of the Revised Code shall be payable in such number of annual installments, not less than one, and at such times as the board of trustees prescribes.

**§ 6119.46. Filing of resolution of necessity.**

When it is considered necessary to construct a water resource project to be paid for in whole or in part by special assessments levied under Chapter 6119, of the Revised Code, plans, specifications, and profiles of the proposed project showing the anticipated grade of the project after completion with reference to any property abutting thereon, and an estimate of the cost of the project shall be prepared and filed in the office of the secretary of the board of trustees of the regional water and sewer district and shall be open to the inspection of all persons with interests therein. After such plans, specifications, profiles, and estimate of cost of the project have been filed in the office of the secretary, the board may declare the necessity of constructing such project by the passage of a resolution.

Such resolution shall:

- (A) State the nature and location of the project and the lots or parcels of land to be assessed for the project;
- (B) Approve the plans, specifications, profiles, and estimate of cost of the proposed project on file as provided in this section;
- (C) State that the entire cost of the project is to be specially assessed or state what part of the cost is to be paid for by the district and what part is to be specially assessed;
- (D) State the method or methods of levying the special assessments in accordance with section 6119.42 of the Revised Code;
- (E) State the mode of payment and the number of annual installments of the special assessments to be levied;
- (F) State whether or not bonds shall be issued in anticipation of the collection of the special assessments;
- (G) Provide for the preparation of a list of estimated assessments in accordance with the method or methods of assessment set forth in the resolution, showing the amount of the assessment against each lot or parcel of land to be assessed. Such list of estimated assessments shall be filed in the office of the secretary of the board of trustees.

**§ 6119.47. Notices of estimated assessments to owners.**

Notice of the passage of a resolution of necessity and the filing of the estimated assessments under section 6119.46 of the Revised Code shall, after the estimated assessments have been prepared and filed as provided by such section, be served by the secretary of the board of trustees of the regional water and sewer district, or a person designated by such secretary, upon the owners of the lots or parcels of land to be assessed for the proposed project, in the same manner

as service of summons in civil cases, or by certified mail addressed to such owners at their last known addresses or to the addresses to which tax bills are sent, or by a combination of the foregoing methods. If it appears by the return of service or the return of the certified mail notice that one or more of the owners cannot be found, such owners shall be served by publication of the notice once in at least one newspaper having a general circulation within the district. The notice shall also set forth the place where such estimated assessments are on file and are open for public inspection. The return of the person serving the notice or a certified copy thereof or a returned receipt for notice forwarded by certified mail accepted by the addressee or anyone purporting to act for him shall be prima-facie evidence of the service of notice under this section.

**§ 6119.48. Owners may file objections.**

The owner of any lot or parcel of land who objects to the assessment against such lot or parcel as set forth in the estimated assessments filed under section 6119.46 of the Revised Code shall file such objection, in writing, with the secretary of the board of trustees of the regional water and sewer district within twenty-eight days from the date of completion of the notice required under section 6119.47 of the Revised Code. Such objection shall include the address for mailing of the notice provided in section 6119.49 of the Revised Code. An owner who fails so to file such an objection shall be deemed to have waived any objection to his assessment.

**§ 6119.49. Assessment equalization board.**

In the event that the owner of any lot or parcel of land to be assessed objects to the estimated assessments as provided in section 6119.48 of the Revised Code, the board of trustees of the regional water and sewer district shall appoint an assessment equalization board consisting of three disinterested persons residing in the district, and shall fix the time and place for the hearing by such board of such objections, and the secretary of the board of trustees shall notify, by certified mail, the persons so objecting of the time and place of such hearing. Such notice shall be mailed at least five days before the date of such hearing. In the event that all lands within the district are to be subject to assessment, the assessment equalization board shall consist of three disinterested persons residing outside the district.

On the day appointed by the board of trustees for that purpose, the assessment equalization board shall meet and take an oath before a proper officer to honestly and impartially discharge its duties. It shall at such meeting, or at any adjournment thereof, hear and determine all objections to the estimated assessments which have been filed under section 6119.48 of the Revised Code, and shall equalize such estimated assessments as it thinks proper to conform to the standard or standards prescribed in the resolution adopted under section 6119.46 of the Revised Code.

If the assessment equalization board determines to increase the estimated assessment against any lot or parcel of land or to assess any lot or parcel of land not included in the estimated assessments, the assessment equalization board shall notify the owner of such lot or parcel by certified mail of such fact and set a time and place for a hearing on such increase or assessment. Such notice shall be mailed at least ten days before the date of such hearing.

After the completion of all hearings provided for in this section, the assessment equalization board shall report to the board of trustees its recommendations, including any changes which should be made in the estimated assessments.

The board of trustees may approve or disapprove the report, including any changes recommended by the assessment equalization board in the estimated assessments.

In the event the board of trustees disapproves the report of the assessment equalization board, it shall appoint a new equalization board and shall fix the time and place for the hearing by such

new board of objections to the estimated assessments. Such new board shall have the same powers and duties and shall proceed in the same manner as the original board.

**§ 6119.50. Filing damage claims.**

An owner of a lot or parcel of land claiming that he will sustain damages by reason of a proposed project, to be paid for in whole or in part by special assessments, shall, within twenty-eight days from the date of completion of the notice required under section 6119.47 of the Revised Code, file a claim in writing with the secretary of the board of trustees of the regional water and sewer district, setting forth the amount of the damages claimed and a general description of the property with respect to which it is claimed that such damages will accrue. An owner who fails to file such claim shall be deemed to have waived damages and shall be barred from filing a claim or receiving damages. This section applies to all damages which will obviously result from the project, but shall not deprive the owner of his right to recover damages arising, without his fault, from the acts of the district or its agents. If, subsequent to the filing of such claim, the owner sells the property, or any part thereof, the assignee has the same right to damages which the owner would have had without the transfer.

When claims for damages are filed under this section and the board determines in the resolution adopted under section 6119.51 of the Revised Code that the damages shall be assessed before commencing such project, the board shall, within ten days after the passage of the resolution to proceed with the project under such section, make a written application to the court of common pleas for a jury. If the board determines that the damages shall be assessed after the completion of the project, the board shall make such written application within ten days after the completion of such project. The court shall direct the summoning of a jury in the manner provided by section 163.10 of the Revised Code, and shall fix the time and place for the inquiry and the assessment of such damages, which inquiry and assessment shall be confined to such claims.

The jury summoned under this section shall be sworn to inquire into and assess the actual damages in each case separately, under such rules and instructions as are given it by the court. When the jury cannot agree, it may be discharged, but the court may receive its verdict as to one or more of the claimants and discharge it with respect to the parties concerning whose claims it cannot agree. In case of the discharge of the jury because of such disagreement, a new jury shall be summoned and the same proceedings shall be had with respect to the claims concerning which there was no verdict.

If the jury summoned under this section finds no damages, the costs of the inquiry shall be taxed against the claimant or claimants and collected on execution. In other cases, the costs shall be paid by the district.

This section does not apply to an application for an injunction or other proceeding to which it may be necessary for such applicant to resort in case of urgent necessity.

**§ 6119.51. Resolution of intent to proceed with improvement.**

The board of trustees of a regional water and sewer district which has adopted a resolution under section 6119.46 of the Revised Code declaring the necessity of constructing a water resource project shall, after the expiration of the time for filing claims for damages under section 6119.50 of the Revised Code, and, in the event that objections to the estimated assessments have been filed under section 6119.48 of the Revised Code, and the report of the assessment equalization board has been approved under section 6119.49 of the Revised Code, determine whether or not it will proceed with the proposed project.

In the event that the board determines to proceed with the construction of a project it shall pass a resolution which shall:

(A) State the intention of the board to proceed with the project in accordance with the resolution of necessity adopted under section 6119.46 of the Revised Code.

(B) Adopt the estimated assessments prepared and filed in accordance with the resolution of necessity passed under section 6119.46 of the Revised Code, or, in the event objections to such estimated assessments have been filed under section 6119.48 of the Revised Code, adopt the estimated assessments approved by the board under section 6119.49 of the Revised Code.

(C) State whether or not claims for damages filed in accordance with section 6119.50 of the Revised Code shall be judicially inquired into before commencing or after completing the proposed project.

**§ 6119.52. Revision of estimates; resolution of assessments.**

A water resource project authorized under section 6119.51 of the Revised Code shall be constructed in accordance with section 6119.10 of the Revised Code and, after the actual cost of such project has been ascertained, the board of trustees of the regional water and sewer district shall by resolution assess, in the manner provided in the resolution of necessity adopted under section 6119.46 of the Revised Code, upon the lots and lands enumerated in the estimated assessments adopted under section 6119.51 of the Revised Code, the total cost of the project or such lesser portion thereof as is to be specially assessed and such assessment as to each lot or parcel of land shall be increased or decreased in the same proportion to the estimated assessment on each such lot or parcel of land as the actual cost of the project bears to the estimated cost of the project upon which the estimated assessment was based. All such assessments shall be payable as provided in the resolution of necessity adopted under section 6119.46 of the Revised Code, and shall be final upon the adoption of the resolution provided for in this section.

Assessments made under this section shall be filed with the secretary of the board of trustees of the regional water and sewer district and shall be open to public inspection.

Upon the passage of such resolution levying special assessments, the board shall publish notice of the passage of such resolution once in at least one newspaper having a general circulation in the district, stating that such assessment has been made and is on file in the office of the secretary for the inspection and examination of persons interested therein.

Such special assessments are payable by the time and in the manner stipulated in such resolution, except that any such assessment in the amount of twenty-five dollars or less, or any unpaid balance or any such assessment which is twenty-five dollars or less, shall be paid in full, and not in installments, at the time the first or next installment would otherwise become due and payable, and are a lien from the date of the passage of such resolution upon the respective lots or parcels of land assessed.

**§ 6119.53. Interest and penalties.**

When special assessments levied but uncollected by a district pursuant to Chapter 6119, of the Revised Code are pledged to the repayment of water resource revenue bonds or notes issued by the district, the interest accrued or to accrue before the first installment of such assessments shall be collected on such bonds or notes and shall be treated as part of the cost of the project for which such assessments are made. The assessments levied and collected or to be collected in installments which are pledged to the repayment of water resource revenue bonds and notes shall bear interest at the same rate and for the same period as such bonds or notes. When the

contribution of a regional water and sewer district, under an agreement between the district and the Ohio water development authority provided for in section 6121.13 of the Revised Code for the construction of a project for which the district can levy assessments as provided in Chapter 6119, of the Revised Code is to be made over a period of time from the proceeds of the collection or assessments, the interest accrued and to accrue before the first installment of such assessment shall be collected that is payable by such district on such contribution under such agreement shall be treated as part of the cost of the project for which such assessments are made, and that portion of such assessments as is collected in installments shall bear interest at the same rate that the district is obligated to pay on its contribution under such agreement and for the same period of time as the contribution is to be made under such agreement. If the assessments or any installment thereof are not paid when due, they shall bear interest until the payment thereof at the same rate as such contribution or as the bonds or notes issued in anticipation thereof, and the county auditor shall annually place upon the tax list and duplicate the penalty and interest as provided in Chapter 6119, of the Revised Code.

**§ 6119.54. Collection of unpaid installments, collection cost to be added.**

When any special assessment is levied under sections 6119.52 and 6119.58 of the Revised Code, and water resource revenue bonds or notes of the regional water and sewer district are issued pledging the same, the secretary of the board of trustees of the district shall on or before the second Monday in September of each year, certify such assessment to the county auditor, stating the amounts and the time of payment. The auditor shall place the assessment upon the tax list and duplicate in accordance therewith. The county treasurer shall collect the assessment in the same manner and at the time as other taxes are collected, and shall pay the amounts collected, together with interest and penalty, to the secretary, to be applied by him to the payment of such bonds or notes and interest thereon, and for no other purpose.

For the purpose of enforcing such collection, the county treasurer shall have the same power and authority as allowed by law for the collection of state and county taxes. Each installment of such assessments remaining unpaid after becoming due and collectible shall be delinquent and bear the same penalty and interest as delinquent taxes. The authorized legal representative of any such district may act as attorney for the county treasurer in actions brought for the enforcement of the lien of such delinquent assessments.

When a special assessment is made on real estate subject to a life estate, the assessment shall be payable by the tenant for life, but upon application by the life tenant to a court of competent jurisdiction, by action against the owner of the estate in fee, such court may apportion the cost of the assessment between the life tenant and the owner in fee in proportion to the relative value of the improvement to their estates, respectively, to be ascertained and determined by the court on principles of equity.

In placing any assessment on the tax list and duplicate the county auditor shall add to each assessment such per cent as he deems necessary to defray the expense of collecting it.

**§ 6119.55. Proceedings to recover.**

If the payment of a special assessment which has not been certified to the county auditor for collection is not made by the time stipulated in the resolution providing therefor, the amount assessed, with interest, and a forfeiture of ten per cent thereon, may be recovered by suit before a

court of competent jurisdiction, in the name of the regional water and sewer district, to enforce the lien against the lots and lands charged with such assessment.

Proceedings for the recovery of the assessment may be instituted by the district to enforce the lien against all the lots or lands, or any of them embraced in any one assessment, but the judgment or decree shall be rendered severally or separately for the amount assessed. Any proceeding may be severed, in the discretion of the court, for the purpose of trial, review, or appeal when an appeal is allowed.

In proceedings to enforce the lien, when the owner of any lot or land assessed is a nonresident of this state, or is unknown, notice shall be given by publication in the manner prescribed by law in similar cases.

If, in any action for the recovery of a special assessment, it appears that by reason of any technical irregularity or defect, whether in the proceedings of the board of trustees or of any officer of the district, or in the plans or estimates, or otherwise, the assessment has not been properly made upon any lot or parcel of land sought to be charged, the court may nevertheless, on satisfactory proof that expense has been incurred which is a proper charge against such lot or parcel of land in question, render judgment for the amount properly charged against it. The court shall make such order for the payment of the costs as is equitable and proper.

The board of trustees may order the secretary of such board, or any other proper officer of the district, to certify any unpaid assessment levied under sections 6119.52 and 6119.58 of the Revised Code to the county auditor, and the amount so certified shall be placed upon the tax list and duplicate by the auditor, and shall, with a ten per cent penalty to cover interest and cost of collection, be collected with and in the same manner as state and county taxes and credited to the district. Such ten per cent penalty shall in no case be added unless at least thirty days have intervened between the date of the passage of the resolution making the levy and the time of certifying it to the auditor for collection.

#### **§ 6119.56. Lien of assessment.**

The lien of an assessment or any installment thereof shall continue for two years from date of passage of the resolution under section 6119.52 or 6119.58 of the Revised Code, and no longer, unless the regional water and sewer district, before the expiration of such time, causes it to be certified to the county auditor for entry upon the tax list and duplicate, for collection, or causes the proper action to be commenced in a court having jurisdiction thereof, to enforce the lien against such lots or lands, in which case the lien shall continue in force so long as the assessment or any installment thereof remains on the tax list uncollected, or so long as the action is pending, and any judgment obtained under and by virtue thereof remains in force and unsatisfied.

If an action for the recovery of an assessment is commenced within due time, and a judgment therein for the plaintiff is reversed, or if the plaintiff fails in such action otherwise than upon the merits and the time limited for the action has expired, a new action may be commenced within one year after such reversal or failure.

A court of common pleas shall have the jurisdiction authorized by Chapter 6119 of the Revised Code for the collection of any charge or debt or the enforcement of any lien, notwithstanding the amount involved is less than that to which the jurisdiction is limited in other cases. Such court may make such special rules concerning the class of cases authorized to be brought under such chapter as will tend to expedite the disposition and prevent unnecessary costs.

#### **§ 6119.57. Additional assessments.**

If an assessment proves insufficient to pay the cost of a water resource project, the board of trustees of a regional water and sewer district may levy an additional assessment to supply the deficiency. Such additional assessment shall be levied against the same properties as were assessed for the cost of the project and shall be assessed among such properties in the same proportion as the assessment for the cost of the project was levied. In case a larger amount from an assessment than is necessary to pay the cost of the project or to retire the bonds or notes issued in anticipation thereof, the amount of such assessments collected in excess of that necessary to pay such cost or retire such bonds or notes shall be returned to the persons from whom it was collected in proportion to the amounts collected from each such person respectively.

When it appears to the board that a special assessment is invalid by reason of informality or irregularity in the proceedings, or when an assessment is adjudged to be illegal by a court of competent jurisdiction, the board may order a reassessment whether the project has been made or not.

Proceedings upon a reassessment, and for the collection thereof, shall be conducted in the same manner as is provided for the original assessment.

Proceedings with respect to projects to be paid for in whole or in part by special assessments shall be liberally construed by the board and by the courts in order to secure a speedy completion of the work at reasonable cost, and the speedy collection of the assessment after the time has elapsed for its payment. Merely formal objections shall be disregarded, but the proceedings shall be strictly construed in favor of the owner of the property assessed or injured as to any limitation on assessment of private property and compensation for damages sustained.

With respect to any assessment upon the abutting, adjacent, and contiguous, or other specially benefited lots or lands in a regional water and sewer district for any part of the cost connected with a project, the passage by the board of a resolution levying such assessment shall be construed a declaration by such board that the project for which it is levied is conducive to the public health, convenience, and welfare. No assessment shall be held invalid by any court because of the omission of the board to declare expressly in the proceedings and legislation for such project and assessment that the project is conducive to the public health, safety, convenience, or welfare.

#### **§ 6119.58. Assessments for planning purposes.**

In order to obtain funds for the preparation of plans, specifications, estimates of cost, tentative assessments, and a plan of financing for any water resource project or part thereof, the board of trustees of a regional water and sewer district may levy upon the property in such district to be benefited by such project assessments apportioned in accordance with one or more of the methods set forth in section 6119.42 of the Revised Code. The aggregate of such assessments shall not exceed the amount determined by the board of trustees to be necessary for such purpose, including costs of financing, legal services, and other incidental costs, and shall be payable in such number of annual installments, not less than one, as the board of trustees prescribes, together with interest on any water resource revenue notes and bonds which may be issued in anticipation of the collection of such assessments.

If the board of trustees proposes to obtain funds in accordance with this section, it shall determine by resolution that it is necessary to construct the water resource project and to maintain and operate the same on behalf of the district.

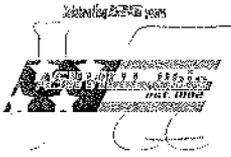
Prior to the adoption of the resolution making such determination, the board of trustees shall give notice of the pendency thereof and of the proposed determination of the necessity of the

construction of such project therein generally described, and such notice shall set forth a description of the properties to be benefited by such project and the time and place of a hearing of objections to, and endorsements of, such project. Such notice shall be given by publication in at least one newspaper having a general circulation in the district once a week for two consecutive weeks, the first publication to be at least two weeks prior to the date set for the hearing, provided that the board of trustees may give, or cause to be given, such alternative or further notice of such hearing as it finds to be necessary or appropriate. At such hearing, or at any adjournment thereof, of which no further notice need be given, the board of trustees shall hear all owners whose properties are proposed to be assessed and such other evidence as is considered to be necessary, and may then adopt its resolution determining that the proposed project is necessary and should be undertaken by the district. In such resolution, the board of trustees shall direct the preparation of the estimated assessments upon the benefited properties and by whom they shall be prepared.

After such assessments have been prepared and filed in the office of the secretary of the board of trustees and prior to the adoption of the resolution levying such assessments, the board of trustees shall give notice of the pendency of such resolution and of the proposed determination to levy such assessments, and such notice shall set forth the time and place of a hearing of objections to such assessments. Such notice shall be given by publication once in at least one newspaper having a general circulation in the district, such publication to be made at least ten days prior to the date set for the hearing, provided that the board of trustees may give or cause to be given, such alternative or further notice of such hearing as it finds to be necessary or appropriate. At such hearing, or at any adjournment thereof, of which no further notice need be given, the board of trustees shall hear all persons whose properties are proposed to be assessed, shall correct any errors and make any revisions in the estimated assessments that appear to be necessary or just, and may then adopt a resolution levying upon the properties determined to be benefited the assessments as originally prepared or as so corrected and revised.

The board of trustees shall have the power at any time to levy additional assessments upon such properties to complete the payment of the costs for which the original assessments were levied or to provide funds for any additional plans, specifications, estimates of cost, tentative assessments, and other incidental costs, provided that the board shall first have held a hearing on objections to such additional assessments in the same manner as required by this section with respect to such original assessments. Such additional assessments shall be payable in such number of annual installments, not less than one, as the board of trustees prescribes, together with interest on any water resource revenue notes and bonds which may be issued in anticipation of the collection of such assessments.

The board of trustees may authorize contracts to carry out the purposes for which such assessments have been levied without the prior issuance of water resource revenue notes and bonds, provided that the payments to be made by the district do not fall due prior to the times when such assessments shall be collected.



www.ashvilleohio.net

Mayor  
Charles K. Wise

Council  
Gayle Blankenship  
Glenn Cook  
Nelson Embrey  
Brian M. Garvine  
Keith Moore  
Brian Stewart

Clerk-Treasurer  
Barbara J. Gilbert

Planning & Zoning  
Brian Stewart  
Chester Gloyd  
Lisa Darnell  
Mike Videkovich  
Mayor Wise

Chief of Police

Tax Administrator  
Patricia Cavince

Village Administrator  
Franklin Christman

Service Superintendent  
David E. Ballard

Utility Dept. Chief  
James R. Welsh

# Memorandum

**To:** Council Utility Committee  
**cc:** Other Council Members  
**From:** Franklin Christman, Chris Tebbe, and Jim Welsh  
**Date:** 5/24/2010  
**Re:** District Formation and SOQ & LOI Selection

## District Formation Recommendation:

- Do nothing; continue ownership and control of plant.
  - \_\_\_\_\_
- Consider District Formation with South Bloomfield and Harrison Township
  - \_\_\_\_\_
- Consider District Formation without Harrison Township
  - \_\_\_\_\_
- Consider District Formation without South Bloomfield.
  - \_\_\_\_\_
- Consider No District Formation but expansion of Plant.
  - \_\_\_\_\_
- Consider No District Formation relocation of existing plant.
  - \_\_\_\_\_

Chris Tebbe, Jim Welsh, and Franklin Christman reviewed the Statement of Qualifications and Letter of Interest that the Village received regarding the Wastewater Treatment Plant Expansion Project. The Village received SOQ's from 12 firms. The following was the consensus of that review:

- |                    |                   |
|--------------------|-------------------|
| 1) URS             | 7) Triad          |
| 2) DLZ             | 8) MS Consultants |
| 3) Poggemeyer      | 9) Michael Benza  |
| 4) Gannett Fleming | 10) LJB           |
| 5) ADR             | 11) Stantec       |
| 6) CT Consultants  | 12) Floyd Browne  |

A QBS Model was used in that review. At this time we would like to narrow the field to 6 or \_\_\_ firms. That would be followed by updating information and interviewing their key personnel.

If you have any questions please feel free to contact Franklin Christman, Jim Welsh, and/or Chris Tebbe

*"It is a place people will want to live, and businesses will want to locate."*

VILLAGE OF ASHVILLE  
UTILITIES COMMITTEE MEETING  
MAY 17, 2010

Glenn Cook called the meeting to order at 7:21 PM. Answering roll call were Keith Moore and Brian Garvine. Also present were Nelson Embrey, Gayle Blankenship, Mayor Wise, Brian Stewart, Jim Welsh and Franklin Christman.

PRESENTATION – None

Keith Moore moved, seconded by Glenn Cook, to approve the April 12, 2010 minutes. All votes were yea.

UNFINISHED - None

NEW BUSINESS:

1. EPA Report/Expansion of the Wastewater Plant – Mayor Wise distributed copies of the OhioEPA reports dated May 9, 2002, July 2, 2008 and April 27, 2010. Current plant operation was reviewed and discussion of best course of action. Choices: (1) do nothing, (2) fix I and I, (3) expand current facility, (4) treat elsewhere [ie South Bloomfield] or (5) create a 6119 Utility District. Glenn Cook moved, seconded by Keith Moore, to authorize the Village Administrator to explore the possibility of the creation of a 6119 district. All votes were yea.

The Clerk was instructed to post a Utilities Meeting for May 25<sup>th</sup> at 6:30 PM to be held at 200 East Station Street.

At 8:22 PM Glenn Cook adjourned the meeting.

ACCEPTED AND ATTESTED

  
\_\_\_\_\_  
Glenn Cook, Chairman

  
\_\_\_\_\_  
Barbara J. Gilbert, Clerk





State of Ohio Environmental Protection Agency

STREET ADDRESS:

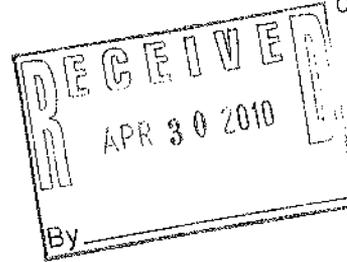
Central District Office

MAILING ADDRESS:

Lazarus Government Center  
50 W. Town St., Suite 700  
Columbus, Ohio 43215

TELE: (614) 728-3778 FAX: (614) 728-3698  
www.epa.state.oh.us

P.O. Box 1049  
Columbus, OH 43216-1049



**Certified Mail #91 7108 2133 3932 4449 5385**

April 27, 2010

The Honorable Charles Wise, Mayor  
Village of Ashville  
200 Station Street  
Ashville, OH 43103

Dear Mayor Wise:

Enclosed is a copy of a report for a Compliance Evaluation Inspection that Jan Rice of my staff conducted at the Village of Ashville Wastewater Treatment Plant (WWTP) on March 15, 2010.

The purpose of the inspection was to assess progress in resolving what has unfortunately become prolonged wastewater discharge permit noncompliance. Mr. Jim Welsh, Utilities Superintendent, and Mr. Franklin Christman, the Village Administrator were present for this inspection.

This office appreciates improvements the village has made in its sanitary sewer collection system and at the WWTP. These improvements have been beneficial but have not yet accomplished the goal of providing consistent permit compliance.

This office has been extremely patient with the village over the years allowing the village sufficient time to resolve its wastewater management problems. Continued noncompliance is unacceptable and may leave this office no choice but to escalate enforcement action in response to violations.

Enforcement action may result in an enforceable timeline imposed by this office as well as a possible financial penalty in response to violations. This office may also have no choice but to disapprove Permits to Install submitted by the village for connection of new wastewater sources into its system until after wastewater management improvements are well underway.

Ted Strickland, Governor  
Lee Fisher, Lieutenant Governor  
Chris Karleski, Director



The Honorable Charles Wise, Mayor  
Village of Ashville  
Page -2-

Please review this report carefully and advise Jan Rice in writing by June 1, 2010, regarding how the village will provide consistent compliance with its wastewater discharge permit. If you have questions I can be contacted by telephone at 614-728-3839 or by e-mail at [erin.sherer@epa.state.oh.us](mailto:erin.sherer@epa.state.oh.us).

Sincerely,



Erin Sherer  
Environmental Supervisor  
Compliance /Enforcement Group  
Division of Surface Water  
Central District Office

Enclosure

c: Jim Welsh, Superintendent  
Franklin Christman, Village Administrator

ES/nsm Ashville 3-12-2010

**NPDES  
Compliance Inspection Report**

**NATIONAL DATA SYSTEM CODING**

<b>Permit No.</b> 4PC00005	<b>NPDES No.</b> OH0020877	<b>Date</b> 3/12/10	<b>Inspection Type</b> CEI	<b>Inspector</b> S	<b>Facility Type</b> 1
-------------------------------	-------------------------------	------------------------	-------------------------------	-----------------------	---------------------------

**B. FACILITY DATA**

<b>Name and Location of Facility Inspected</b>	<b>Entry Time</b>	<b>Permit Effective Date</b>
Village of Ashville Wastewater Treatment Plant (WWTP) 67 South Scioto Street Ashville, Ohio 43103	9:00 A.M.	7/1/07
	<b>Exit Time</b>	<b>Permit Expiration Date</b>
	12:00 P.M.	6/30/12

<b>Name(s) and Title(s) of On-Site Representative(s)</b>	<b>Phone Number(s)</b>
Jim Welsh, Utilities Superintendent	(c) 614-332-8775 (o) 740-983-3412
<b>Name(s) Address and Title(s) of Operator of Record</b>	<b>Phone Number(s)</b>
John Kinder, President, Kinder Environmental Services, Inc., 2112 Cherry Valley Road Newark, Ohio 43055	(c) 740-404-5528 (o) 740-522-0762
<b>Name, Address and Title of Responsible Official</b>	<b>Phone Number</b>
Franklin Christman, Village Administrator, 200 Station Street, Ashville, Ohio 43103	(office) 740-983-6367

**AREAS EVALUATED DURING INSPECTION** (S = Satisfactory, M = Marginal, U = Unsatisfactory, N = Not Evaluated)

U	Permit - rated unsatisfactory due to continued permit violations.
N/M	Records/Reports - the superintendent will begin providing additional information associated with reports listed in Table "C" of this report.
S/S	Operations & Maintenance
S	Facility Site Review
M	Collection System - the superintendent indicated that inflow/infiltration continues to be a problem in the west portion of the sanitary sewer collection system.
S	Flow Measurement
N	Laboratory
U/S	Effluent/Receiving Waters - effluent limitations violations are listed in Table "A" of this report.
S/M	Sludge Storage/Disposal - Table "A" listed two sludge limitations violations for sludge that had been land applied in June, 2009.
N	Pretreatment
S	Compliance Schedules
S	Self-Monitoring Program

**D. SUMMARY OF FINDINGS/COMMENTS:** The permittee has continued improvement of both its WWTP and sanitary sewer collection system but additional work is necessary to further reduce the detrimental impact that prolonged wet weather events have on this treatment and collection system. WWTP design flow is 0.60 million gallons per day (MGD). The February, 2010 monthly average wastewater flow discharged from this WWTP was 0.57 MGD. As has been discussed in previous inspection reports this WWTP is hydraulically overloaded during wet weather periods of varying intensity. These conditions contribute to wastewater discharge permit effluent limitations violations. With this in mind this office may be left no choice but to disapprove Permits to Install submitted by the permittee for connection of new wastewater sources into its system until after wastewater management improvements are well underway. This matter has been discussed with the village administrator.

Continued noncompliance may also leave this office no choice but to escalate enforcement action in response to violations. Enforcement action may consist of an improvements timeline created by this office as well as a possible financial penalty in response to violations.

  
 \_\_\_\_\_  
 Jan Rice, Inspector, Ohio EPA, Central District Office

4/26/10  
 \_\_\_\_\_  
 Date

  
 \_\_\_\_\_  
 Erin Sherer, Reviewer, Ohio EPA, Central District Office

4/26/10  
 \_\_\_\_\_  
 Date

Sections E through K: Complete on all inspections as appropriate (N/A = Not Applicable N/E = Not Evaluated)

**E. PERMIT VERIFICATION**

Inspection Observations Verify the Permit	Yes	No	N/A	N/E
a. Correct name and mailing address of permittee	X			
b. Correct name and location of receiving waters	X			
c. Product(s) and production rates conform with permit application (industries)			X	
d. Flows and loadings conform with NPDES permit	*X			
e. Treatment processes are as described in permit application/briefing memo		*X		
f. New treatment process(es) added since last inspection (last inspection 6/3/09)		X		
g. Notification given to state of new, different, or increased discharges		X		
h. All discharges are permitted	X			
i. Number and location of discharge points are as described in permit	X			

**Comments:** \*d. - the permittee has continued improvement of both its WWTP and sanitary sewer collection system but additional work is necessary to further reduce the detrimental impact that prolonged wet weather events have on this treatment and collection system. Continued wastewater discharge permit noncompliance is unacceptable.

\*e. - the Ohio EPA file for this facility contains complaints from residents north of the plant about WWTP odors. The Ohio EPA Compliance Assistance Unit has successfully worked with the permittee to reduce WWTP odors. This work, along with other work performed by the permittee, has reduced but not entirely eliminated odors. This work involved shifting the treatment process from use of anaerobic to aerobic sludge digestion, enclosing some plant components and use of odor filtration at various locations within the WWTP. Photographs of odor control projects are included in this report.

On April 16, 2010 the superintendent indicated during a telephone discussion that sanitary sewer line inspection located a partially blocked sewer in a manhole west of homes/apartments whose residents have complained regarding WWTP odors. The manhole is south of W. Main St. and on the west side of railroad tracks west of the WWTP. The superintendent indicated that the sewer obstruction had been removed from the manhole. Wastewater upstream from the manhole was septic and odorous and could have contributed to some of the odors noticed by nearby residents. The superintendent intends further inspection of this sewer line to determine if inflow/infiltration is a problem in that area.

F. COMPLIANCE SCHEDULES/VIOLATIONS

	Yes	No	N/A	N/E
a. Any significant violations since the last inspection	X			
b. Permittee is taking actions to resolve violations	*X			
c. Permittee has compliance schedule	X			
d. Compliance schedule contained in: Wastewater discharge permit	X			
e. Permittee is meeting compliance schedule	X			

**Comments:** \*b. - effluent limitation violations are listed in Table "A" of this report. The permittee is involved with a task force to review a regional wastewater management approach that may resolve noncompliance at the Ashville WWTP. If this regional approach does not seem feasible then the permittee must proceed with upgrade of its WWTP. Continued wastewater discharge permit noncompliance is unacceptable. Failure to provide consistent compliance may leave this office no choice but to initiate enforcement action in response to violations.

G. OPERATION AND MAINTENANCE

Treatment Facility Properly Operated and Maintained	Yes	No	N/A	N/E
a. Standby power available: Generator <u>X</u> Dual Feed _____	X			
b. Adequate alarm system available for power or equipment failures	X			
c. All treatment units in service other than backup units	X			
d. Sufficient operating staff provided: # of shifts: 1 Days/Week: 5 with weekend plant checks				X
e. Operator holds unexpired license of class required by permit Class: _____		*X		
f. Routine and preventive maintenance schedule/performed on time	X			
g. Any major equipment breakdown since last inspection	*X			
h. Operation and maintenance manual provided and maintained	*X			
i. Any plant bypasses since last inspection		X		
j. Regulatory agency notified of bypasses _____ on MORS _____ 800 Number _____			X	
k. Any hydraulic and/or organic overloads experienced since last inspection	*X			

**Comments:** \*e. - the permit requires that the Operator in Responsible Charge possess a Class II wastewater certification. The superintendent of utilities reported that he has not yet obtained a wastewater certification but intends taking the Class II wastewater examination offered late in 2010. The superintendent indicated that staff intend taking the Class I wastewater examination in late 2010.

The permittee contracts with Kinder Environmental Services, Inc. to provide the Class II oversight required in Part II, Item A of the wastewater discharge permit. The permittee must provide this office written documentation that the Certified Operator in Responsible Charge for its WWTP is meeting the minimum staffing requirements of 5 days/week, 20 hours/week contained in Ohio Administrative Code 3745-7-04 (C).

\*g. - the superintendent indicated that electrical problems in 2009 caused numerous motors on pumps in the WWTP to burn out, contributing to noncompliance. The electrical problem was finally resolved by the village's power company on March 11, 2010 when it located and repaired a power line electrical short circuit near the WWTP.

\*h. - the superintendent implemented use of an equipment maintenance schedule in July, 2009. Several pump motors have been repaired/replaced due to damage caused by electrical overloads.

\*k. - the WWTP continues to be hydraulically overloaded during wet weather periods of time of varying intensity. During such periods of time effluent loading limitation violations have occurred as well as periods of time when the WWTP oxidation ditch rotors were turned off to minimize biosolids loss from the WWTP. Table "C" lists reports submitted to this office by the permittee for times when the oxidation ditch rotors were turned off during high flow periods of time. The permittee must follow-up within five days of such events with a report as required in Part III, Item 12 C in the permit. A Fact Sheet for NPDES Permit 24-hour Non-compliance Notification Requirements can be viewed at [http://www.epa.state.oh.us/portals/35/permits/24-hour\\_Report\\_FactSheet.pdf](http://www.epa.state.oh.us/portals/35/permits/24-hour_Report_FactSheet.pdf). Additional work is necessary in the collection system and WWTP to resolve these hydraulic problems. Continued wastewater discharge permit noncompliance is unacceptable.

Collection System	Yes	No	N/A	N/E
a. Percent combined system: <u>0</u> %				
b. Any collection system overflows since last inspection (CSO <u>    </u> SSO <u>    </u> )		X		
c. Regulatory agency notified of overflow (SSOs)		*X		
d. CSO O and M plan provided and implemented			X	
e. CSOs monitored and reported in accordance with permit			X	
f. Portable pumps used to relieve system				X
g. Lift station alarm systems provided and maintained	X			
h. Are lift stations equipped with permanent standby power or equivalent	X			
i. Is there an inflow/infiltration problem (separate sewer system), or were there any major repairs to collection system since last inspection	*X			
j. Any complaints received since last inspection of basement flooding	*X			
k. Are any portions of the sewer system at or near capacity				X

**Comments:** \*c. - the superintendent indicated that there had been an event where wastewater had overflowed from the sanitary sewer collection system into a basement. Such events must be reported in accordance with Part II, Item C of the wastewater discharge permit.

\*i. - the superintendent indicated that I/I continues to be a problem in the west side of the village in the Scioto Street area. The village has purchased a color television camera for sewer inspections. I/I inspection and removal work has been delayed due to confined space entry issues in manholes and financial resource constraints. The permittee must ensure that user rates are sufficient to provide monies for such work.

## H. SLUDGE MANAGEMENT

a. Sludge Management Plan (SMP):

	Yes	No	N/A	N/E
b. Sludge Management Plan current				X
c. Sludge adequately disposed (Method: landfill/land application)	X			
d. If sludge is incinerated, where is ash disposed of?			X	
e. Is sludge disposal contracted (Name: landfill - Sam's Excavation hauls sludge to Republic landfill near Amanda in Fairfield County; land applic. - Wheeler's Biosolids)	X			
f. Has amount of sludge generated changed significantly since last inspection				X
g. Adequate sludge storage provided at plant	*X			
h. Land application sites monitored and inspected per SMP				X
i. Records kept in accordance with state and federal law				X
j. Any complaints received in last year regarding sludge		X		
k. Is sludge adequately processed (digestion, dewatering, pathogen control)		*X		

**Comments:** \*g. - the superintendent is considering converting a tank no longer used for primary sludge treatment into additional storage for aerobically digested sludge.

\*k. - discharge monitoring report data submitted by the permittee to Ohio EPA for June, 2009 showed sludge limitation violations at monitoring station 4PC0000581 for Arsenic and Molybdenum. These apparent violations are listed in Table "A" of this report. The permittee must discuss these violations with its land application of sludge contractor to determine violation validity and to determine extent of additional monitoring that may be necessary of the site to which that sludge was applied.

**I. SELF-MONITORING PROGRAM**

<b>Part 1 - Flow Measurement</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>N/E</b>
a. Primary flow measuring device properly operated & maintained. Type of device: <input checked="" type="checkbox"/> ultrasonic & parshall flume      calculated from influent <input type="checkbox"/> weir      Other <input type="checkbox"/> ultrasonic & weir      Specify: _____				
	*X			
b. Calibration frequency adequate (date of last calibration 1/15/10)	X			
c. Secondary instruments (totalizers, recorders etc.) properly operated and maintained	X			
d. Flow measurement equipment adequate to handle expected ranges of flows	X			
e. Actual flow discharged is measured	X			
f. Flow measuring equipment inspection frequency: <input checked="" type="checkbox"/> Daily      _____ Weekly <input type="checkbox"/> Monthly      _____ Other				

**Comments:** \*a. - the superintendent indicated that debris had accumulated in the parshall flume thus creating inaccurate, elevated flow readings. This problem was resolved at the time of flow meter calibration on 1/15/10. Flow meter readings since that time are accurate and flume inspection now occurs daily to prevent debris accumulation. The February, 2010 average effluent flow was 0.57 million gallons per day. The WWTP design flow is 0.60 million gallons per day.

<b>Part 2 - Sampling</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>N/E</b>
a. Sampling location(s) are as specified by permit	X			
b. Parameters and sampling frequency agree with permit		*X		
c. Permittee uses required sampling method		*X		
d. Sample collection procedures are adequate		*X		
i. Samples refrigerated during compositing	X			
ii. Proper preservation techniques used				X
iii. Containers and sample holding times prior to analyses conform with 40 CFR 136.3				X
e. Monitoring records (e.g., flow, pH, D.O., etc.) maintained for a minimum of three years including all original strip chart recordings (e.g., continuous monitoring instrumentation, calibration, and maintenance records)				X
f. Adequate records maintained of sampling date, time, exact location, etc.				X

**Comments:** \*b. - Attachment "A" lists monitoring frequency violations: The superintendent is working to eliminate such violations.

\*c,d - the superintendent needs to confirm and advise this office that the effluent composite sampler is capable of collecting flow proportionate samples over a 24 hour period of time. 24 hour, flow proportionate sampling is required in wastewater treatment plants discharging greater than or equal to 0.10 million gallons per day and is referenced in Part II, Item G, in the wastewater discharge permit.

<b>Part 3, Laboratory - General</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>N/E</b>
a. EPA approved analytical testing procedures used (40 CFR 136.3)				X
b. If alternate analytical procedures are used, proper approval has been obtained				X
c. Analyses being performed more frequently than required by permit		X		
d. If (c) is yes, are results reported in permittee's self-monitoring report			X	
e. Commercial laboratory used				
1. Parameters analyzed by commercial lab: all parameters except dissolved oxygen, suspended solids, temperature, pH, chlorine and ammonia				
2. Lab name: TCCI	X			

<b>Part 3, Laboratory - Quality Control/Quality Assurance</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>N/E</b>
f. Quality assurance manual provided and maintained				X
g. Satisfactory calibration and maintenance of instruments and equipment				X
h. Adequate records maintained				X
i. Results of latest U.S. EPA quality assurance performance sampling program:				
Date: N/A				
_____ Satisfactory				
_____ Marginal				
_____ Unsatisfactory				

**J. EFFLUENT/RECEIVING WATER OBSERVATIONS**

<b>Outfall #</b>	<b>Oil Sheen</b>	<b>Grease</b>	<b>Turbidity</b>	<b>Visible Foam</b>	<b>Visible Float Solids</b>	<b>Color</b>	<b>Other</b>
1	None	None	None	Slight	None	Clear	

**K. MULTIMEDIA OBSERVATIONS**

	<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>N/E</b>
a. Are there indications of sloppy housekeeping or poor maintenance in work and storage areas or laboratories		X		
b. Do you notice staining or discoloration of soils, pavement, or floors		X		
c. Do you notice distressed (unhealthy, discolored, dead) vegetation		X		
d. Do you see unidentified dark smoke or dustclouds coming from sources		X		
e. Do you notice any unusual odors or strong chemical smells		*X		
f. Do you see any open or unmarked drums, unsecured liquids, or damaged containment facilities		X		

Table 4  
 Village of Ashville  
 Effluent Limitation Violations  
 5/1/09 - 2/28/10

Permit No	Reporting Period	Station	Reporting Code	Parameter	Limit Type	Limit	Reported Value	Violation Date
4PC00005*KD	June 2009	001	00530	Total Suspended Solids	30D Conc	22.5	31.1111	6/1/2009
4PC00005*KD	June 2009	001	00530	Total Suspended Solids	7D Conc	34	65.	6/15/2009
4PC00005*KD	June 2009	001	31616	Fecal Coliform	7D Conc	2000	3771.45	6/15/2009
4PC00005*KD	June 2009	581	01003	Arsenic, Total In Slud	1D Conc	75	171.	6/23/2009
4PC00005*KD	June 2009	581	78465	Molybdenum In Sludge	1D Conc	75	133.	6/23/2009
4PC00005*KD	August 2009	001	00530	Total Suspended Solids	30D Conc	22.5	31.375	8/1/2009
4PC00005*KD	August 2009	001	00530	Total Suspended Solids	30D Qty	51.1	71.1977	8/1/2009
4PC00005*KD	August 2009	001	31616	Fecal Coliform	30D Conc	1000	6159.27	8/1/2009
4PC00005*KD	August 2009	001	31616	Fecal Coliform	7D Conc	2000	2016.38	8/1/2009
4PC00005*KD	August 2009	001	00530	Total Suspended Solids	7D Conc	34	45.5	8/15/2009
4PC00005*KD	August 2009	001	00530	Total Suspended Solids	7D Qty	77.2	145.892	8/15/2009
4PC00005*KD	August 2009	001	31616	Fecal Coliform	7D Conc	2000	20199.0	8/15/2009
4PC00005*KD	August 2009	001	31616	Fecal Coliform	7D Conc	2000	18973.6	8/22/2009
4PC00005*KD	September 2009	001	31616	Fecal Coliform	30D Conc	1000	2433.06	9/1/2009
4PC00005*KD	September 2009	001	31616	Fecal Coliform	7D Conc	2000	7000.	9/8/2009
4PC00005*KD	September 2009	001	31616	Fecal Coliform	7D Conc	2000	7000.	9/22/2009
4PC00005*KD	October 2009	001	31616	Fecal Coliform	30D Conc	1000	2026.35	10/1/2009
4PC00005*KD	October 2009	001	31616	Fecal Coliform	7D Conc	2000	5507.35	10/15/2009
4PC00005*KD	October 2009	001	31616	Fecal Coliform	7D Conc	2000	4996.89	10/22/2009
4PC00005*KD	January 2010	001	00530	Total Suspended Solids	7D Qty	77.2	110.870	1/22/2010
4PC00005*KD	January 2010	001	80082	CBOD 5 day	7D Qty	64.7	82.9497	1/22/2010
4PC00005*KD	February 2010	001	00530	Total Suspended Solids	7D Conc	34	37.5	2/8/2010

**Table "B"**

Monitoring Frequency Violations

5/1/09 - 2/28/10

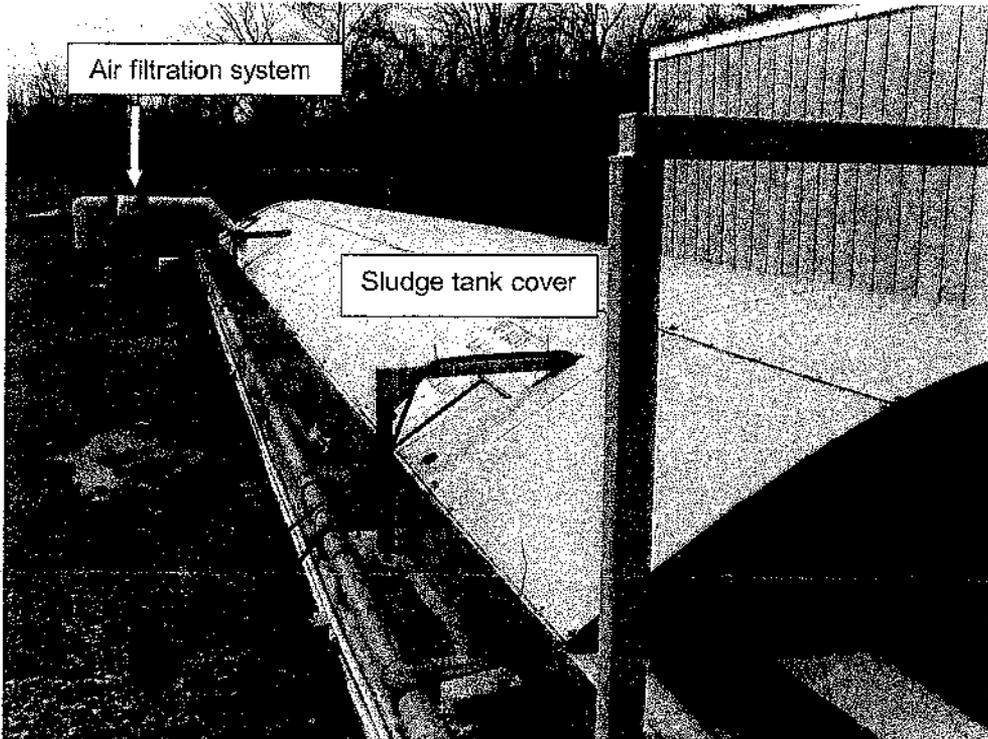
Permit No	Reporting Period		Station	Reporting Code	Parameter	Sample Frequency	Expected	Reported	Violation Date
4PC00005*KD	June	2009	581	70316	Sludge Weight	2/Year	1	0	06/01/2009
4PC00005*KD	June	2009	581	51129	Sludge Fee Weight	2/Year	1	0	06/01/2009
4PC00005*KD	October	2009	001	80082	CBOD 5 day	2/Week	2	1	10/08/2009

**Table "C"**

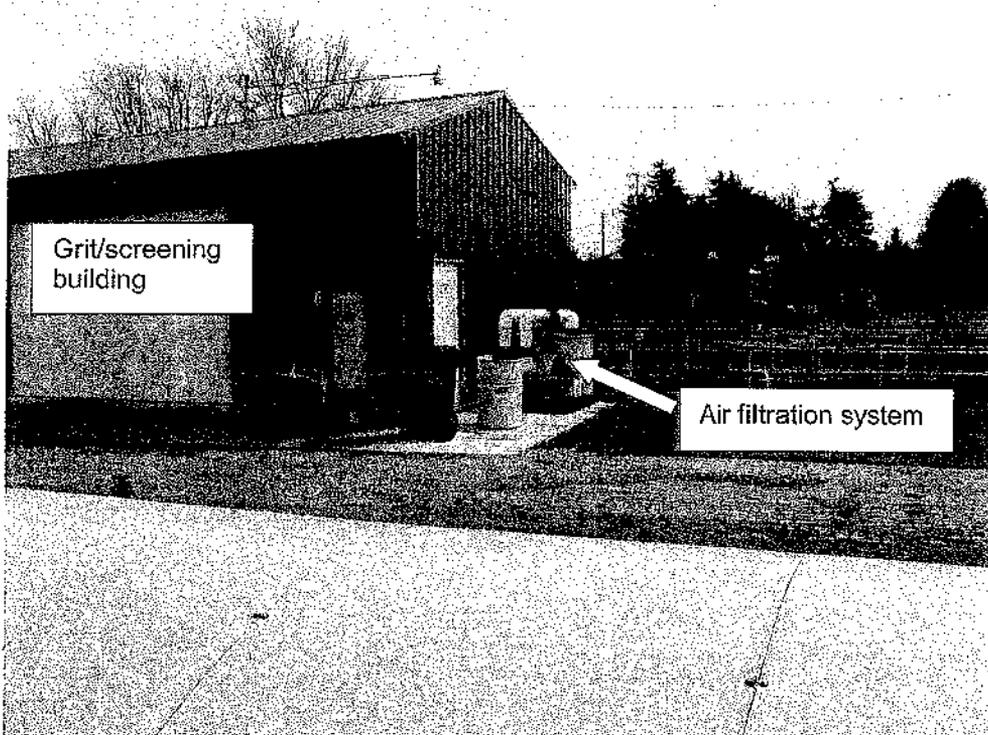
Initial Pollution Incident Reports submitted by permittee since the June 3, 2009 inspection:

Spill ID Number	Date Reported	Location	Reason	Remark	5 day follow-up report submitted to OEPA
0908-65-2473//0	8/19/09	67 S. Scioto St.	Rain/Flooding	Plant is being shut down due to flooding.	No
0910-65-3147//0	10/31/09	67 S. Scioto St.	Mother Nature	Sewage discharge due to the plant being flooded. DO contacted Welsh and indicated the plant is under water and will be back on line when the water goes down.	No
1001-65-0174//0	1/25/10	67 S. Scioto St.	Rain/Flooding	Sewage bypass due to rain.	No
1002-65-0387//0	2/24/10	67 S. Scioto St.	Rain/Flooding	Sewage bypass due to snow melt and high flow.	No
1003-65-0436//0	3/1/10	67 S. Scioto St.	Break or Broken	Sewage bypass due to mechanical failure.	No
1003-65-0721//0	3/26/10	67 S. Scioto St.	Rain/Flooding	Sewage bypass due to rain.	No

Follow-up reports must be submitted within 5 days of the date of the telephone report as required in the wastewater discharge permit.



**Figure 1.** This photograph was taken looking south across the improved cover installed on what is now the aerobic sludge digestion tank at the Ashville WWTP. An air filtration system has been attached to the cover to help minimize odors from this treatment component.

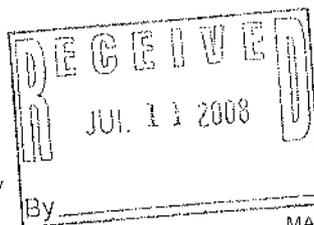


**Figure 2.** This photograph was taken looking northeast at the Ashville WWTP influent grit/screening building. This building was constructed to enclose and reduce escape of odors from wastewater entering the WWTP. An air filtration system has been attached to the building to help minimize odors from this area.



State of Ohio Environmental Protection Agency

Central District Office



STREET ADDRESS:

Lazarus Government Center  
50 W. Town St., Suite 700  
Columbus, Ohio 43215

TELE: (614) 728-3778 FAX: (614) 728-3898  
www.epa.state.oh.us

MAILING ADDRESS:

P.O. Box 1049  
Columbus, OH 43216-1049

**Certified Mail #91 7108 2133 3932 4450 3820**

July 2, 2008

The Honorable Charles Wise, Mayor  
Village of Ashville  
200 Station Street  
Ashville, OH 43103

Dear Mayor Wise:

Enclosed is a copy of a report for a Compliance Evaluation Inspection that I performed June 18, 2008 at the wastewater treatment plant (WWTP) serving the Village of Ashville. Attachment "A" of the report lists wastewater discharge permit effluent limitations violations that have occurred during the period of time extending from January 1 through May 31, 2008. Continued violations are unacceptable.

Review of a letter dated August 3, 2007 from the village shows that it has developed a time line for WWTP improvements and expansion. This work is necessary to provide consistent wastewater discharge permit compliance and in response to development pressure in the area.

The time line shows that a Permit to Install (PTI) application and engineering plans for the WWTP improvements and expansion will be submitted to this office in May, 2008 for review. There is no record in this office that the PTI was submitted. With the above in mind, this office will soon be modifying your wastewater discharge permit for inclusion of a timeline for plant improvements. The improvements are necessary to provide consistent compliance and to accommodate anticipated growth in the area.

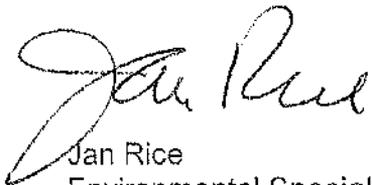
Failure to proceed with work necessary to provide consistent wastewater discharge permit compliance will leave me little choice but to escalate enforcement action in response to violations.

Ted Strickland, Governor  
Lee Fisher, Lieutenant Governor  
Chris Korleski, Director

The Honorable Charles Wise, Mayor  
Village of Ashville  
Page -2-

It is my understanding that someone from your office will very soon be contacting me to arrange a meeting for further discussion of this matter. I can be reached by telephone at (614) 728-3850 or by e-mail at [jan.rice@epa.state.oh.us](mailto:jan.rice@epa.state.oh.us).

Sincerely,



Jan Rice  
Environmental Specialist  
Field Operations Unit  
Division of Surface Water  
Central District Office

Enclosures

c: Mr. Franklin Christman, Village Administrator  
Mr. Jim Welsh, Utilities Superintendent  
Mr. John Kinder, Kinder Environmental Services, Inc

JR/hsm Ashville 6-18-08 CEI

# NPDES COMPLIANCE INSPECTION REPORT

## Section A: National Data System Coding

Permit #	NPDES	Mo/Day/Yr	Insp. Type	Inspector	Fac Type
4PC00005	OH0020877	6/18/08	C	S	I

Watershed: Walnut Creek

## Section B: Facility Data

Facility Name:	Village of Ashville Wastewater Treatment Plant	Entry Time	Permit Eff. Date
Address:	67 South Scioto Street	9:00 A.M.	7/1/2007
City/State/Zip:	Ashville, Ohio 43103	Exit Time	Permit Exp. Date
		11:35 A.M.	6/30/2012

### On-Site Representatives

Name: Jim Welsh	John Kinder
Title: Utilities Superintendent	Operator in Responsible Charge
Phone: (c) 614-332-8775; (office) 740-983-3412	(c) 740-404-5528; (office) 740-522-0762

### Responsible Official

Name/Title: Franklin Christman/Village Administrator
Address: 200 Station Street Ashville, Ohio 43103
Phone: 740-983-6367

## Section C: Areas Evaluated During Inspection:

(S=Satisfactory, U=Unsatisfactory, N=Not-Evaluated, M=Conditionally Acceptable)

Permit	U	Sludge Storage/ Disposal	M/N	Laboratory	N
Compliance Schedules	S	Self-Monitoring Program	S	Effluent/ Receiving Waters	U/M
Oper. & Maint.	N/M	Flow Measurement	S	Facility Site Review	M
Collection System	M	Records/Reports	N/N	Pretreatment	N

## Section D: Summary of Findings/Comments:

**Permit** - rated unsatisfactory due to continued wastewater discharge permit final effluent limitations violations.

**Collection System** - rated marginal due to continued excess inflow/infiltration into the sanitary sewer collection system. A letter dated August 3, 2007 from the permittee indicated that four flow meters would be installed in the collection system. The meters were installed July 1, 2008.

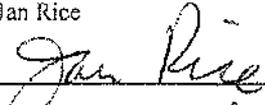
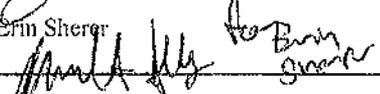
**Maintenance** - rated marginal. The utilities superintendent has been working with new staff to address deficiencies he identified at the WWTP after the previous plant superintendent left village employment.

**Sludge Storage** - rated marginal due to very strong odors emanating from the sludge treatment tank. The utilities superintendent indicated that work is underway to resume use of geotubes for sludge dewatering and more frequent removal of sludge from both the primary clarifier and treatment tank. These measures may help reduce the odor problem. If these measures are inadequate then additional measures will be necessary.

**Effluent** - rated unsatisfactory due to continued wastewater discharge permit effluent limitations violations. Effluent violations are listed in Attachment "A" of this report. Continued violations are unacceptable.

**Facility Site Review** - rated marginal. Very strong odors were easily noticeable near the primary clarifier and sludge treatment tank. The plywood enclosure that had been built to cover this tank is beginning to fail, allowing odors to escape from the enclosure. The enclosure is fitted with an odor control system. Photographs of this enclosure are included in Attachment "B" Figure 1 of this report. The odor control system has not entirely controlled the odor problem at this WWTP.

A photograph of the WWTP post aeration tank (See Attachment "B" Figure 2) shows that the plant had again discharged sludge into Walnut Creek during a wet weather event. The superintendent has replaced a baffle to help control floating scum loss from the oxidation ditch. This will help, but not entirely resolve, the problem of solids loss from the plant during severe wet weather events.

Name of Inspector: Jan Rice	Ohio EPA, Central District Office
Signature: 	Date: 7/2/08
Name of Reviewer: Erin Sherer	Ohio EPA, Central District Office
Signature: 	Date: 7/2/08

Sections E thru K: Complete on all inspections as appropriate. (N/A - Not Applicable N/E - Not Evaluated)

**Section E. Permit Verification**

	Yes	No	N/A	N/E
INSPECTION OBSERVATIONS VERIFY THE PERMIT				
(a) CORRECT NAME AND MAILING ADDRESS OF PERMITTEE	X			
(b) CORRECT NAME AND LOCATION OF RECEIVING WATERS	X			
(c) PRODUCT(S) AND PRODUCTION RATES CONFORM WITH PERMIT APPLICATION (Industrial)			X	
(d) FLOWS AND LOADINGS CONFORM WITH NPDES PERMIT	*	X		
(e) TREATMENT PROCESSES ARE AS DESCRIBED IN PERMIT APPLICATION/BRIEFING MEMO	X			
(f) NEW TREATMENT PROCESS(ES) ADDED SINCE LAST INSPECTION	*	X		
(g) NOTIFICATION GIVEN TO STATE OF NEW, DIFFERENT, OR INCREASED DISCHARGES		X		
(h) ALL DISCHARGES ARE PERMITTED	X			
(i) NUMBER AND LOCATION OF DISCHARGE POINTS ARE AS DESCRIBED IN THE PERMIT	X			

COMMENTS: \* (d) - wet weather flows sporadically exceed the WWTP 0.6 MGD design capacity; (f) - various tanks have been converted and are now used to provide approximately 400,000 gallons of flow detention. Additional plant capacity is necessary to provide consistent wastewater discharge permit compliance during wet weather periods of time and to accomodate anticipated development in the area.

**Section F. Compliance Schedule and Violations**

	Yes	No	N/A	N/E
(a) ANY SIGNIFICANT VIOLATIONS SINCE LAST INSPECTION	*	X		
(b) PERMITTEE IS TAKING ACTION TO RESOLVE VIOLATIONS	*	X		
(c) PERMITTEE HAS COMPLIANCE SCHEDULE		X		
(d) COMPLIANCE SCHEDULE CONTAINED IN: Permit		X		
(e) PERMITTEE IS MEETING SCHEDULE OF COMPLIANCE	*	X		

COMMENTS: \* (a) - effluent limitations violations are listed in Attachment "A" of this report; (b) - the permittee has been working to eliminate effluent limitation violations but sporadic violations continue; (e) - the permit required continued inspection of the sanitary sewer system to locate and greatly minimize inflow/infiltration into the system. The renewal permit (Ohio EPA No. 4PC00005\*KD) requires elimination of sanitary sewer overflows (SSOs) located in manholes M1 and M6. Any SSOs must be reported to the Ohio EPA and a plan provided for their elimination.

**Section G. Operation and Maintenance**

TREATMENT WORKS:  
TREATMENT FACILITY PROPERLY OPERATED AND MAINTAINED

	Yes	No	N/A	N/E
(a) STANDBY POWER AVAILABLE: GENERATOR X DUAL FEED	X			
(b) ADEQUATE ALARM SYSTEM AVAILABLE FOR POWER OR EQUIPMENT FAILURES				X
(c) ALL TREATMENT UNITS IN SERVICE OTHER THAN BACKUP UNITS	X			
(d) SUFFICIENT STAFF PROVIDED #SHIFTS: 1 DAYS/WK: 5 With weekend plant checks				X
(e) OPERATOR HOLDS UNEXPIRED LISCENSE OF CLASS PROVIDED BY PERMIT- CLASS:	*	X		
(f) ROUTINE AND PREVENTATIVE MAINTENANCE SCHEDULED/PERFORMED ON TIME	*	X		
(g) ANY MAJOR EQUIPMENT BREAKDOWN SINCE LAST INSPECTION				X
(h) O&M MANUAL PROVIDED AND MAINTAINED				X
(i) ANY PLANT BYPASSES SINCE LAST INSPECTION		X		
(j) REG. AGENCY NOTIFIED OF BYPASSES--on MORs 1-800 #			X	
(k) ANY HYDRAULIC AND/OR ORGANIC OVERLOADS EXPERIENCED SINCE LAST INSPECTION	*	X		

COMMENTS: \* (e) the permit requires that the Operator in Responsible Charge possess a Class II wastewater certification. The superintendent of utilities has no wastewater certification but will again be taking the Class II state wastewater examination in fall, 2008. John Kinder of Kinder & Associates is a Class IV wastewater operator and has signed a contract with the village for plant oversight; (f) The utilities superintendent has been working with new staff to address deficiencies he identified at the WWTP after the previous plant superintendent left village employment; (k) as was referenced in previous inspection reports, this WWTP is hydraulically overloaded during wet weather periods of varying intensity. Conditions such as these contribute to wastewater discharge permit effluent limitations violations. Conditions such as these also leave this office with no choice but to disapprove Permits to install for additional flow into the WWTP until a plant upgrade is well underway. In a letter dated August 3, 2007 the permittee provided this office a time line which it intended using for upgrade of its WWTP. The permittee has not adhered to the schedule it provided. The plant improvements must also address objectionable odors generated in the primary clarifier and sludge

**Section G. Operation & Maintenance (continued)**

	Yes	No	N/A	N/E
COLLECTION SYSTEM:				
PERCENT COMBINED SYSTEM: 0%				
(b) COLLECTION SYSTEM OVERFLOWS SINCE LAST INSPECTION: CSO SSO		X		
(c) REGULATORY AGENCY NOTIFIED OF OVERFLOWS (SSOs)	*	X		
(d) CSO O&M PLAN PROVIDED AND IMPLEMENTED			X	
(e) CSOs MONITORED AND REPORTED IN ACCORDANCE WITH PERMIT			X	
(f) PORTABLE PUMPS USED TO RELIEVE SYSTEM				X
(g) LIFT STATION ALARMS PROVIDED AND MAINTAINED				X
(h) ARE LIFT STATIONS EQUIPPED WITH PERMANENT STANDBY POWER OR EQUIV.				X
(i) ANY INFLOW/INFILTRATION PROBLEM, OR ANY MAJOR REPAIRS TO THE COLLECTION SYSTEM SINCE LAST INSPECTION (SEPARATE SEWER SYSTEM)	*	X		
(j) ANY COMPLAINTS SINCE LAST INSPECTION OF BASEMENT FLOODING		X		
(k) ARE ANY PORTIONS OF THE SEWER SYSTEM AT OR NEAR CAPACITY				X

COMMENTS: \*(c) the permittee has notified this office regarding wet weather events during which the oxidation ditch rotors were turned off to prevent biomass loss from the oxidation ditch; (i) - the permittee has continued efforts to minimize I/I intrusion into the sanitary sewer collection system and installed four flow meters on July 1, 2008 at various locations in the system. The superintendent indicated that the village has contracted with new consultants for additional review of the sanitary sewer system and also that a storm

**Section H. Sludge Management**

	Yes	No	N/A	N/E
(a) SLUDGE MANAGEMENT PLAN (SMP)				X
IF YES, DATE SUBMITTED:				
APPROVAL #				
(b) SLUDGE MANAGEMENT PLAN CURRENT				X
(c) SLUDGE ADEQUATELY DISPOSED OF: METHOD - Land Application	*	X		
(d) IS SLUDGE INCINERATED		X		
IF YES, ASH IS DISPOSED AT:				
(e) IS SLUDGE DISPOSAL CONTRACTED	X			
IF YES, CONTRACTOR NAME: Wheelers Biosolids Mgt.	X			
(f) HAS AMOUNT OF SLUDGE CHANGED SIGNIFICANTLY SINCE LAST INSPECTION				X
(g) ADEQUATE SLUDGE STORAGE PROVIDED AT PLANT				X
(h) LAND APPLICATION SITES MONITORED AND INSPECTED PER SMP				X
(i) RECORDS KEPT IN ACCORDANCE WITH STATE AND FEDERAL LAW				X
(j) ANY COMPLAINTS RECEIVED IN LAST YEAR REGARDING SLUDGE		X		
(k) IS SLUDGE ADEQUATELY PROCESSED (digestion, dewatering, pathogen control)				X

COMMENTS: (c) land application of sludge must occur in accordance with conditions contained in Part II, Item M in the permittees wastewater discharge permit.

**Section I. Self Monitoring Program**

**Part I. Flow Measurement**

	Yes	No	N/A	N/E
(a) PRIMARY FLOW MEASURING DEVICE PROPERLY OPERATED AND MAINTAINED	X			
TYPE OF FLOW MEASURING: Ultrasonic meter				
(b) CALIBRATION FREQUENCY ADEQUATE (Date of last calibration): 2/21/08	X			
(c) SECONDARY INST. (totalizer, recorder, etc.) PROPERLY OPERATED & MAINTAINED	X			
(d) FLOW MEASURING EQUIP. ADEQUATE FOR EXPECTED RANGES OF FLOWS	*	X		
(e) ACTUAL FLOW DISCHARGED IS MEASURED	X			
(f) FLOW MEASURING EQUIPMENT INSPECTION FREQUENCY:				
DAILY X				
WEEKLY				
MONTHLY				
OTHER				

**Section I. Self Monitoring Program (continued)**

**Part 2. Sampling**

	Yes	No	N/A	N/E
(a) SAMPLING LOCATION(S) ARE AS SPECIFIED IN THE PERMIT	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(b) PARAMETERS AND SAMPLING FREQUENCY AGREE WITH PERMIT	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(c) PERMITTEE USES REQUIRED SAMPLING METHOD	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(d) SAMPLE COLLECTION PROCEDURES ARE ADEQUATE	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(i) SAMPLES REFRIGERATED DURING COMPOSITING	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(ii) PROPER PRESERVATION TECHNIQUES USED	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(iii) CONTAINERS AND SAMPLE HOLDING TIMES PRIOR TO ANALYSES CONFORM WITH 40 CFR 136.3	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(e) MONITORING RECORDS (e.g., flow, pH, D.O., etc.) MAINTAINED FOR A MINIMUM OF THREE YEARS, INCLUDING ALL ORIGINAL STRIP CHART RECORDS (e.g., continuous monitoring instrumentation, calibration, and maintenance records)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(f) ADEQUATE RECORDS MAINTAINED (e.g., sampling date, time, exact location, etc.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Part 3. Laboratory**

	Yes	No	N/A	N/E
(a) EPA APP. ANALYTICAL TESTING PROCEDURES USED (40 CFR 136.3)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(b) IF ALTERNATE PROCEDURES ARE USED, PROPER APPROVAL HAS BEEN OBTAINED	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(c) ANALYSIS PERFORMED MORE FREQUENTLY THAN REQUIRED BY THE PERMIT	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(d) IF (c) IS YES, ARE RESULTS RECORDED IN PERMITTEE'S SELF-MONITORING REPORT	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(e) COMMERCIAL LABORATORY USED	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(1) PARAMETERS ANALYZED BY COMMERCIAL LAB: All parameters are analyzed by commercial lab except dissolved oxygen, suspended solids, temperature, pH, and chlorine which are done by plant staff.				
(2) LAB NAME: TCCI				
(f) QUALITY ASSURANCE MANUAL PROVIDED AND MAINTAINED	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(g) SATISFACTORY CALIBRATION AND MAINTENANCE OF INSTRUMENTS AND EQUIPMENT.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(h) ADEQUATE RECORDS MAINTAINED	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(i) RESULTS OF LATEST USEPA QUALITY ASSURANCE PERFORMANCE SAMPLING PROGRAM DATE: N/A	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Satisfactory
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Marginal
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Unsatisfactory

COMMENTS: \*Part 1, Items (d) - the effluent flow meter recalibrated 2/21/08 has been adjusted to allow measurement of flows up to 6 million gallons per day. Monthly operating report data shows that on March 18, 2008 a flow of 4.074 million gallons per day passed through the WWTP.

**Section J. Effluent/Receiving Water Observations**

OUTFALL NO.	OIL SHEEN	VISIBLE GREASE	VISIBLE TURBIDITY	FOAM	FLOATING SOLIDS	COLOR	OTHER
1	None	None	None	None	None	Mostly clear	
An outfall sign has been installed.							

**Section K. Multimedia Observations**

	Yes	No	N/A	N/E
(a) ARE THERE ANY INDICATIONS OF SLOPPY HOUSEKEEPING OR POOR MAINTENANCE IN WORK AND STORAGE AREAS OR LABORATORIES.	---	X	---	---
(b) DO YOU NOTICE STAINING OR DISCOLORATION OF SOILS, PAVEMENT, OR FLOORS	---	X	---	---
(c) DO YOU NOTICE DISTRESSED (UNHEALTHY, DISCOLORED, DEAD) VEGETATION	---	X	---	---
(d) DO YOU SEE UNIDENTIFIED DARK SMOKE OR DUSTCLOUDS COMING FROM SOURCES OTHER THAN SMOKESTACKS	---	X	---	---
(e) DO YOU NOTICE ANY UNUSUAL COLORS OR STRONG CHEMICAL SMELLS	---	X	---	---
(f) DO YOU SEE ANY OPEN OR UNMARKED DRUMS, UNSECURED LIQUIDS, OR DAMAGED CONTAINMENT FACILITIES?	---	X	---	---

COMMENTS:

## Attachment "A"

Village of Ashville WWTP Effluent limitations violations

Monitoring station 4PC00005001 (1/1/08 - 5/31/08)

Permit No	Reporting Period	Station	Reporting Code	Parameter	Limit Type	Limit	Reported Value	Violation Date
4PC00005*KD	February 2008	001	00530	Total Suspended Solids	30D Conc	22.5	46.1428	2/1/2008
4PC00005*KD	February 2008	001	00530	Total Suspended Solids	7D Conc	34	117.5	2/22/2008
4PC00005*KD	March 2008	001	00530	Total Suspended Solids	30D Conc	22.5	69.875	3/1/2008
4PC00005*KD	March 2008	001	00530	Total Suspended Solids	7D Conc	34	248.5	3/1/2008
4PC00005*KD	March 2008	001	00530	Total Suspended Solids	30D Qty	51.1	621.758	3/1/2008
4PC00005*KD	March 2008	001	00530	Total Suspended Solids	7D Qty	77.2	2182.73	3/1/2008
4PC00005*KD	March 2008	001	80082	CBOD 5 day	7D Conc	28.5	47.5	3/1/2008
4PC00005*KD	March 2008	001	80082	CBOD 5 day	30D Qty	43.1	132.211	3/1/2008
4PC00005*KD	March 2008	001	80082	CBOD 5 day	7D Qty	64.7	350.469	3/1/2008
4PC00005*KD	March 2008	001	00530	Total Suspended Solids	7D Qty	77.2	286.656	3/15/2008
4PC00005*KD	March 2008	001	80082	CBOD 5 day	7D Qty	64.7	169.139	3/15/2008
4PC00005*KD	April 2008	001	00530	Total Suspended Solids	7D Conc	34	36.	4/8/2008
4PC00005*KD	April 2008	001	00300	Dissolved Oxygen	1D Conc	5.0	3.6	4/10/2008
4PC00005*KD	May 2008	001	50060	Chlorine, Total Residual	1D Conc	0.038	.06	5/1/2008
4PC00005*KD	May 2008	001	50060	Chlorine, Total Residual	1D Conc	0.038	.05	5/13/2008



Figure 1

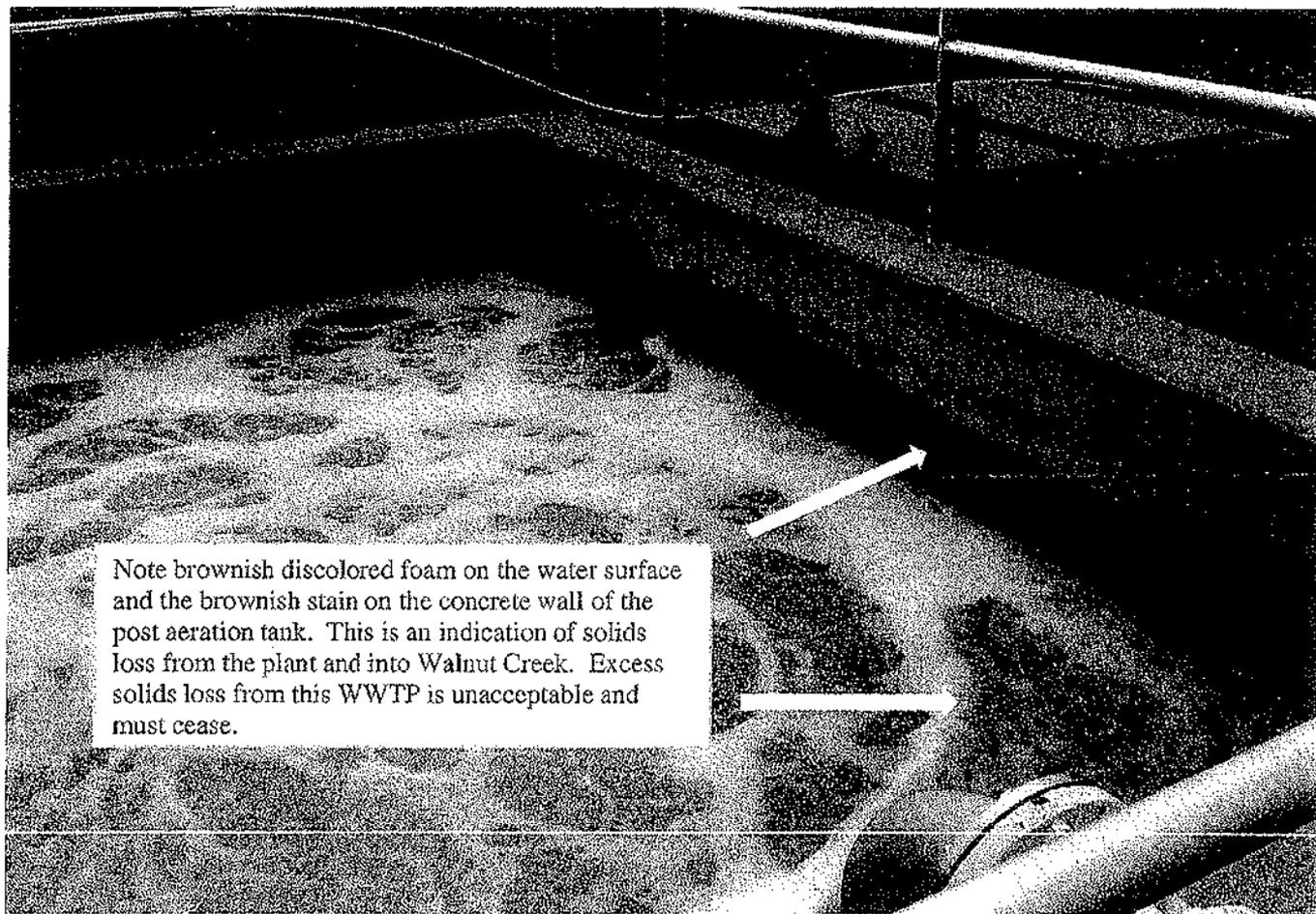


Figure 2



State of Ohio Environmental Protection Agency

Central District Office

STREET ADDRESS:

3232 Alum Creek Drive  
Columbus, OH 43207-3417

TELE: (614) 728-3778 FAX: (614) 728-3898

MAILING ADDRESS:

P.O. Box 1049  
Columbus, OH 43216-1049

Certified Mail # 7001 1940 0000 2938 4338

May 9, 2002

Village of Ashville  
Attention: Mr. Harry Staven  
91 West Main Street  
Ashville, Ohio 43103

Dear Mr. Staven:

Enclosed is a copy of a Reconnaissance Inspection Report for an inspection performed on May 6, 2002 at the wastewater treatment plant (WWTP) serving the Village. Please read the report carefully. I am quite concerned about continued violation of terms and conditions contained in the wastewater discharge permit applicable to the WWTP. Numerous violations have been listed in this report. Numerous violations were also listed in the report for an inspection that occurred on July 26, 2001.

The violations are increasing this offices level of concern regarding the Village's efforts to provide consistent permit compliance. The Village must quickly initiate action necessary to prevent additional violations and advise me in writing regarding the time-line for implementation of those actions. The Village should advise me in writing by June 1, 2002 regarding the time-line for improvements it intends making at the WWTP. The Village should also include by June 1, 2002 a copy of the I/I removal report that was due by January 31, 2002 and a copy of the I/I general plan that was due by March 1, 2002.

If you have questions I can be reached at (614) 728-3850.

Sincerely,

Jan Rice  
Environmental Specialist  
Field Operations Unit  
Division of Surface Water  
Ohio EPA/CDO

JR/pan ASHVILLE

Enclosures

pc: Mr. Wesley Meacham, WWTP Superintendent

ATTACHMENT "A"  
VILLAGE OF ASHVILLE  
WASTEWATER TREATMENT PLANT

**Permit:** Rated unsatisfactory due to numerous permit violations.

**Operations:** Rated marginal. The WWTP superintendent indicated that it is necessary during some wet weather periods to turn off the oxidation ditch aeration rotors to prevent washout of the biomass. This is not an acceptable solution to the problem of managing excess wastewater flow into the plant. Additional work is necessary to control such flow and protect the plant from such hydraulic surges.

**Facility Site Review:** Rated unsatisfactory due to presence of soil/debris in the old clarifiers south of the plant office building.

**Collection system:** Rated marginal since it remains somewhat uncertain that all sewage sources within the Village are connected into the sanitary sewers. The WWTP superintendent indicated that work is underway to continue connection of such sources into the sanitary sewers. The superintendent also indicated that work is also underway to continue locating and eliminating Infiltration/Inflow (I/I) sources of relatively "clean" water into the sanitary sewer system.

**Flow monitoring:** Rated satisfactory. The WWTP superintendent indicated that the flow meter had been recalibrated earlier this year. Meter recalibration apparently revealed that the meter had been providing flow readings that were approximately 200,000 gallons per day higher than what was actually being discharged from the plant. The flow meter calibration should be checked at least annually by qualified personnel.

**Effluent:** Rated unsatisfactory. This office is aware that the collection system and WWTP are detrimentally impacted during wet weather events of varying severity. This office is also aware that the WWTP superintendent and the Village are working to remedy problems in the collection system and at the WWTP. The Village must be aggressive in its efforts to continue work necessary to allow consistent compliance with terms and conditions contained in the wastewater discharge permit.

Table 1 of this report lists numerous effluent limitation violations. The last inspection report for this WWTP also contained a listing of numerous effluent violations. **Continued violations are unacceptable.** The Village should advise me in writing by June 1, 2002 regarding the reason(s) for these violations and measures that are being taken to prevent additional violations.

Figure 1 is a photograph that shows a brownish foam on the surface of wastewater being discharged to the Walnut Creek. Presence of foam of this nature is an indication that inadequately treated wastewater has passed through the WWTP and into the creek.

Past communication with the Village included the likelihood that a detention basin would, at some point in time, be necessary at the plant. It may be less expensive to use existing tanks rather than to build a new one in the future. The combination of continued I/I removal in the sanitary sewer collection system along with use of existing tankage for wastewater detention may enhance operation of the plant and allow more consistent compliance with permit limitations. This option should be evaluated by the Village's consultant and necessary permits-to-install submitted to this office for review/approval prior to initiation of improvements.

The Village must be aware that nearly one year has passed since the time of a meeting between this office and the Village. On July 26, 2001, John Owen and I met with Mr. Staven and the Village's consultants to discuss progress of work at the WWTP and in the sanitary sewer collection system. The Village must be aware that I am very concerned about numerous permit violations that had occurred prior to and since the time of that meeting. The Village must also be aware that this office has the authority to enforce laws designed to address chronic permit noncompliance.

If the Village fails to quickly proceed with necessary improvements, then it faces the possibility of revenue loss to offset the cost of penalties that this office may levy against the permittee for permit violations. This will increase the permittee's overall expense for improvements and result in development of a schedule of compliance for those improvements.

The permittee should advise me in writing by June 1, 2002 regarding the time-line for improvements it intends making at the WWTP. The permittee should also include by June 1, 2002 a copy of the I/I removal report that was due by January 31, 2002 and a copy of the I/I general plan that was due by March 1, 2002.

**Mr. Plummer, Ltd.**

150 Edison Avenue  
 Circleville, OH 43113  
 USA

**INVOICE**

Invoice Number: P210028  
 Invoice Date: Mar 10, 2010  
 Page: 1

Voice: 740-477-2910  
 Fax: 740-474-7450

**Bill To:**  
 Kevin Hulse  
 277 E. Main Street  
 Ashville, OH 43103

**Ship to:**  
 Kevin Hulse  
 277 E. Main Street  
 Ashville, OH 43103

Customer ID	Customer PO	Payment Terms	
Hulse		Net Due	
Sales Rep ID	Shipping Method	Ship Date	Due Date
	Hand Deliver		3/10/10

Quantity	Item	Description	Unit Price	Amount
		Labor and Equipment used @ 24 W. Station Street to assist locating water and sewer lines between the sidewalk and asphalt. This additional cost was driven by time lost while officials responded to other water related issues, on-going in the Village. 3/8/10: 3.5 MH @ \$79.00/Hr. 3/9/10: 3.0 MH @ \$79.00/Hr. One (1) Track Hoe		276.50 237.00 402.51
Subtotal				916.01
Sales Tax				
Total Invoice Amount				916.01
Payment/Credit Applied				
<b>TOTAL</b>				<b>916.01</b>

Check/Credit Memo No:

PAST DUE INVOICES MAY BE SUBJECT TO A 1-1/2% SERVICE CHARGE PER MONTH.

VILLAGE OF ASHVILLE  
UTILITIES COMMITTEE MEETING  
MAY 25, 2010

Glenn Cook called the meeting to order at 6:37 PM with the Pledge of Alliance. Answering roll call was Brian Garvine. Keith Moore was excused. Also present were Nelson Embrey, Brian Stewart, Chris Tebbe, John Albers and Franklin Christman.

PRESENTATION – None

Glenn Cook moved, seconded by Brian Garvine, to approve the May 17, 2010 minutes as presented. All votes were yea.

UNFINISHED - None

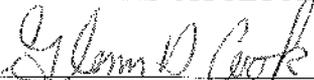
NEW BUSINESS:

1. EPA Report/Expansion of the Wastewater Plant – John Albers from Albers and Albers highlighted what a regional water and sewer district was and how it would be established. The process takes approximately fifty-five days from the date of filing the petition with the court. A 6119 district makes the area stronger and reduces cost. Brian Garvine stated that a 6119 district seemed beneficial to all parties. Glenn Cook would like to see the district include water, sewer and storm water. Brian Garvine moved, seconded by Glenn Cook, to recommend to council the authorization for the Village Administrator to contact the CEDA/Northgate Alliance entity concerning the possibility of the formation of a 6119 regional district. All votes were yea.

2. Statement of Qualifications and Letters of Interest – Franklin Christman stated that Chris Tebbe, Jim Welsh and he had reviewed the 12 firms' Statement of Qualifications and Letter of Interest regarding the Wastewater Treatment Plant Expansion Project and would like to have permission for the top five companies to update their information. After update completion council would then have the opportunity to interview key personnel from the top five companies before selecting an engineering firm. Brian Garvine moved, seconded by Glenn Cook, to recommend to council to have the short list companies [ie URS, DLZ, Poggemeyer, Gannett Fleming and ADR] update their Statement of Qualifications and Letters of Interest and to be interviewed by council as engineering consultants for water and sewer. All votes were yea.

At 7:44 PM Glenn Cook adjourned the meeting.

ACCEPTED AND ATTESTED

  
\_\_\_\_\_  
Glenn Cook, Chairman

  
\_\_\_\_\_  
Barbara J. Gilbert, Clerk

# District Formation Services

*Over 30 regional water and sewer districts formed*

*Founders of Coalition of Ohio Regional Districts (CORD), an association of regional districts*

*Ongoing representation of multiple regional districts, counties, municipalities and townships*

*Practice devoted to water and sewer development issues*

*Big firm expertise*

*Small firm rates*

## ALBERS AND ALBERS

88 North Fifth Street  
Columbus, Ohio 43215

[www.alberslaw.com](http://www.alberslaw.com)

Phone: 614-464-4414

Fax: 614-464-0604

[John.Albers@Alberslaw.com](mailto:John.Albers@Alberslaw.com)

[Eric.Luckage@Alberslaw.com](mailto:Eric.Luckage@Alberslaw.com)

[Anita.Doran@Alberslaw.com](mailto:Anita.Doran@Alberslaw.com)

Among the legal services we provide with respect to the formation of Districts:

- ◆ Preparation of all pleadings and other documents including the Resolution to Establish the District, the Petition, the Entry of the Presiding Judge appointing the Sitting Judge, the Entry approving the Petition as to Form and Content and setting the time for the final hearing and ordering service of process, and any necessary redraft of these pleadings;
- ◆ Completing certified mail service to the Director of the EPA;
- ◆ Notice to residents and public meeting(s);
- ◆ Completing service of process by publication;
- ◆ Miscellaneous correspondence with clients, as necessary;
- ◆ Miscellaneous meetings with clients, as necessary;
- ◆ Review of records at the Ohio Department of Natural Resources;
- ◆ Review of records at Ohio EPA;
- ◆ Review of records at County Sanitary Engineer's Office and County Health Department, all as may be necessary;
- ◆ Such meeting as may be necessary with the presiding judge;
- ◆ Such meeting as may be necessary with representatives of opposing political entities;
- ◆ Compilation of materials for legal briefs; preparation of legal briefs;
- ◆ Preparation of supplemental legal briefs;
- ◆ Preparation of evidence for presentation at Court; correspondence and meeting with District Engineers, as may be necessary;
- ◆ Preparation of the Entry Establishing the District;
- ◆ Review of drafts and redrafts of Plan of Operation;
- ◆ Review of any other information presented by client relevant to establishment of District or plan;
- ◆ Preparation of Expert Witnesses for Court trial;
- ◆ Preparation for trial including preparation of opening statement, direct examination, cross examination, closing statement, trial briefs, and other items as may be necessary;
- ◆ Preparation of Affidavits and Letters of Support.

# Attorney Profiles

*Over 40 regional water and sewer districts formed*

*Founders of Coalition of Ohio Regional Districts (CORD), an association of regional districts*

*Ongoing representation of multiple regional districts, counties, municipalities and townships*

*Practice devoted to development-related areas including water and sewer, JEDDs, township home rule and intergovernmental agreements*

## ALBERS AND ALBERS

88 North Fifth Street  
Columbus, Ohio 43215

[www.alberslaw.com](http://www.alberslaw.com)

Phone: 614-464-4414

Fax: 614-464-0604

[John.Albers@Alberslaw.com](mailto:John.Albers@Alberslaw.com)

[Eric.Luckage@Alberslaw.com](mailto:Eric.Luckage@Alberslaw.com)

[Anita.Doran@Alberslaw.com](mailto:Anita.Doran@Alberslaw.com)

### **John B. Albers, II:**

John Albers attended Wake Forest University for his undergraduate studies, where he graduated Cum Laude with honors in history. John received his law degree from The Ohio State University College of Law in 1982. He has been practicing in the area of local government law for approximately 28 years, and his practice is substantially devoted to representing local governments and individuals with a variety of development-related issues, including water and sewer issues, annexations, JEDD's, CEDA's, and zoning. He is also one of the co-authors of the Township Home Rule Handbook. John frequently speaks and writes articles on various topics for the Ohio Township Association, the Ohio Rural Water Association, and the Ohio State Bar Association. He is also one of the founders of the Coalition of Ohio Regional Districts, CORD, an association of regional water and sewer districts. He has also been active in the enactment and modification of proposed legislation affecting water and sewer issues, annexation, and other issues.

### **Eric J. Luckage:**

Eric Luckage attended The Ohio State University for his undergraduate studies in History and Political Science. He received his law degree from Capital University Law School in Columbus, Ohio in 1997. He has been with Albers and Albers since 2000, and his practice is substantially devoted to representing local governments and individuals with a variety of development-related issues, including water and sewer issues, annexations, JEDD's, CEDA's, and zoning. He is also one of the co-authors of the Township Home Rule Handbook. While attending law school in the evenings, Eric worked as a Legislative Aide in the Ohio Senate and has extensive experience in the General Assembly's legislative process and most aspects of state and local government. He also worked for five years at the U.S. Department of Agriculture's Rural Development office, one of the major funding agencies for water and sewer projects. He is also one of the founders of the Coalition of Ohio Regional Districts, CORD, an association of regional water and sewer districts, and testifies before the General Assembly on behalf of CORD. Eric is a member of the Ohio State Bar Association.

### **Anita T. Doran:**

Anita Doran attended Miami University for her undergraduate studies in History and Political Science. She received her law degree from the University of Cincinnati in 1987. She worked for ten years with the Defense Supply Center Columbus, specializing in the investigation and prosecution of government contract fraud and serving as a Special Assistant United States Attorney. Anita has been with Albers and Albers since 2008, and has assisted in the formation of water and sewer districts, as well as represented local governments regarding a variety of development-related issues. She is a member of the Ohio Bar and the U.S. District Court for the Southern District of Ohio.

CHAPTER 6119  
REGIONAL WATER AND SEWER DISTRICTS

Check List

- Supply water and waste water inside and outside district 6119.01
- Public meeting by signers (municipal corporation, counties, & townships) before filing petition, receiving comments on the proposed district. At the meeting, a representative of the signer or signers of the petition shall present a preliminary study of the reasons for the proposed establishment of the district.
  - Signer or signers of petition provide written notice, U.S. Mail. Failure to notify an elector does not invalidate any proceeding before a court under this chapter.
- Legislative authorization of petition
- Filing a signed petition in office of the clerk of common please.
  - Petition contains.
    - Name of the district;
    - Place in which its principal office is to be located;
    - Contain information on the public health, safety, convenience, or welfare;
    - A general description of the purpose of the proposed district;
    - Description of the territory
    - Board of Trustees:
      - selection process,
      - the number,
      - the term,
      - compensation of the members of the governing body.
      - procedures for subsequent changes in the composition of and other provisions relating to the board of trustees.
  - The plan for financing the cost of the operations of the district until it is in receipt of revenue from its operations or proceeds from the sale of bonds;
  - A prayer for the organization of the district by the name proposed, either before or after a preliminary hearing as provided in section 6119.04 of the Revised Code.

Board of Trustee Checklist:

- Vested authority in board manage & conduct affairs of district
- The board shall by its rules and resolutions provide the procedure for its actions,
  - Election of a president, a secretary and other officers
  - Titles, term of office, compensation, duties, number, & qualifications
- Other lawful subject necessary to the operation of the district and the exercise of the powers granted.
- Removal of member of board of trustees. misfeasance, nonfeasance, or malfeasance in office. Prior to removing a member, the appointing authority shall notify the member of the facts supporting the proposed removal and shall provide the member an opportunity to appear before the appointing authority or at a public hearing held by the appointing authority and show cause why the member should not be removed from office. A member of a board of trustees who has been removed pursuant to this section may appeal the removal not later than thirty days after the removal

Rights, powers, and duties Checklist

- Adopt bylaws for regulation of affairs, conduct of business, & notice of actions
- Adopt an official seal;
- Maintain a principal office & sub-offices at such places within district as it designates;
- Sue and plead in its own name; be sued and impleaded in its own name with respect to its contracts or torts of its members, employees, or agents acting within the scope of their employment, or to enforce its obligations and covenants
- Assume any liability or obligation of any person or political subdivision, including a right on the part of such district to indemnify and save harmless the other contracting party from any loss, cost, or liability by reason of the failure, refusal, neglect, or omission of such district to perform any agreement assumed by it or to act or discharge any such obligation;
- Make loans and grants to political subdivisions for the acquisition or construction of water resource projects by such political subdivisions and adopt rules, regulations, and procedures for making such loans and grants;
- Acquire, construct, reconstruct, enlarge, improve, furnish, equip, maintain, repair, operate, lease or rent to or from, or contract for operation by or for, a political subdivision or person, water resource projects within or without the district;
- Make available the use or service of any water resource project to one or more persons, one or more political subdivisions, or any combination thereof;
- Levy and collect taxes and special assessments;
- Issue bonds and notes and refunding bonds and notes;
- Acquire by gift or purchase, hold, and dispose of real and personal property in the exercise of its powers and the performance of its duties;

- Dispose of, by public or private sale, or lease any real or personal property determined by the board of trustees to be no longer necessary or needed for the operation or purposes of the district;
- Acquire, in the name of the district, by purchase or otherwise, on such terms and in such manner as it considers proper, or by the exercise of the right of condemnation in the manner provided by section 6119.11 of the Revised Code, such public or private lands, including public parks, playgrounds, or reservations, or parts thereof or rights therein, rights-of-way, property, rights, easements, and interests as it considers necessary for carrying out Chapter 6119, of the Revised Code, but excluding the acquisition by the exercise of the right of condemnation of any waste water facility or water management facility owned by any person or political subdivision, and compensation shall be paid for public or private lands so taken;
- Adopt rules and regulations to protect augmented flow by the district in waters of the state, to the extent augmented by a water resource project, from depletion so it will be available for beneficial use, to provide standards for the withdrawal from waters of the state of the augmented flow created by a water resource project which is not returned to the waters of the state so augmented, and to establish reasonable charges therefor, if considered necessary by the district;
- Make and enter into all contracts and agreements and execute all instruments necessary or incidental to the performance of its duties and the execution of its powers;
- Enter into contracts with any person or any political subdivision to render services to such contracting party for any service the district is authorized to provide;
- Make provision for, contract for, or sell any of its by-products or waste;
- Exercise the power of eminent domain in the manner provided;
- Remove or change the location of any fence, building, railroad, canal, or other structure or improvement located in or out of the district, and in case it is not feasible or economical to move any such building, structure, or improvement situated in or upon lands required, and if the cost is determined by the board to be less than that of purchase or condemnation, to acquire land and construct, acquire, or install therein or thereon buildings, structures, or improvements similar in purpose, to be exchanged for such buildings, structures, or improvements under contracts entered into between the owner thereof and the district;
- Receive and accept, from any federal or state agency, grants for or in aid of the construction of any water resource project, and receive and accept aid or contributions from any source of money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions are made;
- Purchase fire and extended coverage and liability insurance for any water resource project and for the principal office and sub-offices of the district, insurance protecting the district and its officers and employees against liability for damage to property or injury to or death of persons arising from its operations, and any other insurance the district may agree to provide under any resolution authorizing its water resource revenue bonds or in any trust agreement securing the same;
- Charge, alter, and collect rentals and other charges for the use of services of any water resource project as provided in section 6119.09 of the Revised Code. Such district may refuse the services of any of its projects if any of such rentals or other charges, including penalties for late payment, are not paid by the user thereof, and, if such rentals or other

charges are not paid when due and upon certification of nonpayment to the county auditor, such rentals or other charges constitute a lien upon the property so served, shall be placed by him upon the real property tax list and duplicate, and shall be collected in the same manner as other taxes;

- Provide coverage for its employees under Chapters 145, 4123., and 4141.;
  - Merge or combine with any other regional water and sewer district into a single district, which shall be one of the constituent districts, on terms so that the surviving district shall be possessed of all rights, capacity, privileges, powers, franchises, and authority of the constituent districts and shall be subject to all the liabilities, obligations, and duties of each of the constituent districts and all rights of creditors of such constituent districts shall be preserved unimpaired, limited in lien to the property affected by such liens immediately prior to the time of the merger and all debts, liabilities, and duties of the respective constituent districts shall thereafter attach to the surviving district and may be enforced against it, and such other terms as are agreed upon, provided two-thirds of the members of each of the boards consent to such merger or combination. Such merger or combination shall become legally effective unless, prior to the ninetieth day following the later of the consents, qualified electors residing in either district equal in number to a majority of the qualified electors voting at the last general election in such district file with the secretary of the board of trustees of their regional water and sewer district a petition of remonstrance against such merger or combination. The secretary shall cause the board of elections of the proper county or counties to check the sufficiency of the signatures on such petition;
  - Exercise the powers of the district without obtaining the consent of any other political subdivision, provided that all public or private property damaged or destroyed in carrying out the powers of the district shall be restored or repaired and placed in its original condition as nearly as practicable or adequate compensation made therefor by the district;
  - Require the owner of any premises located within the district to connect his premises to a water resource project determined to be accessible to such premises and found to require such connection so as to prevent or abate pollution or protect the health and property of persons in the district. Such connection shall be made in accordance with procedures established by the board of trustees of such district and pursuant to such orders as the board may find necessary to ensure and enforce compliance with such procedures;
  - Do all acts necessary or proper to carry out the powers granted in Chapter 6119.
- Judge of the court of common pleas shall determine if the petition complies with the requirements. No petition shall be declared void by the judge on account of alleged defects. The court may permit the petition to be amended in form and substance to conform to the facts by correcting any errors in the description of the territory or in any other particular.

## **Water, Sewer and Storm Sewer Districts Ohio Township News, March/April 2002**

### **Water, Sewer and Storm Sewer Districts, Revisited**

by John B. Albers, Esquire  
Albers & Albers  
Attorneys-at-Law

#### **Formation Of Districts**

A regional water, sewer or storm sewer district is an independent political subdivision of the State of Ohio. It is not a subdivision of the township or the county. Additionally, the finances of the district, once established, are completely independent of the township.

Townships, counties or municipalities can establish regional districts for purposes of providing central potable water services, central sanitary sewer services and for storm water management purposes. (More about that later). A district can be established for a portion of a township or county or municipality, for the entire township or county or municipality, or for any combination of territory in several political subdivisions.

Typically, the first step to establish a district is for the governing body of the political subdivision (township, county, municipality) forming the district to obtain professional legal and engineering services. For my clients, I usually advise that they obtain a preliminary feasibility report from an engineering firm to determine the economic feasibility of establishing a district within the territory in question. This preliminary feasibility report is a simple document which reviews the territory in question to determine whether services can be provided economically to the customer within the proposed district and the approximate costs of providing such services. If this report is favorable, the political subdivision(s) forming the district can take the next step, which is to have a public meeting regarding the proposed establishment of a district. Electors residing within the proposed district must be notified by regular U.S. mail of this meeting. At the meeting a study of reasons for the proposed establishment of the district is presented for discussion. After the meeting is concluded, the township, county, municipality, etc. is free to file a petition to establish the district in the court of common pleas of the county where the district is to be located.

After the petition is filed, a Plan for the Operation of the district must be filed. The Plan is typically prepared by an engineering firm; it establishes how the district intends to provide central water and/or sanitary sewer services and/or storm sewer management services to the residents of the district. The Plan also contains estimates of costs for providing such services and providing for alternatives, including the possible purchase of services from neighboring service providers as well as possible construction by the district of its own facilities. Thereafter, the court of common pleas holds a hearing on the establishment of the district at which anyone "affected by the organization of the district" may object to the formation or the Plan of Operation. Over the years, I have seen objections by neighboring municipalities, counties, residents of the proposed district, the Ohio EPA and many others. The courts have almost uniformly viewed such objections with skepticism. They recognize when objections are made by self-serving entities who, after all, only seek to advance their own interests.

After disposing of objections, if it appears that the proposed district is necessary and conducive to the public health, safety, convenience and welfare, and that the Plan is economical, feasible, fair and reasonable, the court may enter a final finding and order declaring the district to be organized and established as a political subdivision of the State of Ohio.

In Yellow

This is why, if Earnhart Hill ever filed to provide services south of Duval Road, they are not likely to be stopped.

## **Storm Sewer Districts**

An emerging area of concern to local governments, including townships, is the 1972 Clean Water Act/NPDES Phase II Storm Water Regulations. That federal law is administered by the Ohio Environmental Protection Agency which is developing and enforcing regulations related to storm water runoff. Townships which own or maintain roadways, catch basins, curbs, gutters, ditches or storm drains may qualify as having a "municipal separate storm sewer system" under 40 CFR 122.26(b)8. Townships which operate such systems may be regulated by the Ohio EPA and can be required to comply with the regulations for such systems. Such regulations include notice to EPA by March 10, 2003, and preparation of a storm water management plan. Storm water runoff is water that flows over land from rainfall or storm melts, often causing flooding, erosion and pollution problems. It includes water from storm drains and natural drainage courses, serving industrial, commercial, residential, undeveloped, recreational and agricultural lands. It is considered by the EPA to be a leading cause of water pollution to our rivers and streams.

Townships have traditionally provided limited storm sewer services within their jurisdictions, including ditch cleaning, storm sewer repair, emergency storm water pumping, etc. To pay for such maintenance activities, townships must rely on general revenues, and in some cases, moneys received from gas tax and license plate fees.

By contrast, if a township establishes a storm sewer district, such district can perform the full range of construction and maintenance activities required for those facilities, including EPA compliance, the construction of all storm sewer improvements, catch basin cleaning, ditch maintenance and upgrade, log jam and debris removal, pollution prevention, water quality maintenance, planning and public education, etc. The district can also implement storm water management plans and standards, and enforce those standards. Further, the district can levy assessments against benefitted landowners for the construction of such facilities, and can levy user charges on properties benefitted by such construction or maintenance. Finally, the district can hire its own employees to perform such construction, maintenance and enforcement activities. With respect to financing, a storm sewer district has independent means of funding such facilities including loans from the Ohio Water Development Authority (OWDA) for the planning and construction of such projects, developer financing and payment for such projects, use of tax increment financing (TIFs) as well as the full range of grant and low interest loans, including the Ohio Public Works Commission (OPWC) (Issue II Funds), the Ohio Department of Development, the Ohio Environmental Protection Agency and the United States Department of Agriculture, Rural Development.

## **Powers, Duties Upon Formation**

Once established, districts have very broad authority and power to provide central water and/or sanitary sewer, and/or storm sewer management services, and the district is not regulated by the Public Utilities Commission of Ohio. Districts may enter into agreements with other service providers and political subdivisions; acquire property by eminent domain, if necessary; issue bonds and notes to finance projects of the district; borrow planning and construction monies from the OWDA; levy taxes and property assessments; adopt rules and regulations to protect projects of the district; etc. Basically, districts have the same authority that municipalities and counties have to construct central water, sewer and storm sewer facilities, or purchase such services from others. Districts even have authority to sell services outside their district boundaries.

## **Financing Of District Planning And Construction Projects**

Districts have several means of financing their activities. They can, for example, borrow funds from the OWDA, an agency of the State of Ohio, for planning purposes. Such loans can be used for any number of items, for example hydrogeological testing to locate water well sites and to drill test wells; options to purchase real estate; the engineering design of facilities; professional legal and accounting services; survey work; payment for employees of the district, etc. They can also be used to reimburse townships, counties or municipalities for costs advanced to establish the district. OWDA planning loans need not be repaid for a five-year period, and are a line of credit. For start-up districts, the OWDA may require the district to levy a planning assessment in order to receive an OWDA planning loan.

When it comes to constructing facilities, there are many financing options available for districts. Districts may issue bonds and notes, and may borrow funds from the OWDA, the USDA Rural Development (formerly the Farmer's Home Administration), and other governmental agencies. Also, OPWC Issue II low-interest loans and grant funds are often available for district projects; federal Community Development Block Grant Funds (CDBG) are sometimes available for low and moderate income areas. Typically, districts finance their improvements with assessments of benefitted landowners, and often enter into tap agreements with developers. At least one district, the Carroll Water & Sewer District in Carroll Township, Ottawa County, financed a township-wide water project through a voted tax levy.

### **Annexation: The Effect of Regional Districts**

Many people view Districts solely as tools to hinder annexation. It is no secret that regional districts, since they provide necessary services, discourage annexation.

However, the fact is, that the prohibition of annexation is not a legitimate reason for the formation of a Regional District. Districts may only be formed if it is necessary and conducive to the public health, safety, convenience, and welfare of the community served. In other words, the District typically must be correcting a problem unaddressed by other entities. Who could fault political leaders who take the initiative to abate pollution or bring potable water to a community in need?

Municipalities, counties, and Regional Districts are all political subdivisions able to provide water and sewer services. Each entity wishes to provide for its citizens. If one entity provides a service when no other entity was willing or able to provide that service in that community, then the District spells good news for the beneficiaries. And, since Ohio law does not grant exclusive rights to provide these services, community leaders who take initiative and solve problems should be applauded, not accused of political maneuvering to somehow stop annexation.

### **Cost to Establish a District**

The cost to establish a district depends upon your situation. Smaller districts providing fewer services to fewer customers will be less expensive to establish than larger districts servicing a larger number of customers. You can expect to spend in the neighborhood of \$10,000 to \$50,000, sometimes more, to establish a district. This sum includes legal, engineering, surveying, hydrogeological engineering and other professional services which may be required.

### **The Future of Regional Water and Sewer Districts**

The future of regional water, sewer and storm sewer districts looks bright. Many districts have been established, providing much needed services to previously ignored areas.

Nevertheless, as the demographics of Ohio change and as the population within townships increases, it can be expected that water and sewer districts will play an ever increasingly important role in providing needed water, sewer and storm sewer services.

*John B. Albers is an attorney with the law firm of Albers & Albers in Columbus, Ohio, where he focuses his practice on local government law. Mr. Albers has lectured for the Ohio Township Association, the Ohio State Bar Association, and the Ohio Rural Water Association on water, sewer, and storm sewer districts. He is a graduate of Wake Forest University and received his law degree in 1982 from The Ohio State University College of Law. He has assisted in the establishment of approximately 35 regional districts in Ohio.*

## **Formation of Regional Water and Sewer Districts**

### **FORMATION OF REGIONAL WATER AND SEWER DISTRICTS**

#### **1. What is a Regional Water and Sewer District?**

A regional water and sewer district is an independent political subdivision of the State of Ohio established under Ohio Revised Code Chapter 6119 to provide water and/or sewer services to users of the District.

#### **2. Who Can Establish a District?**

The following political subdivisions or combination of political subdivisions of the State of Ohio, including one or more Townships, Counties, Villages, and Cities, can petition the Court to establish a District.

#### **3. Why Are Regional Water and Sewer Districts Established?**

- To provide needed central sanitary sewer and/or water services to residents of the District.
- To provide for administration of water and waste water facilities by a single public entity instead of by several public entities or privately owned companies or associations.
- To prevent and abate pollution and protect the environment and natural resources located within the District
- To promote and encourage economic growth, population growth and the overall quality of life in the District.
- To promote fire protection and decreased insurance rates.
- Additional benefits: increased property values where central services are provided; lower cost of services to individual users; promote and encourage local government.

#### **4. How is a Regional Water and Sewer District Established?**

- A legal analysis and preliminary feasibility study is prepared to determine the feasibility of establishing the District. (Optional).
- The petitioning political subdivision(s) adopt a resolution authorizing the filing of a Petition in the County Court of Common Pleas.
- The political subdivision (s) approve a Petition to be filed in the Court of Common Pleas. The Petition must state the following:
  - The proposed name of the district;

- The place in which its principal office is to be located;
  - The necessity for the proposed district and that it will be conducive to the public health, safety, convenience, or welfare;
  - A general description of the purpose of the proposed district (central water services, waste water services, storm sewer services, or any combination of the three);
  - A general description of the territory to be included in the district. This does not have to be given by metes and bounds or by legal subdivisions, but it is sufficient if an accurate description is given of the territory to be organized as a district. The territory of the district does not have to be contiguous, provided it is so situated that the public health, safety, convenience, or welfare will be promoted by the organization as a single district of the territory described;
  - The manner of selection, the number, the term, and the compensation of the members of the governing body of the district, which body shall be called a board of trustees. Such petition may set forth procedures for subsequent changes in the composition of and other provisions relating to such board of trustees;
  - The plan for financing the cost of the operations of the district until it is in receipt of revenue from its operations or proceeds from the sale of bonds;
  - A prayer for the organization of the district by the name proposed, either before or after a preliminary hearing as provided in section 6119.04 of the Revised Code.
- Written notice is provided to electors of the proposed district of a meeting on whether to establish the District. Thereafter a meeting is held for the purpose of receiving comments on the proposed establishment of the District. At the meeting, a representative of the petitioners shall present a preliminary study of the reasons for the proposed establishment of the District.
  - The Petition and other documents are filed in Court of Common Pleas.
  - The Plan for Provision of Services is prepared by the engineering firm.
  - Legal counsel prepares evidence to show that the establishment of the District is necessary and conducive to the public health, safety, convenience and welfare and the Plan for Provision of Services is economical, feasible, fair and reasonable.
  - Objections can be filed to the establishment of the District.
  - Legal counsel prepares briefs and supplemental briefs as necessary; legal counsel prepares witnesses for the hearing on the establishment of the District.
  - A hearing is held on the establishment of the District. The hearing is typically approximately fifty-five (55) days from the date of the filing of the Petition. The Court is asked to establish the District at that time.

*Issue: June 2004*

### **AMENDEMENT SCARE FROM GENERAL ASSEMBLY**

Last year, the Ohio senate adopted an amendment that would have prevented regional districts from installing any water lines or other "water resource projects" within 1,000 feet of an existing county or municipal water facility (which included lines). As you can imagine, this would have been particularly devastating to many regional water & sewer districts, but it also would have wrecked havoc among some counties and municipalities as well. Our office worked closely with the Ohio Township Association and Senate staff to fully educate the General Assembly about the ramifications of this amendment. In the end, the amendment was removed by the Conference Committee charged with reconciling the different Senate and House versions of the Bill.

### **THE COALITION OF OH. REGIONAL DISTRICTS (CORD)**

We have just about completed the formation of a trade association comprised of regional water & sewer districts ("6119 Districts"). The latest attempt to restrict regional districts (see above) has convinced us that now is the time for action. Future attempts to limit 6119 Districts are imminent, based on the things we've been hearing. Thus, we have commenced the formation of **the Coalition of Ohio Regional Districts, or "CORD"** to further and protect the interests of 6119 Districts, especially before the Ohio General Assembly. CORD will also advance the interests of Districts with such state and federal agencies as the Ohio Environmental Protection Agency, the Ohio Water Development Authority, and USDA Rural Development. CORD is NOT intended to replace any other association or entity. We urge you to continue membership, or join if you are not a member, the Ohio Rural Water Association, which has been providing excellent information and guidance to local governments related to water and sewer systems. CORD is intended to act solely as an active and loud voice in behalf of regional districts statewide. We will provide further information in the near future. We encourage all districts to consider membership in this very much needed organization. Please call us if you'd like to discuss it more.

In case you haven't seen it yet, the Albers and Albers web site is now complete and posted for view at [www.alberslaw.com](http://www.alberslaw.com). We hope the site will benefit our existing clients while serving as a source of information for everyone. The site will be a work in progress, so check back periodically for new information. If you have any suggestions for the site, please contact us and we'll see what we can do.

### **Legal Update**

#### **SUPREME COURT CONFIRMS OUR ADVICE**

Over the years, we've heard a lot of confusion expressed over the effect of annexation on water or

#### **ADDITIONAL CHANGES IN BUDGET BILL**

The state budget DID include two provisions worth mentioning. First, **the competitive bidding threshold for Regional Water and Sewer Districts and for Counties was increased from \$15,000 to \$25,000**.

sewer lines within the annexed territory. The Ohio Supreme Court confirmed our advice in Hudson v. Summit County, 97 Ohio St.3d 296, 779 N.E.2d 758. Between 1977 and 1993, several housing developers had built certain water lines in Hudson Township. After their construction, the water lines were conveyed to Summit County and connected to the County's system. In 1994, the Village of Hudson and Hudson Township merged to create the City of Hudson. The water lines in question were now physically within the City of Hudson. Summit County subsequently sought buyers for the water system and planned to sell the water system to the City of Akron. The City of Hudson sought a restraining order to block the purchase, claiming that it had acquired ownership of the lines automatically upon its incorporation. Hudson also claimed that the County could not transfer the lines to Akron because none of the lines were physically located within Akron.

The Court ruled that the Ohio Constitution states that a municipality "may acquire, construct, own, lease and operate within or without its corporate limits any public utility." Similarly, R.C. 6103.22 provided that a water system within a

In addition, it created ORC Section 153.691, the Professional Design Services selection process (hiring of engineering services). Although it was understood prior to the enactment of this Section, the law now specifically prohibits public authorities planning to contract for professional design services from seeking any form of fee estimate, fee proposal, or other estimate or measure of compensation from a professional design firm prior to the public authority's ranking and selection of the firms who have submitted statements of Qualification. Any fee estimates or discussions must be reserved until the subsequent contract negotiation phase of the selection process. Another change also clarifies that when establishing criteria to rank the firms, the public authority may use "any other relevant factors as determined by the public authority."

### **ANOTHER USDA DECISION FROM FEDERAL COURT**

As many of you are aware, we have, in the past, frequently provided speeches for the Ohio Township Association and the Ohio Rural Water Association regarding "conflicts over service territory". Now, a new case has been decided related to this topic. In Northern Ohio Rural Water v. Erie County Board of County Commissioners (2004), the U.S. District Court for the Northern District of Ohio, Western Division, examined the protections of 7 U.S.C. Section 1926(b), otherwise known as the "USDA protection". Both NORW and Erie County claimed the right to provide water service in a disputed territory. In this case, NORW applied for and received a USDA loan to provide services in the disputed area. The County opposed the District's plan to service the area, proceeded to secure Ohio Water Development Authority (OWDA) financing, and installed the lines. The District filed suit claiming the USDA protection precluded the County from installing the lines and providing services and that the District enjoyed exclusive rights to service the area. Ultimately, the Court ruled in favor of the County and issued a preliminary injunction prohibiting the District from installing any new lines or providing new service in the disputed area where there is existing County water service. Because the District had lines in the areas surrounding the disputed territory, but not within or adjacent to the areas at issue, and because the District had not procured necessary easements for their project, the Court decided that the District had no present legal right or lawful ability to install lines in the disputed area. The Court also used the "balancing test" we've mentioned in our speeches. As we often state, the "first in the ground" will usually prevail. Here, it was the County.

municipal corporation may be conveyed to such municipal corporation. Neither of these makes transfer automatic." **In other words, when a municipality acquires land through annexation or incorporation and that land contains water lines, those lines are not automatically conveyed to the municipality. The municipality would be required to commence eminent domain proceedings to acquire the lines, and even then, the exercise of eminent domain may only occur if the taking will not result in the destruction of an existing public use.**

CHAPTER 6119  
REGIONAL WATER AND SEWER DISTRICTS

Section

- 6119.01. Organization of district; purpose.
- 6119.01.1] 6119.011. Definitions.
- 6119.02. Organization procedure; public meeting before filing petition.
- 6119.03. Court for district.
- 6119.04. Hearing on petition; procedure.
- 6119.05. Application for inclusion in district; procedure.
- 6119.05.1] 6119.051. Petition for change.
- 6119.06. Rights, powers, and duties.
- 6119.07. Powers vested in a board of trustees.
- [6119.07.1] 6119.071. Removal of member of board of trustees.
- 6119.08. Rules and regulations.
- 6119.09. Service agreements; rentals; bonds.
- 6119.10. Competitive bidding.
- 6119.11. Condemnation of land.
- 6119.11.1] 6119.111. Acquisition of property.
- 6119.12. Revenue bonds and notes.
- 6119.13. Exemption from uniform bond law.
- 6119.14. Trust agreements.
- 6119.14.1] 6119.141. Rights of bondholders and trustees.
- 6119.15. Bonds not a debt of state or subdivision.
- 6119.15.1] 6119.151. Depositories.
- 6119.16. Investment in United States obligations.
- 6119.17. Levy to amortize indebtedness.

Tax Levy; Assessments.

- 6119.18. Levy for current expenses of district; anticipation notes.
- 6119.18.1] 6119.181. [Repealed]
- 6119.18.2] 6119.182. [Repealed]
- 6119.18.3] 6119.183. [Repealed]

Plan.

- 6119.19. System of sewerage.
- 6119.20. Division of district into sewer districts.
- 6119.21. Contents of plan.

6119.22. Notice of plan; objections; amendments or corrections.

6119.23. Amendment of plan.

6119.24. Designation of work; estimates.

6119.25. Resolution of necessity; publication.

6119.26. Resolution to proceed with improvement.

6119.27. Assessment of real estate.

6119.28. Award and payment of construction contracts.

6119.29. Construction without plans.

6119.30. Bonds and notes in anticipation of assessments.

Tax Levy.

6119.31. Resolution for levy of tax.

6119.32. Approval of tax levy by electors.

6119.33. Appropriation of funds from tax levy.

6119.34. Right of entry; reimbursement for damage.

6119.35. Approval or rejection of plans by environmental protection agency.

6119.36. Issuance of securities in lieu of tax levy.

6119.37. Administrative service status of employees.

6119.38. Audit by auditor of state; report.

6119.39. Employees in public employees retirement system.

6119.40. District exempt from taxation.

6119.41. Contractual power of board of trustees.

6119.42. Special assessments.

6119.43. Purposes for assessments.

6119.44. Designation of property to be assessed.

6119.45. Payment by annual installments.

6119.46. Filing of resolution of necessity.

6119.47. Notices of estimated assessments to owners.

6119.48. Owners may file objections.

6119.49. Assessment equalization board.

6119.50. Filing damage claims.

6119.51. Resolution of intent to proceed with improvement.

6119.52. Revision of estimates; resolution of assessments.

6119.53. Interest and penalties.

6119.54. Collection of unpaid installments, collection cost to be added.

6119.55. Proceedings to recover.

6119.56. Lien of assessment.

6119.57. Additional assessments.

6119.58. Assessments for planning purposes.

## CHAPTER 6119 REGIONAL WATER AND SEWER DISTRICTS

### § 6119.01. Organization of district; purpose.

Any area situated in any unincorporated part of one or more contiguous counties or in one or more municipal corporations, or both, may be organized as a regional water and sewer district in the manner and subject to the conditions provided in Chapter 6119. of the Revised Code, for either or both of the following purposes:

- (A) To supply water to users within and without the district;
- (B) To provide for the collection, treatment, and disposal of waste water within and without the district.

### [§ 6119.01.1] § 6119.011. Definitions.

As used in Chapter 6119. of the Revised Code:

(A) "Court of common pleas" or "court" means, unless the context indicates a different meaning or intent, the court of common pleas in which the petition for the organization of a regional water and sewer district is filed.

(B) "Political subdivision" includes departments, divisions, authorities, or other units of state governments, watershed districts, soil and water conservation districts, park districts, municipal corporations, counties, townships, and other political subdivisions, special water districts, including county and regional water and sewer districts, conservancy districts, sanitary districts, sewer districts or any other public corporation or agency having the authority to acquire, construct, or operate waste water or water management facilities, and all other governmental agencies now or hereafter granted the power of levying taxes or special assessments, the United States or any agency thereof, and any agency, commission, or authority established pursuant to an interstate compact or agreement.

(C) "Person" means any natural person, firm, partnership, association, or corporation other than a political subdivision.

(D) "Beneficial use" means a use of water, including the method of diversion, storage, transportation, treatment, and application, that is reasonable and consistent with the public interest in the proper utilization of water resources, including, but not limited to, domestic, agricultural, industrial, power, municipal, navigational, fish and wildlife, and recreational uses.

(E) "Waters of the state" means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, which are situated wholly or partly within, or border upon, this state, or are within its jurisdiction, except those private waters which do not combine or effect a junction with natural surface or underground waters.

(F) "Water resources" means all waters of the state occurring on the surface in natural or artificial channels, lakes, reservoirs, or impoundments, and in subsurface aquifers, which are available or may be made available to agricultural, commercial, recreational, public, and domestic users.

(G) "Project" or "water resource project" means any waste water facility or water management facility acquired, constructed, or operated by or leased to a regional water and sewer district or to be acquired, constructed, or operated by or leased to a regional water and sewer district under Chapter 6119. of the Revised Code, or acquired or constructed or to be acquired or constructed by a political subdivision with a portion of the cost thereof being paid from a loan or

grant from the district under Chapter 6119, of the Revised Code, including all buildings and facilities which the district considers necessary for the operation of the project, together with all property, rights, easements, and interest which may be required for the operation of the project. Any water resource project shall be determined by the board of trustees of the district to be consistent with any applicable comprehensive plan of water management approved by the director of natural resources of the state or in the process of preparation by such director and to be not inconsistent with the standards set for the waters of the state affected thereby by the water pollution control board of the state.

Any resolution of the board of trustees of the district providing for acquiring, operating, leasing, or constructing such projects or for making a loan or grant for such projects shall include a finding by the board of trustees of the district that such determinations have been made.

(H) "Pollution" means the placing of any noxious or deleterious substances in any waters of the state or affecting the properties of any waters of the state in a manner which renders such waters harmful or inimical to the public health, or to animal or aquatic life, or to the use of such waters for domestic water supply, industrial or agricultural purposes, or recreation.

(I) "Sewage" means any substance that contains any of the waste products or excrementitious or other discharge from the bodies of human beings or animals, which pollutes the waters of the state.

(J) "Industrial waste" means any liquid, gaseous, or solid waste substance resulting from any process of industry, manufacture, trade, or business, or from the development, processing, or recovery of any natural resource, together with such sewage as is present, which pollutes the waters of the state.

(K) "Waste water" means any storm water and any water containing sewage or industrial waste or other pollutants or contaminants derived from the prior use of such water.

(L) "Waste water facilities" means facilities for the purpose of treating, neutralizing, disposing of, stabilizing, cooling, segregating, or holding waste water, including, without limiting the generality of the foregoing, facilities for the treatment and disposal of sewage or industrial waste and the residue thereof, facilities for the temporary or permanent impoundment of waste water, both surface and underground, and storm and sanitary sewers and other systems, whether on the surface or underground, designed to transport waste water, together with the equipment and furnishings thereof and their appurtenances and systems, whether on the surface or underground, including force mains and pumping facilities therefor when necessary.

(M) "Water management facilities" means facilities for the purpose of the development, use, and protection of water resources including, without limiting the generality of the foregoing, facilities for water supply, facilities for stream flow improvement, dams, reservoirs, and other impoundments, water transmission lines, water wells and well fields, pumping stations and works for underground water recharge, stream monitoring systems, facilities for the stabilization of stream and river banks, and facilities for the treatment of streams and rivers, including, without limiting the generality of the foregoing, facilities for the removal of oil, debris, and other solid waste from the waters of the state and stream and river aeration facilities.

(N) "Cost" as applied to water resource projects means the cost of acquisition and construction, the cost of acquisition of all land, rights-of-way, property rights, easements, franchise rights, and interests required by the district for such acquisition and construction, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the cost of acquiring or constructing and equipping a principal office and sub-offices of the district, the cost of diverting highways, interchange of highways, access roads to private property, including the cost of land or

easements therefor, the cost of all machinery, furnishings, and equipment, financing charges, interest prior to and during construction and for no more than eighteen months after completion of acquisition or construction, engineering, expenses of research and development with respect to waste water or water management facilities, legal expenses, plans, specifications, surveys, estimates of cost and revenues, working capital, other expenses necessary or incident to determining the feasibility or practicability of acquiring or constructing any such project, administrative expense, and such other expense as may be necessary or incident to the acquisition or construction of the project, the financing of such acquisition or construction, including the amount authorized in the resolution of the district providing for the issuance of water resource revenue bonds to be paid into any special funds from the proceeds of such bonds and the financing of the placing of any such project in operation. Any obligation or expense incurred by any political subdivision, and approved by the district, for surveys, borings, preparation of plans and specifications, and other engineering services in connection with the acquisition or construction of a project shall be regarded as a part of the cost of such project and may be reimbursed by the district.

(O) "Owner" includes all individuals, partnerships, associations, corporations, or political subdivisions having any title or interest in any property rights, easements, and interests authorized to be acquired by Chapter 6119 of the Revised Code.

(P) "Revenues" means all rentals and other charges received by a district for the use or services of any project, all special assessments levied by the district pursuant to Chapter 6119 of the Revised Code, any gift or grant received with respect thereto, and moneys received in repayment of and for interest on any loan made by the district to a political subdivision, whether from the United States or a department, administration, or agency thereof, or otherwise.

(Q) "Public roads" includes all public highways, roads, and streets in the state, whether maintained by the state, county, city, township, or other political subdivision.

(R) "Public utility facilities" includes tracks, pipes, mains, conduits, cables, wires, towers, poles, and other equipment and appliances of any public utility.

(S) "Construction," unless the context indicates a different meaning or intent, includes reconstruction, enlargement, improvement, or providing furnishings or equipment.

(T) "Water resources bonds," unless the context indicates a different meaning or intent, includes water resource notes and water resource refunding bonds.

(U) "Regional water and sewer district" means a district organized or operating for one or both of the purposes described in section 6119.01 of the Revised Code and, if organized or operating for only one of such purposes, may be designated either a regional water district or a regional sewer district, as the case may be.

#### § 6119.02. Organization procedure; public meeting before filing petition.

(A) Proceedings for the organization of a regional water and sewer district shall be initiated only by a petition filed in the office of the clerk of the court of common pleas of one of the counties all or part of which lies within the proposed district. The petition shall be signed by one or more municipal corporations, one or more counties, or one or more townships, or by any combination of them, after having been authorized by the legislative authority of the political subdivision. The legislative authority of any municipal corporation, the board of county commissioners of any county, and the board of trustees of any township may act in behalf of any part of their respective political subdivisions. The petition shall specify all of the following:

(1) The proposed name of the district;

- (2) The place in which its principal office is to be located;
- (3) The necessity for the proposed district and that it will be conducive to the public health, safety, convenience, or welfare;
- (4) A general description of the purpose of the proposed district;
- (5) A general description of the territory to be included in the district, which need not be given by metes and bounds or by legal subdivisions, but is sufficient if an accurate description is given of the territory to be organized as a district. The territory need not be contiguous, provided that it is so situated that the public health, safety, convenience, or welfare will be promoted by the organization as a single district of the territory described.
- (6) The manner of selection, the number, the term, and the compensation of the members of the governing body of the district, which shall be called a board of trustees. The petition may set forth procedures for subsequent changes in the composition of and other provisions relating to the board of trustees.
- (7) The plan for financing the cost of the operations of the district until it is in receipt of revenue from its operations or proceeds from the sale of bonds;
- (8) A prayer for the organization of the district by the name proposed, either before or after a preliminary hearing as provided in section 6119.04 of the Revised Code.

(B) Prior to filing a petition under division (A) of this section, a municipal corporation, county, or township shall hold a public meeting for the purpose of receiving comments on the proposed establishment of a regional water and sewer district. If a combination of municipal corporations, counties, or townships signed the petition, the signers jointly shall hold the public meeting. At the meeting, a representative of the signer or signers of the petition shall present a preliminary study of the reasons for the proposed establishment of the district.

The signer or signers of the petition shall provide written notice of the public meeting to each elector residing in the territory of the proposed district. Failure to notify an elector does not invalidate any proceeding before a court under this chapter.

(C) Upon the filing of the petition, the judge of the court of common pleas of the county in which the petition is filed or, in the case of a county having more than one such judge, a judge of that court assigned by its presiding judge shall determine if the petition complies with the requirements of this section as to form and content. No petition shall be declared void by the judge on account of alleged defects. The court in subsequent proceedings at any time may permit the petition to be amended in form and substance to conform to the facts by correcting any errors in the description of the territory or in any other particular.

§ 6119.03. Court for district.

Upon the determination of the judge of the court of common pleas that a sufficient petition has been filed in such court in accordance with section 6119.02 of the Revised Code, he shall give notice to the court of common pleas of each county included in whole or in part within the proposed regional water and sewer district. Thereafter the judge of the court of common pleas of each such county or, in the case of any county having more than one such judge, the judge of such court assigned by order of its presiding judge shall sit as the court of common pleas of the county wherein the petition was filed to exercise the jurisdiction conferred on it by Chapter 6119. of the Revised Code. If the judge in any county having only one judge is unable to serve, the chief justice of the supreme court shall assign a judge from another county to serve as a judge

for such county during the disability of its judge. Except as provided in Chapter 6119 of the Revised Code, such court shall have for all purposes of such sections original and exclusive jurisdiction coextensive with the boundaries of the district or proposed district and of the lands and property included in, or proposed to be included in, such district without regard to the usual limits of its jurisdiction. The judge of the county wherein the petition was filed, within a reasonable time after his determination of the sufficiency of the petition, shall issue a call to the other judges of the court created in this section, specifying the time and place of its first meeting. At this meeting the court shall elect one of its number presiding judge. Each judge when sitting as a member of the court shall receive such compensation and allowance for expenses as provided by law for a judge serving by assignment outside the county wherein he resides, which shall be paid as other expenses of the organization or operation of the district are paid. If such court is composed of an even number of judges and a majority is unable to agree, the chief justice of the supreme court shall designate a judge of the court of common pleas of some other county to sit and vote as a member of the court until a decision is reached. A majority of the court shall prevail.

§ 6119.04. Hearing on petition; procedure.

(A) The court of common pleas constituted as provided in section 6119.03 of the Revised Code, at its first meeting, shall fix the time and place of a hearing on the petition for the establishment of the proposed regional water and sewer district. The hearing shall be either preliminary or final as the petition may request and shall be held not later than sixty days thereafter. The clerk of the court shall give notice of the hearing by publication once each week for four consecutive weeks in a newspaper having a general circulation in each of the counties, in whole or in part, within the district. The clerk shall send a notice of the hearing by certified mail to the director of environmental protection.

Any person or any political subdivision residing or lying within an area affected by the organization of the district, on or before the date set for the cause to be heard, may file an objection to the granting of the requests made in the prayer of the petition.

(B) Upon a preliminary hearing, if it appears that the proposed district probably is necessary and that it probably will be conducive to the public health, safety, convenience, or welfare, the court, after disposing of all objections as justice and equity require and by its findings, entered of record, shall issue a preliminary order declaring the district to be organized and an independent political subdivision of the state with a corporate name designated in the order for the purpose of all of the following:

- (1) The election or appointment of the board of trustees in the manner provided in the petition;
- (2) The election, appointment, or employment of officers, employees, accounting experts, engineers, attorneys, financial consultants, architects, other consultants, and independent contractors or other persons that may be necessary to prepare a plan for the operation of the district;
- (3) The collection of the funds in the manner provided in the petition to be used and disbursed by the district;
- (4) The preparation of a plan for the operation of the district.

The district shall possess powers that may be necessary to carry out those purposes.

The preliminary order shall direct the district to file a plan for the operation of the district within six months from the date of the preliminary order or within the further time or times that the court from time to time may order.

Upon the filing by the district of a plan for the operation of the district, the court shall fix the time and place for a final hearing on the petition for the establishment of the proposed district and the plan for the operation of the district as filed in the proceeding. The hearing shall be held not later than sixty days thereafter, and the clerk of the court of common pleas again shall give notice of the hearing as required in division (A) of this section.

Any person or any political subdivision residing or lying within the area affected by the organization of the district or by the plan for the operation of the district, on or before the date set for the cause to be heard, may file any objections to the final organization of the district or the plan for the operation of the district.

(C) If, prior to granting a final order, the court determines that additional study is needed of the feasibility of establishing the district, the court shall order the signers of the petition to conduct an additional feasibility study. If the court has ordered such a study, the court shall not grant a final order prior to receiving the results of the study. Nothing in division (C) of this section precludes the awarding of a contract for a project or improvement undertaken under this chapter to an entity that conducts a feasibility study pursuant to division (C) of this section.

The court, upon good cause shown at any time before the granting of a final order, may do any or all of the following:

(1) Grant a right to any municipal corporation or county acting in behalf of a sewer district within the county to become a party to the proceeding if the intervening party requests to have some part or all of its territory included within the district;

(2) Grant in part or in toto an intervening petition of a municipal corporation or a county acting in behalf of a sewer district within the county, which is not wholly included within territory described in the petition, to have some part or all of its territory included within the district;

(3) Grant a request filed by any party to the petition or intervening party to modify any request set forth in the petition, including any or all of the following:

(a) A reduction in the territory to be included within the district;

(b) Addition to or deletion of a purpose or purposes of the proposed district as set forth in the petition so long as the purposes that remain are those included within section 6119.01 of the Revised Code;

(c) The manner of selection, the number, the term, and the compensation of the members of the board of trustees.

After the filing of any intervening petition or request to modify, the court shall fix a time and place for a hearing thereof, which shall be held not less than sixty days after the filing thereof. The clerk of the court of common pleas shall give notice of the hearing as required in division (A) of this section.

(D) Upon final hearing, whether or not a preliminary hearing is requested in the petition, if it appears that the proposed district is necessary, that it and the plan for the operation of the district are conducive to the public health, safety, convenience, and welfare, and that the plan for the operation of the district is economical, feasible, fair, and reasonable, the court, after disposing of all objections as justice and equity require and by its findings, entered of record, shall declare the district finally and completely organized and to be, or to be empowered to continue as, a political subdivision. Thereupon the district shall have power to sue and be sued; to incur debts, liabilities, and obligations; to exercise the right of eminent domain and of taxation and assessment as provided in this chapter; to issue bonds; and to perform all acts authorized in this chapter and to execute and carry out the plan for the operation of the district and to amend, modify, change, or alter the plan for its operation as the board of trustees from time to time may determine necessary.

(E) If the court finds that the organization of the district is not necessary or will not be conducive to the public health, safety, convenience, or welfare, or that the plan for the operation of the district is not economical, feasible, fair, or reasonable, or if the district fails to file a plan for the operation of the district within the time prescribed by the court, it shall dismiss the proceedings and adjudge the costs against the petitioners. If a preliminary order has been made organizing the district, the court shall declare the district dissolved and enter its order for the distribution of any and all assets that may be owned by the district after the payment of its liabilities.

(F) Any municipal corporation, board of county commissioners, or board of township trustees may advance to the district sums of money that the legislative authority of the municipal corporation, the board of county commissioners, or the board of township trustees determines will not be in excess of the benefits that can be anticipated to be derived by the municipal corporation, county, or township from the establishment of the district at times that are requested by the district and authorized by the legislative authority or board and pursuant to an agreement between the district and the municipal corporation, county, or township setting forth whether and when the sums shall be repaid. The sums when paid to the district at any time after the preliminary order of the court shall be used by the district for its purposes in the preparation of a plan for the operation of the district and for other purposes of the district. The district shall keep proper records showing the amount so advanced and disbursed. If the court orders the district dissolved as permitted in this section, the interest any municipal corporation, board of county commissioners, or board of township trustees has in the assets of the district shall be limited to those assets remaining after the payment of all other liabilities of the district.

6119.05. Application for inclusion in district; procedure.

At any time after the creation of a regional water and sewer district, any county, township, or municipal corporation whose territory is not wholly included within such district may file an application with such district setting forth a general description of the territory it desires to have included within such district, the necessity for the inclusion of such territory within the district, that it will be conducive to the public health, safety, convenience, or welfare, and that it will be practical and feasible for such territory to be included within the district. If said application is approved by a majority of the board of trustees of said district, the territory described in said application shall thereupon become part of such district. If such application fails to receive the approval of a majority of the board within sixty days after the filing of said application with said district, the county, township, or municipal corporation filing such application may file a petition in the court of common pleas requesting the order of such court upon the board directing the board to include the territory described in said application within said district. Upon the filing of such petition the court shall set a date for hearing and notify the district by service of process on the secretary of the board of the filing of such petition and of the date set for the hearing. If at such hearing the court finds that it will be conducive to the public health, safety, convenience, or welfare of the district and to the territory described in the petition and that it will be practical and feasible for such territory to be included within such district, the court shall order that such territory be included within the district and the terms for its inclusion therein. If the court finds that it will not be conducive to the public health, safety, convenience, or welfare of the district or to the territory described in the petition, or that it will not be practical or feasible for such territory to be included within such district, it shall dismiss the petition and adjudge the costs against the petitioner.

Such inclusion shall become legally effective unless, prior to the ninetieth day following the approval of the board or the order of the court for inclusion, qualified electors residing in the area proposed to be included in such district equal in number to a majority of the qualified electors voting at the last general election in such area file with the secretary of the board of trustees of the district in which inclusion is proposed a petition of remonstrance against such inclusion. The secretary shall cause the board of elections of the proper county or counties to check the sufficiency of the signatures on such petition.

[§ 6119.05.1] § 6119.051. Petition for change.

At any time after the creation of a water and sewer district, the district, after action by its board of trustees, may file a petition in the court of common pleas requesting the order of such court permitting the district to:

(A) Increase or add to its purposes heretofore approved by the court so long only as its purposes are those described in section 6119.01 of the Revised Code, or

(B) Abandon or surrender any purpose heretofore approved by the court, or

(C) Amend any provision of the petition filed pursuant to section 6119.02 of the Revised Code.

Upon the filing of petition pursuant to this section the court shall set a date for hearing and the clerk of the court shall give notice thereof by publication once each week for four consecutive weeks in a newspaper having a general circulation in each of the counties, in whole or in part, within the district. Any person or any political subdivision residing or lying within an area affected by the operation of the district, on or before the date set for hearing, may file an objection to the granting of the petition. Upon hearing, if it appears that the request of the petition is conducive to the public health, safety, convenience or welfare and will not if granted adversely affect the continued operation of the district, the court shall grant the prayer of the petition. Otherwise, it shall dismiss the petition.

§ 6119.06. Rights, powers, and duties.

Upon the declaration of the court of common pleas organizing the regional water and sewer district pursuant to section 6119.04 of the Revised Code and upon the qualifying of its board of trustees and the election of a president and a secretary, said district shall exercise in its own name all the rights, powers, and duties vested in it by Chapter 6119 of the Revised Code, and, subject to such reservations, limitations and qualifications as are set forth in this chapter, such district may:

(A) Adopt bylaws for the regulation of its affairs, the conduct of its business, and notice of its actions;

(B) Adopt an official seal;

(C) Maintain a principal office and suboffices at such places within the district as it designates;

(D) Sue and plead in its own name; be sued and impleaded in its own name with respect to its contracts or torts of its members, employees, or agents acting within the scope of their employment, or to enforce its obligations and covenants made under sections 6119.09, 6119.12 and 6119.14 of the Revised Code. Any such actions against the district shall be brought in the court of common pleas of the county in which the principal office of the district is located, or in the court of common pleas of the county in which the cause of action arose, and all summonses, exceptions, and notices of every kind shall be served on the district by leaving a copy thereof at the principal office with the person in charge thereof or with the secretary of the district;

(E) Assume any liability or obligation of any person or political subdivision, including a right on the part of such district to indemnify and save harmless the other contracting party from any loss, cost, or liability by reason of the failure, refusal, neglect, or omission of such district to perform any agreement assumed by it or to act or discharge any such obligation;

(F) Make loans and grants to political subdivisions for the acquisition or construction of water resource projects by such political subdivisions and adopt rules, regulations, and procedures for making such loans and grants;

(G) Acquire, construct, reconstruct, enlarge, improve, furnish, equip, maintain, repair, operate, lease or rent to or from, or contract for operation by or for, a political subdivision or person, water resource projects within or without the district;

(H) Make available the use or service of any water resource project to one or more persons, one or more political subdivisions, or any combination thereof;

(I) Levy and collect taxes and special assessments;

(J) Issue bonds and notes and refunding bonds and notes as provided in Chapter 6119, of the Revised Code;

(K) Acquire by gift or purchase, hold, and dispose of real and personal property in the exercise of its powers and the performance of its duties under Chapter 6119, of the Revised Code;

(L) Dispose of, by public or private sale, or lease any real or personal property determined by the board of trustees to be no longer necessary or needed for the operation or purposes of the district;

(M) Acquire, in the name of the district, by purchase or otherwise, on such terms and in such manner as it considers proper, or by the exercise of the right of condemnation in the manner provided by section 6119.11 of the Revised Code, such public or private lands, including public parks, playgrounds, or reservations, or parts thereof or rights therein, rights-of-way, property, rights, easements, and interests as it considers necessary for carrying out Chapter 6119, of the Revised Code, but excluding the acquisition by the exercise of the right of condemnation of any waste water facility or water management facility owned by any person or political subdivision, and compensation shall be paid for public or private lands so taken;

(N) Adopt rules and regulations to protect augmented flow by the district in waters of the state, to the extent augmented by a water resource project, from depletion so it will be available for beneficial use, to provide standards for the withdrawal from waters of the state of the augmented flow created by a water resource project which is not returned to the waters of the state so augmented, and to establish reasonable charges therefor, if considered necessary by the district;

(O) Make and enter into all contracts and agreements and execute all instruments necessary or incidental to the performance of its duties and the execution of its powers under Chapter 6119, of the Revised Code;

(P) Enter into contracts with any person or any political subdivision to render services to such contracting party for any service the district is authorized to provide;

(Q) Make provision for, contract for, or sell any of its by-products or waste;

(R) Exercise the power of eminent domain in the manner provided in Chapter 6119, of the Revised Code;

(S) Remove or change the location of any fence, building, railroad, canal, or other structure or improvement located in or out of the district, and in case it is not feasible or economical to move any such building, structure, or improvement situated in or upon lands required, and if the cost is determined by the board to be less than that of purchase or condemnation, to acquire land and construct, acquire, or install therein or thereon buildings, structures, or improvements similar in purpose, to be exchanged for such buildings, structures, or improvements under contracts entered into between the owner thereof and the district;

(T) Receive and accept, from any federal or state agency, grants for or in aid of the construction of any water resource project, and receive and accept aid or contributions from any source of money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions are made;

(U) Purchase fire and extended coverage and liability insurance for any water resource project and for the principal office and suboffices of the district, insurance protecting the district and its

officers and employees against liability for damage to property or injury to or death of persons arising from its operations, and any other insurance the district may agree to provide under any resolution authorizing its water resource revenue bonds or in any trust agreement securing the same;

(V) Charge, alter, and collect rentals and other charges for the use of services of any water resource project as provided in section 6119.09 of the Revised Code. Such district may refuse the services of any of its projects if any of such rentals or other charges, including penalties for late payment, are not paid by the user thereof, and, if such rentals or other charges are not paid when due and upon certification of nonpayment to the county auditor, such rentals or other charges constitute a lien upon the property so served, shall be placed by him upon the real property tax list and duplicate, and shall be collected in the same manner as other taxes;

(W) Provide coverage for its employees under Chapters 145., 4123., and 4141. of the Revised Code;

(X) Merge or combine with any other regional water and sewer district into a single district, which shall be one of the constituent districts, on terms so that the surviving district shall be possessed of all rights, capacity, privileges, powers, franchises, and authority of the constituent districts and shall be subject to all the liabilities, obligations, and duties of each of the constituent districts and all rights of creditors of such constituent districts shall be preserved unimpaired, limited in lien to the property affected by such liens immediately prior to the time of the merger and all debts, liabilities, and duties of the respective constituent districts shall thereafter attach to the surviving district and may be enforced against it, and such other terms as are agreed upon, provided two-thirds of the members of each of the boards consent to such merger or combination. Such merger or combination shall become legally effective unless, prior to the ninetieth day following the later of the consents, qualified electors residing in either district equal in number to a majority of the qualified electors voting at the last general election in such district file with the secretary of the board of trustees of their regional water and sewer district a petition of remonstrance against such merger or combination. The secretary shall cause the board of elections of the proper county or counties to check the sufficiency of the signatures on such petition;

(Y) Exercise the powers of the district without obtaining the consent of any other political subdivision, provided that all public or private property damaged or destroyed in carrying out the powers of the district shall be restored or repaired and placed in its original condition as nearly as practicable or adequate compensation made therefor by the district;

(Z) Require the owner of any premises located within the district to connect his premises to a water resource project determined to be accessible to such premises and found to require such connection so as to prevent or abate pollution or protect the health and property of persons in the district. Such connection shall be made in accordance with procedures established by the board of trustees of such district and pursuant to such orders as the board may find necessary to ensure and enforce compliance with such procedures;

(AA) Do all acts necessary or proper to carry out the powers granted in Chapter 6119. of the Revised Code.

§ 6119.07. Powers vested in a board of trustees.

All the capacity of a regional water and sewer district shall be vested in and its authority shall be exercised by a board of trustees which shall manage and conduct the affairs of the district.

The board shall by its rules and resolutions provide the procedure for its actions, the manner of selection of its president and secretary and other officers of the district, their titles, terms of

office, compensation, duties, number, and qualifications, and any other lawful subject necessary to the operation of the district and the exercise of the powers granted.

**[§ 6119.07.1] § 6119.071. Removal of member of board of trustees.**

A member of the board of trustees of a regional water and sewer district who has been appointed to the board may be removed by the appointing authority for misfeasance, nonfeasance, or malfeasance in office. Prior to removing a member, the appointing authority shall notify the member of the facts supporting the proposed removal and shall provide the member an opportunity to appear before the appointing authority or at a public hearing held by the appointing authority and show cause why the member should not be removed from office.

A member of a board of trustees who has been removed pursuant to this section may appeal the removal not later than thirty days after the removal to the court of common pleas constituted as provided in section 6119.03 of the Revised Code.

**6119.08. Rules and regulations.**

In order to accomplish the purposes of a regional water and sewer district, to protect its projects, to secure the best results from the construction, operation, and maintenance thereof, and to prevent damage by the misuse of any such projects or by the pollution or misuse of the waters of the state within the district or without the district and served or affected by a project or projects of the district, the board of trustees may make and enforce such rules and regulations as are necessary and advisable:

(A) To protect and preserve the projects of such district, prescribe the manner of their use by any person or political subdivision and preserve order within and adjacent thereto;

(B) To prescribe the manner in which ditches, sewers, pipelines, or other works shall be adjusted to or connected with the projects of the district and the manner in which waste is disposed of within the district;

(C) To prescribe the permissible uses of the water supply and the manner of its distribution and to prevent the pollution or unnecessary waste of such water supply;

(D) To prohibit or regulate the discharge into the waste water facilities of the district of any liquid or solid waste detrimental to its works and improvements.

Such rules and regulations shall not be inconsistent with the laws of the state or the rules and regulations or requirements of the environmental protection agency.

The board may enforce by mandamus, injunction, or other legal remedy rules and regulations made by it pursuant to this section, and may remove any harmful or improper construction or obstruction or may close any opening or connection made improperly or in violation of such rules and regulations. The board may bring such suit in mandamus in the court of appeals in the first instance, if it deems it advisable. Any person or political subdivision which willfully fails to comply with such rules and regulations shall be liable for damage caused by such failure and for the cost of restoring or replacing any construction damaged or destroyed.

**§ 6119.09. Service agreements; rentals; bonds.**

A regional water and sewer district may charge, alter, and collect rentals or other charges, including penalties for late payment, for the use or services of any water resource project or any benefit conferred thereby and contract in the manner provided by this section with one or more persons, one or more political subdivisions, or any combination thereof, desiring the use or services thereof, and fix the terms, conditions, rentals, or other charges, including penalties for

late payment, for such use or services. Such rentals or other charges shall not be subject to supervision or regulation by any authority, commission, board, bureau, or agency of the state or any political subdivision, and such contract may provide for acquisition by such political subdivision of all or any part of such water resource project for such consideration payable over the period of the contract or otherwise as the district in its sole discretion determines to be appropriate, but subject to the provisions of any resolution authorizing the issuance of water resource revenue bonds or notes or water resource revenue refunding bonds of the district or any trust agreement securing the same. Any political subdivision, which has power to construct, operate, and maintain waste water facilities or water management facilities may enter into a contract or lease with the district whereby the use or services of any water resource project of the district will be made available to such political subdivision and pay for such use or services such rentals or other charges as may be agreed to by the district and such political subdivision.

Any political subdivision or combination thereof may cooperate with the district in the acquisition or construction of a water resource project and shall enter into such agreements with the district as are necessary, with a view to effective cooperative action and safeguarding of the respective interests of the parties thereto, which agreements shall provide for such contributions by the parties thereto in such proportion as may be agreed upon and such other terms as may be mutually satisfactory to the parties, including without limitation the authorization of the construction of the project by one of the parties acting as agent for all of the parties and the ownership and control of the project by the district or one or more of the other parties or any combination thereof to the extent determined necessary or appropriate. Any political subdivision may provide the funds for the payment of such contribution as is required under such agreements by the levy of taxes, assessments, or rentals and other charges for the use of the system of which the water resource project is a part or to which it is connected, if otherwise authorized by the laws governing such political subdivision in the construction of the type of water resource project provided for in the agreements, and may pay the proceeds from the collection of such taxes, assessments, rentals, or other charges to the district pursuant to such agreements; or the political subdivision may issue bonds or notes, if authorized by such laws, in anticipation of the collection of such taxes, assessments, rentals or other charges and may pay the proceeds of such bonds or notes to the district pursuant to such agreements. In addition, any political subdivision may provide the funds for the payment of such contribution by the appropriation of money or, if otherwise authorized by law, by the issuance of bonds or notes and may pay such appropriated money or the proceeds of such bonds or notes to the district pursuant to such agreements. The agreement by the political subdivision to provide such contribution, whether from appropriated money or from the proceeds of such taxes, assessments, rentals, or other charges, or such bonds or notes, or any combination thereof, is not subject to Chapter 133 of the Revised Code. The proceeds from the collection of such taxes or assessments, and any interest earned thereon, shall be paid into a special fund

immediately upon the collection thereof by the political subdivision for the purpose of providing such contribution at the times required under such agreements.

When the contribution of any political subdivision is to be made over a period of time from the proceeds of the collection of special assessments, the interest accrued and to accrue before the first installment of such assessments is collected, which is payable by such political subdivision on such contribution under the terms of such an agreement, shall be treated as part of the cost of the improvement for which such assessments are levied, and that portion of such assessments as is collected in installments shall bear interest at the same rate as such political subdivision is obligated to pay on such contribution under the terms and provisions of such agreement and for the same period of time as the contribution is to be made under such agreement. If the assessment or any installment thereof is not paid when due, it shall bear interest until the payment thereof at the same rate as such contribution and the county auditor shall annually place on the tax list and duplicate the interest applicable to such assessment and the penalty and any additional interest thereon as otherwise authorized by law.

Any political subdivision, pursuant to a favorable vote of the electors in an election held before or after November 19, 1971, for the purpose of issuing bonds to provide funds to acquire, construct, or equip, or provide real estate and interests in real estate for, a waste water facility or a water management facility, whether or not the political subdivision, at the time of such election, had the authority to pay the proceeds from such bonds or notes issued in anticipation thereof to a regional water and sewer district as provided in this section, may issue such bonds or notes in anticipation of the issuance thereof and pay the proceeds thereof to the district in accordance with its agreement with the district; provided, that the legislative authority of the political subdivision determines that the water resource project to be acquired or constructed by the district in cooperation with such political subdivision will serve the same public purpose and meet substantially the same public need as the facility otherwise proposed to be acquired or constructed by the political subdivision with the proceeds of such bonds or notes.

#### § 6119.10. Competitive bidding.

The board of trustees of a regional water and sewer district or any officer or employee designated by the board may make any contract for the purchase of supplies or material or for labor for any work, under the supervision of the board, the cost of which shall not exceed twenty-five thousand dollars. When an expenditure, other than for the acquisition of real estate and interests in real estate, the discharge of noncontractual claims, personal services, the joint use of facilities or the exercise of powers with other political subdivisions, or the product or services of public utilities, exceeds twenty-five thousand dollars, the expenditures shall be made only after a notice calling for bids has been published not less than two consecutive weeks in at least one newspaper having a general circulation within the district. If the bids are for a contract for the construction, demolition, alteration, repair, or reconstruction of an improvement, the board may let the contract to the lowest and best bidder who meets the requirements of section 153.54 of the Revised Code. If the bids are for a contract for any other work relating to the improvements for which a regional water and sewer district was established, the board of trustees of the regional water and sewer district may let the contract to the lowest or best bidder who gives a good and approved bond with ample security conditioned on the carrying out of the contract. The contract shall be in writing and shall be accompanied by or shall refer to plans and specifications for the work to be done, approved by the board. The plans and specifications shall at all times be made and considered part of the contract. The contract shall be approved by the board and signed by its president or other duly authorized officer and by the contractor. In case of a real and present emergency, the board of trustees of the district, by two-thirds vote of all members, may authorize the president or other duly authorized officer to enter into a contract for work to be done or for the purchase of supplies or materials without formal bidding

or advertising. All contracts shall have attached the certificate required by section 5705.41 of the Revised Code duly executed by the secretary of the board of trustees of the district. The district may make improvements by force account or direct labor, provided that, if the estimated cost of supplies or material for any such improvement exceeds twenty-five thousand dollars, bids shall be received as provided in this section. For the purposes of the competitive bidding requirements of this section, the board shall not sever a contract for supplies or materials and labor into separate contracts for labor, supplies, or materials if the contracts are in fact a part of a single contract required to be bid competitively under this section.

§ 6119.11. Condemnation of land.

The board of trustees of a regional water and sewer district may condemn for the use of the district any public or private land, easement, rights, rights of way, franchises or other property within or without the district required by it for the accomplishment of its purposes according to the procedure set forth in sections 163.01 to 163.22, inclusive, of the Revised Code.

§ 6119.11.1] § 6119.111. Acquisition of property.

A regional water and sewer district may acquire by purchase, whenever it considers such purchase expedient, any land, property, rights-of-way, franchises, easements, and other interests in lands as it considers are necessary or convenient for the construction and operation of any water resource project, upon such terms and at such price as it considers reasonable and can be agreed upon between the district and the owner thereof, and take title thereto in the name of the district.

All political subdivisions may lease, lend, grant, convey or otherwise make available to a regional water and sewer district at its request, upon such terms as the proper authorities of such political subdivisions consider reasonable and fair, without the necessity for an advertisement, auction, order of court, or other action or formality, other than the regular and formal action of the political subdivision concerned, any real property or interests therein including improvements thereto or thereon or personal property which is necessary or convenient to the effectuation of the authorized purposes of the district, including public roads and other real property or interests therein together with improvements thereto or thereon or personal property already devoted to public use.

§ 6119.12. Revenue bonds and notes.

A regional water and sewer district may, from time to time, issue water resource revenue bonds and notes of the district in such principal amount as, in the opinion of the board of trustees of the district, are necessary for the purpose of paying any part of the cost of one or more water resource projects or parts thereof. The district may, from time to time, issue renewal notes, issue bonds to pay such notes and, whenever it considers refunding expedient, refund any bonds by the issuance of water resource revenue refunding bonds of the district, whether the bonds to be refunded have or have not matured, and issue bonds partly to refund bonds then outstanding and partly for any other authorized purpose. The refunding bonds shall be sold and the proceeds applied, to the extent necessary, to the purchase, redemption, or payment of the bonds to be refunded. Except as may otherwise be expressly provided by the district, every issue of its water resource revenue bonds or notes shall be obligations of the district payable out of the revenues of the district, which are pledged for such payment, without preference or priority of the first bonds issued, subject only to any agreements with the holders of particular bonds or notes pledging any particular revenues; provided that, if special assessments levied by the district pursuant to Chapter 6119 of the Revised Code are pledged to secure the payment of any issue of such bonds or notes, the board may covenant with the holders of such bonds or notes to limit the total principal amount of the financing anticipated to be paid from such

assessments to any principal amount less than one hundred per cent of such assessments. Such pledge shall be valid and binding from the time the pledge is made, the revenues so pledged and thereafter received by the district shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge is valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the district, irrespective of whether such parties have notice thereof, except as provided in section 319.61 of the Revised Code with respect to special assessments. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the district and except as provided in section 319.61 of the Revised Code with respect to special assessments.

Whether or not the district bonds or notes are of such form and character as to be negotiable instruments, the bonds or notes shall have all the qualities and incidents of negotiable instruments, subject only to the provisions of the bonds or notes for registration.

The water resource revenue bonds and notes shall be authorized by resolution of the board of trustees of the district, shall bear such date or dates, and shall mature at such time or times, in the case of any such note or any renewals thereof not exceeding five years from the date of issue of such original note, and in the case of any such bonds not exceeding forty years from the date of issue, as such resolution or resolutions may provide. The water resource revenue bonds and notes shall bear interest at such rate or rates, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption as the board may authorize. The water resource revenue bonds and notes of the district may be sold by the district, at public or private sale, at or not less than such price or prices as the board determines. The bonds and notes shall be executed by two officers of the district as provided in the resolution authorizing the same, either or both of whom may use a facsimile signature, the official seal of the district or a facsimile thereof may be affixed thereto or printed thereon as provided in such resolution, and attested, manually or by facsimile signature, by the secretary of the district, and any coupons attached thereto shall bear the signature or facsimile signature of one officer of the district as provided in the authorizing resolution. In case any officer whose signature, or a facsimile of whose signature, appears on any bonds, notes, or coupons ceases to be such officer before delivery of bonds or notes, such signature or facsimile is nevertheless sufficient for all purposes the same as if he had remained in office until such delivery, and in case the seal of the district has been changed after a facsimile has been imprinted on such bonds or notes, such facsimile seal will continue to be sufficient for all purposes.

Any resolution or resolutions authorizing any water resource revenue bonds or notes or any issue thereof may contain provisions, subject to such agreements with bondholders or noteholders as may then exist, which provisions shall be a part of the contract with the holders thereof, as to: pledging all or any part of the revenues of the district to secure the payment of the water resource revenue bonds or notes or of any issue thereof; the use and disposition of revenues of the district; a covenant to fix, alter, and collect rentals and other charges so that pledged revenues will be sufficient to pay costs of operation, maintenance, and repairs, pay principal of and interest on bonds or notes secured by the pledge of such revenues, and provide such reserves as may be required by the applicable resolution or trust agreement; the setting aside of reserve funds, sinking funds, replacement and improvement funds, or other special funds and the regulation and disposition thereof; the crediting of the proceeds of the sale of bonds or notes to and among the funds referred to or provided for in the resolution authorizing the issuance of the bonds or notes; the use, lease, sale, or other disposition of any water resource project or any other assets of the district; limitations on the purpose to which the proceeds of sale of bonds or notes may be applied and pledging such proceeds to secure the

payment of the bonds or notes or of any issue thereof; as to notes issued in anticipation of the issuance of water resource revenue bonds, the agreement of the district to do all things necessary for the authorization, issuance, and sale of such bonds in such amounts as may be necessary for the timely retirement of such notes; limitations on the issuance of additional bonds or notes; the terms upon which additional bonds or notes may be issued and secured; the refunding of outstanding bonds or notes; the procedure, if any, by which the terms of any contract with bondholders or note holders may be amended or abrogated, the amount of bonds or notes the holders of which must consent thereto, and the manner in which such consent may be given; limitations on the amount of moneys to be expended by the authority for operating, administrative, or other expenses of the district; securing any bonds or notes by a trust agreement in accordance with section 6119.14 of the Revised Code; and any other matters, of like or different character, which in any way affect the security or protection of the bonds or notes.

Neither the members of the board of trustees of the district nor any person executing the bonds or notes shall be liable personally on the bonds or notes or be subject to any personal liability or accountability by reason of the issuance thereof.

§ 6119.13. Exemption from uniform bond law.

The issuance of water resource revenue bonds and notes or water resource revenue refunding bonds under Chapter 6119 of the Revised Code need not comply with any other law applicable to the issuance of bonds or notes.

§ 6119.14. Trust agreements.

In the discretion of a regional water and sewer district, any water resource revenue bonds or notes or water resource revenue refunding bonds or notes issued under Chapter 6119 of the Revised Code may be secured by a trust agreement between the district and a corporate trustee, which trustee may be any trust company or bank having the powers of a trust company within or without the state.

Any such trust agreement may pledge or assign revenues of the district to be received, but shall not convey or mortgage any water resource project or any part thereof. Any such trust agreement or any resolution providing for the issuance of such bonds or notes may contain such provisions for protecting and enforcing the rights and remedies of the bondholders or noteholders as are reasonable and proper and not in violation of law, including covenants setting forth the duties of the district in relation to the acquisition of property, the construction, improvement, maintenance, repair, operation, and insurance of the water resource project or projects in connection with which such bonds or notes are authorized, the rentals or other charges to be imposed for the use or services of any water resource project, the custody, safeguarding, and application of all moneys, and provisions for the employment of consulting engineers in connection with the construction or operation of such water resource project or projects. Any bank or trust company, incorporated under the laws of this state which may act as depository of the proceeds of bonds or notes or of revenues may furnish such indemnifying bonds or may pledge such securities as are required by the district. Any such trust agreement may set forth the rights and remedies of the bondholders and noteholders and of the trustee, and may restrict the individual right of action by bondholders and noteholders as is customary in trust agreements or trust indentures securing similar bonds or notes. Such trust agreement may contain such other provisions as the district considers reasonable and proper for the security of the bondholders or noteholders. All expenses incurred in carrying out the provisions of any such trust agreement may be treated as a part of the cost of the operation of the water resource project or projects. Any such trust agreement or resolution may provide the method whereby the

general administrative overhead expenses of the district shall be allocated among the several projects acquired or constructed by it as a factor of the operation expense of each such project.

[§ 6119.14.1] § 6119.141. Rights of bondholders and trustees.

Any holders of water resource revenue bonds or notes issued under Chapter 6119 of the Revised Code, or any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights given by such chapter may be restricted by the applicable resolution or such trust agreement, may, by suit, action, mandamus, or other proceedings protect and enforce any rights under the laws of the state or granted under such chapter, trust agreement, or the resolution authorizing the issuance of such bonds or notes, and may enforce and compel the performance of all duties required by such chapter, or by the trust agreement or resolution, to be performed by the regional water and sewer district or any officer thereof, including the fixing, charging, and collection of rentals or other charges.

§ 6119.15. Bonds not a debt of state or subdivision.

Water resource revenue bonds and notes and water resource revenue refunding bonds issued pursuant to Chapter 6119 of the Revised Code, do not constitute a debt, or a pledge of the faith and credit, of the state or of any political subdivision thereof, and the holders or owners thereof have no right to have taxes levied by the general assembly or taxing authority of any political subdivision of the state for the payment of the principal thereof or interest thereon, but such bonds and notes are payable solely from the revenues and funds pledged for their payment as authorized by such chapter, unless the notes are issued in anticipation of the issuance of bonds or the bonds are refunded by refunding bonds issued under Chapter 6119 of the Revised Code, which bonds or refunding bonds shall be payable solely from revenues and funds pledged for their payment as authorized by such chapter. All such bonds and notes shall contain on the face thereof a statement to the effect that the bonds or notes, as to both principal and interest, are not debts of the state or any political subdivision thereof, but are payable solely from revenues and funds pledged for their payment.

All expenses incurred in carrying out Chapter 6119 of the Revised Code are payable solely from under such sections. Such sections do not authorize regional water and sewer districts to incur indebtedness or liability on behalf of or payable by the state or any other subdivision thereof.

[§ 6119.15.1] § 6119.151. Depositories.

All moneys, funds, properties, and assets acquired by a regional water and sewer district under Chapter 6119 of the Revised Code, whether as proceeds from the sale of water resource revenue bonds or as revenues, or otherwise, shall be held by it in trust for the purposes of carrying out its powers and duties, shall be used and reused as provided in such sections, and shall at no time be part of other public funds. Such funds, except as otherwise provided in any resolution authorizing its water resource revenue bonds or in any trust agreement securing the same, or except when invested pursuant to section 6119.16 of the Revised Code, shall be kept in depositories as selected by the district in the manner provided in section 135.12 of the Revised Code, and the deposits shall be secured as provided in section 135.18 of the Revised Code. The resolution authorizing the issuance of such bonds of any issue or the trust agreement securing such bonds shall provide that any officer to whom, or any bank or trust company to which, such moneys are paid shall act as trustee of such conditions as Chapter 6119 of the Revised Code and such resolution or trust agreement provided.

§ 6119.16. Investment in United States obligations.

Moneys in the funds of a regional water and sewer district, except as otherwise provided in any resolution authorizing the issuance of its water resource revenue bonds or in any trust agreement securing the same, in excess of current needs, may be invested in notes, bonds, or other obligations of the United States or of any agency or instrumentality thereof, or in obligations of this state or any political subdivision thereof. Income from all such investments of moneys in any fund shall be credited to such funds as the district determines, subject to the provisions of any such resolution or trust agreement, and such investments may be sold at such times and at such prices as the district determines.

§ 6119.17. Levy to amortize indebtedness.

Upon the creation of a regional water and sewer district, the board of trustees thereof may submit to the electors within the territorial limits of the district the question of issuing bonds of such district and also the necessity of the levy of a tax outside the limitation imposed by Section 2 of Article XII, Ohio Constitution, to pay the interest on and to retire the bonds. Such bonds when so approved by the electors may be issued to pay any portion of the cost of one or more water resource projects or parts thereof and may include any portion of the cost of water resource projects to be specially assessed. The proceedings for such election and for the issuance and sale of such bonds shall be as provided by Chapter 133 of the Revised Code. If a majority of those voting upon the proposition vote in favor thereof, the board of trustees of such district may proceed to issue such bonds and to levy a tax outside the ten-mill limitation sufficient in amount to pay the interest on and retire such bonds at maturity. Notes may be issued in anticipation of such bonds as provided in section 133.22 of the Revised Code.

TAX LEVY; ASSESSMENTS

6119.18. Levy for current expenses of district; anticipation notes.

The board of trustees of a regional water and sewer district, by a vote of two-thirds of all its members, may declare by resolution that it is necessary to levy a tax in excess of the ten-mill limitation for the purpose of providing funds to pay current expenses of the district or for the purpose of paying any portion of the cost of one or more water resource projects or parts thereof or for both of such purposes, and that the question of such tax levy shall be submitted to the electors of the district at a general or primary election. Such resolution shall conform to the requirements of section 5705.19 of the Revised Code, except as otherwise permitted by this section and except that such levy may be for a period not longer than ten years. The resolution shall go into immediate effect upon its passage and no publication of the resolution is necessary other than that provided for in the notice of election. A copy of such resolution shall, immediately after its passage, be certified to the board of elections of the proper county or counties in the manner provided by section 5705.25 of the Revised Code, and such section shall govern the arrangements for the submission of such question and other matters with respect to such election to which such section refers. Publication of the notice of such election shall be made in one or more newspapers having a general circulation in the district once a week for four consecutive weeks.

If a majority of the electors voting on the question vote in favor thereof, the board may make the necessary levy within the district at the additional rate or at any lesser rate on the tax list and duplicate for the purpose or purposes stated in the resolution.

The taxes realized from such levy shall be collected at the same time and in the same manner as other taxes on such tax list and duplicate and such taxes, when collected, shall be paid to the district and deposited by it in a special fund which shall be established by the district for all

revenues derived from such levy and for the proceeds of anticipation notes which shall be deposited in such fund.

After the approval of such levy, the district may anticipate a fraction of the proceeds of such levy and, from time to time, during the life of such levy, issue anticipation notes in an amount not exceeding fifty per cent of the estimated proceeds of such levy to be collected in each year up to a period of five years after the date of issuance of such notes, less an amount equal to the proceeds of such levy previously obligated for each year by the issuance of anticipation notes, provided that the total amount maturing in any one year shall not exceed fifty per cent of the anticipated proceeds of such levy for that year. Each issue of notes shall be sold as provided in Chapter 133 of the Revised Code, and shall, except for such limitation that the total amount of such notes maturing in any one year shall not exceed fifty per cent of the anticipated proceeds of such levy for that year, mature serially in substantially equal installments during each year over a period not to exceed five years after their issuance.

[§ 6119.18.1] § 6119.181. Repealed.

Repealed, 134 v S 166, § 2 [127 v 766]. Eff 11-19-71

[§ 6119.18.2] § 6119.182. Repealed.

Repealed, 134 v S 166, § 2 [127 v 766]. Eff 11-19-71.

[§ 6119.18.3] § 6119.183. Repealed.

Repealed, 134 v S 166, § 2 [127 v 766]. Eff 11-19-71.

#### Plan.

§ 6119.19. System of sewerage.

In addition to the power conferred by sections 6119.01 to 6119.42, inclusive, of the Revised Code, to construct sewers and levy assessments therefor, and in the absence or insufficiency of a plan provided for in section 6119.31 of the Revised Code, the board of trustees of a regional water and sewer district may provide a system of sanitary and/or storm water sewerage, herein referred to only as sewerage, for any part of the area included within the district. Such a plan shall be devised with regard to the present and prospective needs and interests of the area, and shall be confirmed by the board.

§ 6119.20. Division of district into sewer districts.

The plan devised in accordance with section 6119.19 of the Revised Code shall be formed with a view to the division of the regional water and sewer district into as many sewer districts as are necessary for securing efficient sewerage. Each of the districts shall be designated by name or number and shall consist of one or more main sewers with the necessary branch or connecting sewers, the main sewers having their outlets in a proper place. The districts shall be so arranged as to be independent of each other so far as practicable.

**§ 6119.21. Contents of plan.**

The plan devised in accordance with section 6119.19 of the Revised Code shall be so prepared as to show the size, location, inclination, and depth below the surface of all main sewers and all branch sewers connected therewith.

**§ 6119.22. Notice of plan; objections; amendments or corrections.**

When a plan of sewerage devised in accordance with section 6119.19 of the Revised Code has been prepared, the board of trustees of the regional water and sewer district shall give at least ten

days notice in one newspaper of general circulation in such area, stating that such plans have been prepared and are filed in the office of the secretary of the board for examination and inspection by the parties interested.

Any objection to such plan shall then be made to the board and it may amend or correct such plan, and shall thereupon file it as amended, or if no amendments are made, it shall file the original plan in the office of the secretary.

**§ 6119.23. Amendment of plan.**

Before or after the construction of all or a part of the sewers provided for by a plan of sewerage devised in accordance with section 6119.19 of the Revised Code, the board of trustees of the regional water and sewer district may amend such plan by providing for such intercepting sewers, without regard to sewer districts, as are necessary to furnish an additional outlet for the system so adopted, and to provide for the construction thereof as provided in sections 6119.01 to 6119.42, inclusive, of the Revised Code, and apportion the cost and expense thereof equitably among the districts directly or indirectly sewered, in whole or in part thereby, or assess and collect the amount apportioned to each district, or the board may apportion a part only of such cost and expense among the districts directly or indirectly sewered, in whole or in part thereby, and provide for the payment of the residue thereof by the district. The board may also amend such plan by making new sewer districts, by subdividing districts already established, giving a name and number thereto, or provide for the construction of the main and branch sewers therein, and may assess the cost and expense thereof upon the lots and lands within the area or district according to benefits.

**§ 6119.24. Designation of work; estimates.**

After the plan of sewerage devised in accordance with section 6119.19 of the Revised Code has been adopted and approved, the board of trustees of the regional water and sewer district shall designate such portions of the work as are required for immediate use. The designation shall be by districts or areas and shall show what districts, areas, or parts thereof are to be improved. The board may order its officers to make an estimate of the cost and expense of constructing the work or such portions thereof as have been designated and report them to the board.

**§ 6119.25. Resolution of necessity; publication.**

When the board of trustees of a regional water and sewer district deems it necessary to construct all or a part of the sewers provided for in the plan devised in accordance with section 6119.19 of the Revised Code, the board shall declare by resolution the necessity thereof. Such resolution shall contain a declaration of the necessity of such improvement, a statement of the districts, areas, or parts thereof proposed to be constructed, the character of the materials to be used, a reference to the plans and specifications, where they are on file, and the mode of payment therefor, and shall publish the resolution once a week for not less than two nor more than four consecutive weeks in one newspaper of general circulation in the area.

**§ 6119.26. Resolution to proceed with improvement.**

After the publication of the notice required by section 6119.25 of the Revised Code, the board of trustees of the regional water and sewer district shall determine whether it will proceed with the proposed improvement or not. If the board decides to proceed with the improvement a resolution

for that purpose shall be passed. Such resolution shall contain a statement naming the districts or parts thereof proposed to be constructed, the character of the material to be used, a reference to the plans and specifications, the mode of payment thereof, and shall provide for assessing the cost of the improvement upon the lots and land in each district as other assessments are levied.

**§ 6119.27. Assessment of real estate.**

If it deems it expedient, the board of trustees of the regional water and sewer district may assess the real estate as provided in the resolution to improve and collect such assessments, or may issue bonds in anticipation of the collection of such assessments before the work is done or contracted for. The board may delay such assessment until the work is completed and upon the filing of a certificate showing the completion of the work assess the real estate as provided in the resolution to improve. Any person so assessed may pay his proportion of the assessment in cash within thirty days from the date of the levy thereof upon due notice being given. If any such assessment is twenty-five dollars or less or if any unpaid balance of an assessment is twenty-five dollars or less, it shall be paid in full and not in installments at the time the first or next installment would otherwise become payable.

**§ 6119.28. Award and payment of construction contracts.**

The construction contracts authorized in Chapter 6119, of the Revised Code shall be awarded to the lowest and best bidder in the manner provided in section 6119.10 of the Revised Code and shall be paid for in the same manner as provided for payment of municipal contracts in Chapter 735, of the Revised Code.

**§ 6119.29. Construction without plans.**

If in its opinion it is expedient, the board of trustees of a regional water and sewer district may provide for the construction of main sewers and drains and branch sewers and drains connecting therewith without previously adopting any plan of sewerage or division of the area or any part thereof into districts, and may assess the cost and expense of such construction upon such lots and lands as are designated in the resolution to improve, or such cost and expense may be paid from the general fund of the district, as the board determines. Such proceedings shall be had in respect to such improvements and assessments as are provided for in sections 6119.01 to 6119.42, inclusive, of the Revised Code, for the construction of main or branch sewers according to a previously adopted plan.

**§ 6119.30. Bonds and notes in anticipation of assessments.**

The issuance of bonds and notes in anticipation of the collection of special assessments shall be accomplished as provided in Chapter 6119, of the Revised Code.

**TAX LEVY**

**§ 6119.31. Resolution for levy of tax.**

The board of county commissioners at any time not less than seventy-five days before the general election in any year, by a vote of two-thirds of its members, may declare by resolution that the amount of taxes which may be raised within the ten-mill limitation will be insufficient to provide an adequate amount for the necessary requirements of the county, and that it is necessary to levy a tax in excess of such limitation for the purpose of paying the cost of the preparation of plans, specifications, surveys, soundings, drillings, maps, and other data needed or determined necessary in order to develop plans for the proper purification, filtration, and distribution of

water or proper collection and treatment of sewage within the county or a part thereof, or beyond the limits of the county but within the same drainage area as is in part within the county.

Such resolution shall be confined to a single purpose and shall specify the amount of increase in rate which it is necessary to levy, not to exceed three-tenths of a mill, the purpose thereof, the number of years during which such increase shall be in effect, not to exceed five years, which increase may or may not include a levy upon the duplicate of the current year.

Such resolution shall go into effect upon its passage and no publication of it is necessary other than that provided for in the notice of election.

**§ 6119.32. Approval of tax levy by electors.**

A copy of the resolution provided for in section 6119.31 of the Revised Code shall be certified to the board of elections for the county not less than seventy-five days before the general election in any year and said board shall submit the proposal to the electors of the county at the succeeding November election in accordance with section 5705.25 of the Revised Code.

If the per cent required for approval of a levy as set forth in section 5705.26 of the Revised Code vote in favor thereof, the board of county commissioners may levy a tax within the county at the additional rate outside the ten-mill limitation during the period and for the purpose stated in the resolution, or at any less rate or for any less number of years.

**§ 6119.33. Appropriation of funds from tax levy.**

All funds and proceeds received from the levy of the tax approved as provided in section 6119.32 of the Revised Code may be appropriated in whole or in part by the board of county commissioners to the regional planning commission, the county planning commission, or to any regional water and sewer district for the purpose of preparing plans for the proper purification, filtration, and distribution of water or proper collection and treatment of sewage.

**§ 6119.34. Right of entry; reimbursement for damage.**

The regional planning commission, the county planning commission, or any regional water and sewer district undertaking the preparation of plans for the proper purification, filtration, and distribution of water or proper collection and treatment of sewage, or their authorized agents and employees, after proper notice, may enter upon any lands, waters, and premises in the state for the purpose of making or preparing surveys, soundings, drillings, examinations, maps, or other data needed or determined necessary or proper for the preparation of such plans. Such entry is not a trespass, nor is an entry for such purposes an entry under any condemnation proceedings which are then pending. The owner of such lands, waters, or premises shall be reimbursed for any actual damage resulting to such lands, waters, and premises, and to private property located in, on, along, over, or under such lands, waters, and premises, as a result of such activities.

**§ 6119.35. Approval or rejection of plans by environmental protection agency.**

Upon the completion of plans for the proper purification, filtration, and distribution of water or proper collection and treatment of sewerage, the board of county commissioners, the regional planning commission, the county planning commission, or any regional water and sewer district which has prepared such plans shall file a copy thereof with the environmental protection

agency, which may approve or reject any provisions thereof. In deciding whether to approve or reject the plan, the agency shall consider, among other factors, the protection of the public health, and compliance with air and water quality standards and regulations and solid waste disposal requirements. If such agency rejects such plans or refers them back for amendment, other or amended plans shall be prepared. If the agency approves such plans, it shall certify a copy of its action and thereafter any district may proceed to carry such plans into effect.

**§ 6119.36. Issuance of securities in lieu of tax levy.**

In lieu of submitting to the electors for approval the question of a tax levy outside the ten-mill limitation and levying that tax following approval, as provided for in sections 6119.31 and 6119.32 of the Revised Code, the board of county commissioners may issue securities, as defined in section 133.01 of the Revised Code, including anticipatory securities, for the purpose of paying the cost of the preparation of the data needed or determined to be necessary or appropriate in order to plan for the proper supply, purification, filtration, and distribution of water, the proper collection, treatment, and disposal of sewage, or the proper collection, control, abatement, or treatment of surface and subsurface drainage, each and all within the limits of the county or a part of the county or beyond the limits of the county but within the same drainage area as is in part within the county, and, if the board determines it to be necessary or appropriate, for the purpose of paying the costs of acquiring real estate or interests in real estate for improvements for one or more of those purposes. The data may include, but are not limited to, plans, specifications, estimates of cost, drillings, maps, soundings, surveys, and tentative assessments against properties that are potentially benefited. The securities shall be in an amount not exceeding the total estimated cost of the preparation of the data and of making any acquisitions of real estate or interests in real estate, together with all other items of cost that are incident to that preparation or those acquisitions and that are described in division (B) of section 133.15 of the Revised Code.

Prior to the issuance or the first issuance of the securities, the board shall determine that the funds allocated for general operating expenses of the county are insufficient to pay both those operating expenses for the current year and the total estimated cost to be financed under authority of this section.

The securities shall be Chapter 133. securities, and their issuance shall be subject to that chapter, except that the maximum maturity of the securities shall not exceed ten years. The proceeds of securities issued for the purpose of paying costs of the improvements for which the data is prepared or for which any acquisition of real estate or interest in real estate is made may be applied, without reduction of their maximum maturity, to retire anticipatory securities issued pursuant to this section.

All moneys raised by the issuance of securities pursuant to this section shall be applied to the purposes provided for in section 6119.31 of the Revised Code and in this section.

**§ 6119.37. Administrative service status of employees.**

(A) Any employees of a political subdivision who are in the classified service under Chapter 124, of the Revised Code, and who because of the transfer of a facility of such political subdivision to a regional water and sewer district become the employees of such district, shall,

while in the continuous employment of such district, not be reduced in pay or position, suspended, or removed except in accordance with section 124.34 of the Revised Code.

(B) Division (C) of this section applies to the persons described in that division and to all former employees of a municipal corporation who:

(1) Were employed in the municipal departments responsible for supplying water or for collecting, treating, and disposing of waste water;

(2) Were granted employment rights and protection under the charter of the municipal corporation or provisions adopted pursuant to the charter similar to those granted to employees in the classified state service under Chapter 124. of the Revised Code; and

(3) Lost their employment with the municipal corporation because of the creation or expansion of a regional water and sewer district or because of the transfer of a facility of the municipal corporation to a regional water and sewer district and became employees of the district after the creation, expansion, or transfer.

(C) All persons described in division (B) of this section shall, while employed by the district, be subject to the provisions of Chapter 124. of the Revised Code that govern the appointment, promotion, transfer, reinstatement, lay-off, reduction in pay or position, suspension, removal, and political activity of employees in the classified state service, and for the purposes of these provisions shall be treated as if they were employees in the classified state service. This division also applies to all persons employed by a regional water and sewer district after persons described in divisions (B)(1), (2), and (3) of this section become employees of the district.

(D) As used in this section:

(1) "Regional water and sewer district" includes a district organized under this chapter that has been designated as either a regional water district or a regional sewer district as provided in division (U) of section 6119.011 [6119.01.1] of the Revised Code.

(2) "State service" has the same meaning as given in section 124.01 of the Revised Code.

**§ 6119.38. Audit by auditor of state; report.**

Any regional water and sewer district is subject to audit by the auditor of state, who shall furnish to each political subdivision whose territory is in whole or in part within such district a copy of his audit report.

**§ 6119.39. Employees in public employees retirement system.**

A regional water and sewer district is an employer and all employees of such district are public employees within the meaning of section 145.01 of the Revised Code. Such district and its employees are subject to Chapter 145. of the Revised Code.

**6119.40. District exempt from taxation.**

The exercise of the powers granted by Chapter 6119. of the Revised Code, will in all respects be for the benefit of the people and for the increase of their prosperity and the improvement of their health and living conditions. The operation and maintenance of public works by the board of trustees of a regional water and sewer district constitute the performance of essential

governmental functions. Such district shall not be required to pay any taxes or assessments upon any real or personal property acquired, owned, used, or controlled by it under Chapter 6119, of the Revised Code, or upon the income or gross receipts therefrom, and the bonds and notes issued under such sections and the transfer of income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation within the state.

**§ 6119.41. Contractual power of board of trustees.**

The board of trustees of a regional water and sewer district may enter into contracts or other arrangements with the United States government or any department thereof, with persons, firms, or corporations, with public corporations and the state government of this state or other states, with drainage, conservation, conservancy, sewer, park, or other improvement districts in this or other states for co-operation or assistance in planning, constructing, maintaining, using, and operating the works of the district, or in minimizing or preventing damage to its properties, works, and improvements, or for making surveys, investigations, or reports thereon.

**§ 6119.42. Special assessments.**

Any regional water and sewer district may levy and collect special assessments as provided in Chapter 6119 of the Revised Code. The board of trustees of such district may assess upon abutting, adjacent, contiguous, or other specially benefited lots or lands in the district all or any part of the cost connected with the improvement of any street, alley, or public road or place, or a property or easement of the district by constructing any water resource project or part thereof which the board declares conducive to the public health, safety, convenience, or welfare by any one or more of the following methods:

- (A) By a percentage of the tax value of the property assessed;
- (B) In proportion to the benefits which result from the project;
- (C) By the foot front of the property bounding and abutting upon the project.

The proceedings looking to such assessment may include more than one street, alley, or public road or place, or parcel of property or easement of the district.

**6119.43. Purposes for assessments.**

The cost of constructing a water resource project to be paid for directly or indirectly, in whole or in part, by funds derived from special assessments may include but need not be limited to:

- (A) The purchase price of real estate or any interest therein when acquired by purchase, or when acquired by appropriation;
- (B) The cost of preliminary and other surveys;
- (C) The cost of preparing plans, specifications, profiles, and estimates;
- (D) The cost of printing, serving, and publishing notices and any legislation required;
- (E) The cost of all special proceedings;
- (F) The cost of labor and material, whether furnished by contract or otherwise;
- (G) Interest on bonds or notes issued in anticipation of the levy and collection of the special assessments;
- (H) The total amount of damages resulting from the project which are assessed in favor of any owner of lands affected by the project, and interest thereon;
- (I) The cost incurred in connection with the preparation, levy, and collection of the special assessments, including legal expenses incurred by reason of the project;
- (J) Incidental costs connected with the project.

**§ 6119.44. Designation of property to be assessed.**

In all proceedings in which lots or lands are to be charged with special assessments to provide funds for the construction of a water resource project, such lots and lands bounding and abutting upon the project may be described as all the lots and lands bounding and abutting upon such project between and including the termini of the project and those lots and lands which do not so bound and abut may be described by their appropriate lot numbers or by metes and bounds.

**§ 6119.45. Payment by annual installments.**

Special assessments for the construction of a water resource project under Chapter 6119, of the Revised Code shall be payable in such number of annual installments, not less than one, and at such times as the board of trustees prescribes.

**§ 6119.46. Filing of resolution of necessity.**

When it is considered necessary to construct a water resource project to be paid for in whole or in part by special assessments levied under Chapter 6119, of the Revised Code, plans, specifications, and profiles of the proposed project showing the anticipated grade of the project after completion with reference to any property abutting thereon, and an estimate of the cost of the project shall be prepared and filed in the office of the secretary of the board of trustees of the regional water and sewer district and shall be open to the inspection of all persons with interests therein. After such plans, specifications, profiles, and estimate of cost of the project have been filed in the office of the secretary, the board may declare the necessity of constructing such project by the passage of a resolution.

Such resolution shall:

- (A) State the nature and location of the project and the lots or parcels of land to be assessed for the project;
- (B) Approve the plans, specifications, profiles, and estimate of cost of the proposed project on file as provided in this section;
- (C) State that the entire cost of the project is to be specially assessed or state what part of the cost is to be paid for by the district and what part is to be specially assessed;
- (D) State the method or methods of levying the special assessments in accordance with section 6119.42 of the Revised Code;
- (E) State the mode of payment and the number of annual installments of the special assessments to be levied;
- (F) State whether or not bonds shall be issued in anticipation of the collection of the special assessments;
- (G) Provide for the preparation of a list of estimated assessments in accordance with the method or methods of assessment set forth in the resolution, showing the amount of the assessment against each lot or parcel of land to be assessed. Such list of estimated assessments shall be filed in the office of the secretary of the board of trustees.

**§ 6119.47. Notices of estimated assessments to owners.**

Notice of the passage of a resolution of necessity and the filing of the estimated assessments under section 6119.46 of the Revised Code shall, after the estimated assessments have been prepared and filed as provided by such section, be served by the secretary of the board of trustees of the regional water and sewer district, or a person designated by such secretary, upon the owners of the lots or parcels of land to be assessed for the proposed project, in the same manner

as service of summons in civil cases, or by certified mail addressed to such owners at their last known addresses or to the addresses to which tax bills are sent, or by a combination of the foregoing methods. If it appears by the return of service or the return of the certified mail notice that one or more of the owners cannot be found, such owners shall be served by publication of the notice once in at least one newspaper having a general circulation within the district. The notice shall also set forth the place where such estimated assessments are on file and are open for public inspection. The return of the person serving the notice or a certified copy thereof or a returned receipt for notice forwarded by certified mail accepted by the addressee or anyone purporting to act for him shall be prima-facie evidence of the service of notice under this section.

**§ 6119.48. Owners may file objections.**

The owner of any lot or parcel of land who objects to the assessment against such lot or parcel as set forth in the estimated assessments filed under section 6119.46 of the Revised Code shall file such objection, in writing, with the secretary of the board of trustees of the regional water and sewer district within twenty-eight days from the date of completion of the notice required under section 6119.47 of the Revised Code. Such objection shall include the address for mailing of the notice provided in section 6119.49 of the Revised Code. An owner who fails so to file such an objection shall be deemed to have waived any objection to his assessment.

**§ 6119.49. Assessment equalization board.**

In the event that the owner of any lot or parcel of land to be assessed objects to the estimated assessments as provided in section 6119.48 of the Revised Code, the board of trustees of the regional water and sewer district shall appoint an assessment equalization board consisting of three disinterested persons residing in the district, and shall fix the time and place for the hearing by such board of such objections, and the secretary of the board of trustees shall notify, by certified mail, the persons so objecting of the time and place of such hearing. Such notice shall be mailed at least five days before the date of such hearing. In the event that all lands within the district are to be subject to assessment, the assessment equalization board shall consist of three disinterested persons residing outside the district.

On the day appointed by the board of trustees for that purpose, the assessment equalization board shall meet and take an oath before a proper officer to honestly and impartially discharge its duties. It shall at such meeting, or at any adjournment thereof, hear and determine all objections to the estimated assessments which have been filed under section 6119.48 of the Revised Code, and shall equalize such estimated assessments as it thinks proper to conform to the standard or standards prescribed in the resolution adopted under section 6119.46 of the Revised Code.

If the assessment equalization board determines to increase the estimated assessment against any lot or parcel of land or to assess any lot or parcel of land not included in the estimated assessments, the assessment equalization board shall notify the owner of such lot or parcel by certified mail of such fact and set a time and place for a hearing on such increase or assessment. Such notice shall be mailed at least ten days before the date of such hearing.

After the completion of all hearings provided for in this section, the assessment equalization board shall report to the board of trustees its recommendations, including any changes which should be made in the estimated assessments.

The board of trustees may approve or disapprove the report, including any changes recommended by the assessment equalization board in the estimated assessments.

In the event the board of trustees disapproves the report of the assessment equalization board, it shall appoint a new equalization board and shall fix the time and place for the hearing by such

new board of objections to the estimated assessments. Such new board shall have the same powers and duties and shall proceed in the same manner as the original board.

**§ 6119.50. Filing damage claims.**

An owner of a lot or parcel of land claiming that he will sustain damages by reason of a proposed project, to be paid for in whole or in part by special assessments, shall, within twenty-eight days from the date of completion of the notice required under section 6119.47 of the Revised Code, file a claim in writing with the secretary of the board of trustees of the regional water and sewer district, setting forth the amount of the damages claimed and a general description of the property with respect to which it is claimed that such damages will accrue. An owner who fails to file such claim shall be deemed to have waived damages and shall be barred from filing a claim or receiving damages. This section applies to all damages which will obviously result from the project, but shall not deprive the owner of his right to recover damages arising, without his fault, from the acts of the district or its agents. If, subsequent to the filing of such claim, the owner sells the property, or any part thereof, the assignee has the same right to damages which the owner would have had without the transfer.

When claims for damages are filed under this section and the board determines in the resolution adopted under section 6119.51 of the Revised Code that the damages shall be assessed before commencing such project, the board shall, within ten days after the passage of the resolution to proceed with the project under such section, make a written application to the court of common pleas for a jury. If the board determines that the damages shall be assessed after the completion of the project, the board shall make such written application within ten days after the completion of such project. The court shall direct the summoning of a jury in the manner provided by section 163.10 of the Revised Code, and shall fix the time and place for the inquiry and the assessment of such damages, which inquiry and assessment shall be confined to such claims.

The jury summoned under this section shall be sworn to inquire into and assess the actual damages in each case separately, under such rules and instructions as are given it by the court. When the jury cannot agree, it may be discharged, but the court may receive its verdict as to one or more of the claimants and discharge it with respect to the parties concerning whose claims it cannot agree. In case of the discharge of the jury because of such disagreement, a new jury shall be summoned and the same proceedings shall be had with respect to the claims concerning which there was no verdict.

If the jury summoned under this section finds no damages, the costs of the inquiry shall be taxed against the claimant or claimants and collected on execution. In other cases, the costs shall be paid by the district.

This section does not apply to an application for an injunction or other proceeding to which it may be necessary for such applicant to resort in case of urgent necessity.

**§ 6119.51. Resolution of intent to proceed with improvement.**

The board of trustees of a regional water and sewer district which has adopted a resolution under section 6119.46 of the Revised Code declaring the necessity of constructing a water resource project shall, after the expiration of the time for filing claims for damages under section 6119.50 of the Revised Code, and, in the event that objections to the estimated assessments have been filed under section 6119.48 of the Revised Code, and the report of the assessment equalization board has been approved under section 6119.49 of the Revised Code, determine whether or not it will proceed with the proposed project.

In the event that the board determines to proceed with the construction of a project it shall pass a resolution which shall:

(A) State the intention of the board to proceed with the project in accordance with the resolution of necessity adopted under section 6119.46 of the Revised Code.

(B) Adopt the estimated assessments prepared and filed in accordance with the resolution of necessity passed under section 6119.46 of the Revised Code, or, in the event objections to such estimated assessments have been filed under section 6119.48 of the Revised Code, adopt the estimated assessments approved by the board under section 6119.49 of the Revised Code.

(C) State whether or not claims for damages filed in accordance with section 6119.50 of the Revised Code shall be judicially inquired into before commencing or after completing the proposed project.

**§ 6119.52. Revision of estimates; resolution of assessments.**

A water resource project authorized under section 6119.51 of the Revised Code shall be constructed in accordance with section 6119.10 of the Revised Code and, after the actual cost of such project has been ascertained, the board of trustees of the regional water and sewer district shall by resolution assess, in the manner provided in the resolution of necessity adopted under section 6119.46 of the Revised Code, upon the lots and lands enumerated in the estimated assessments adopted under section 6119.51 of the Revised Code, the total cost of the project or such lesser portion thereof as is to be specially assessed and such assessment as to each lot or parcel of land shall be increased or decreased in the same proportion to the estimated assessment on each such lot or parcel of land as the actual cost of the project bears to the estimated cost of the project upon which the estimated assessment was based. All such assessments shall be payable as provided in the resolution of necessity adopted under section 6119.46 of the Revised Code, and shall be final upon the adoption of the resolution provided for in this section.

Assessments made under this section shall be filed with the secretary of the board of trustees of the regional water and sewer district and shall be open to public inspection.

Upon the passage of such resolution levying special assessments, the board shall publish notice of the passage of such resolution once in at least one newspaper having a general circulation in the district, stating that such assessment has been made and is on file in the office of the secretary for the inspection and examination of persons interested therein.

Such special assessments are payable by the time and in the manner stipulated in such resolution, except that any such assessment in the amount of twenty-five dollars or less, or any unpaid balance or any such assessment which is twenty-five dollars or less, shall be paid in full, and not in installments, at the time the first or next installment would otherwise become due and payable, and are a lien from the date of the passage of such resolution upon the respective lots or parcels of land assessed.

**§ 6119.53. Interest and penalties.**

When special assessments levied but uncollected by a district pursuant to Chapter 6119, of the Revised Code are pledged to the repayment of water resource revenue bonds or notes issued by the district, the interest accrued or to accrue before the first installment of such assessments shall be collected on such bonds or notes and shall be treated as part of the cost of the project for which such assessments are made. The assessments levied and collected or to be collected in installments which are pledged to the repayment of water resource revenue bonds and notes shall bear interest at the same rate and for the same period as such bonds or notes. When the

contribution of a regional water and sewer district, under an agreement between the district and the Ohio water development authority provided for in section 6121.13 of the Revised Code for the construction of a project for which the district can levy assessments as provided in Chapter 6119, of the Revised Code is to be made over a period of time from the proceeds of the collection or assessments, the interest accrued and to accrue before the first installment of such assessment shall be collected that is payable by such district on such contribution under such agreement shall be treated as part of the cost of the project for which such assessments are made, and that portion of such assessments as is collected in installments shall bear interest at the same rate that the district is obligated to pay on its contribution under such agreement and for the same period of time as the contribution is to be made under such agreement. If the assessments or any installment thereof are not paid when due, they shall bear interest until the payment thereof at the same rate as such contribution or as the bonds or notes issued in anticipation thereof, and the county auditor shall annually place upon the tax list and duplicate the penalty and interest as provided in Chapter 6119, of the Revised Code.

**§ 6119.54. Collection of unpaid installments, collection cost to be added.**

When any special assessment is levied under sections 6119.52 and 6119.58 of the Revised Code, and water resource revenue bonds or notes of the regional water and sewer district are issued pledging the same, the secretary of the board of trustees of the district shall on or before the second Monday in September of each year, certify such assessment to the county auditor, stating the amounts and the time of payment. The auditor shall place the assessment upon the tax list and duplicate in accordance therewith. The county treasurer shall collect the assessment in the same manner and at the time as other taxes are collected, and shall pay the amounts collected, together with interest and penalty, to the secretary, to be applied by him to the payment of such bonds or notes and interest thereon, and for no other purpose.

For the purpose of enforcing such collection, the county treasurer shall have the same power and authority as allowed by law for the collection of state and county taxes. Each installment of such assessments remaining unpaid after becoming due and collectible shall be delinquent and bear the same penalty and interest as delinquent taxes. The authorized legal representative of any such district may act as attorney for the county treasurer in actions brought for the enforcement of the lien of such delinquent assessments.

When a special assessment is made on real estate subject to a life estate, the assessment shall be payable by the tenant for life, but upon application by the life tenant to a court of competent jurisdiction, by action against the owner of the estate in fee, such court may apportion the cost of the assessment between the life tenant and the owner in fee in proportion to the relative value of the improvement to their estates, respectively, to be ascertained and determined by the court on principles of equity.

In placing any assessment on the tax list and duplicate the county auditor shall add to each assessment such per cent as he deems necessary to defray the expense of collecting it.

**§ 6119.55. Proceedings to recover.**

If the payment of a special assessment which has not been certified to the county auditor for collection is not made by the time stipulated in the resolution providing therefor, the amount assessed, with interest, and a forfeiture of ten per cent thereon, may be recovered by suit before a

court of competent jurisdiction, in the name of the regional water and sewer district, to enforce the lien against the lots and lands charged with such assessment.

Proceedings for the recovery of the assessment may be instituted by the district to enforce the lien against all the lots or lands, or any of them embraced in any one assessment, but the judgment or decree shall be rendered severally or separately for the amount assessed. Any proceeding may be severed, in the discretion of the court, for the purpose of trial, review, or appeal when an appeal is allowed.

In proceedings to enforce the lien, when the owner of any lot or land assessed is a nonresident of this state, or is unknown, notice shall be given by publication in the manner prescribed by law in similar cases.

If, in any action for the recovery of a special assessment, it appears that by reason of any technical irregularity or defect, whether in the proceedings of the board of trustees or of any officer of the district, or in the plans or estimates, or otherwise, the assessment has not been properly made upon any lot or parcel of land sought to be charged, the court may nevertheless, on satisfactory proof that expense has been incurred which is a proper charge against such lot or parcel of land in question, render judgment for the amount properly charged against it. The court shall make such order for the payment of the costs as is equitable and proper.

The board of trustees may order the secretary of such board, or any other proper officer of the district, to certify any unpaid assessment levied under sections 6119.52 and 6119.58 of the Revised Code to the county auditor, and the amount so certified shall be placed upon the tax list and duplicate by the auditor, and shall, with a ten per cent penalty to cover interest and cost of collection, be collected with and in the same manner as state and county taxes and credited to the district. Such ten per cent penalty shall in no case be added unless at least thirty days have intervened between the date of the passage of the resolution making the levy and the time of certifying it to the auditor for collection.

#### **§ 6119.56. Lien of assessment.**

The lien of an assessment or any installment thereof shall continue for two years from date of passage of the resolution under section 6119.52 or 6119.58 of the Revised Code, and no longer, unless the regional water and sewer district, before the expiration of such time, causes it to be certified to the county auditor for entry upon the tax list and duplicate, for collection, or causes the proper action to be commenced in a court having jurisdiction thereof, to enforce the lien against such lots or lands, in which case the lien shall continue in force so long as the assessment or any installment thereof remains on the tax list uncollected, or so long as the action is pending, and any judgment obtained under and by virtue thereof remains in force and unsatisfied.

If an action for the recovery of an assessment is commenced within due time, and a judgment therein for the plaintiff is reversed, or if the plaintiff fails in such action otherwise than upon the merits and the time limited for the action has expired, a new action may be commenced within one year after such reversal or failure.

A court of common pleas shall have the jurisdiction authorized by Chapter 6119 of the Revised Code for the collection of any charge or debt or the enforcement of any lien, notwithstanding the amount involved is less than that to which the jurisdiction is limited in other cases. Such court may make such special rules concerning the class of cases authorized to be brought under such chapter as will tend to expedite the disposition and prevent unnecessary costs.

#### **§ 6119.57. Additional assessments.**

If an assessment proves insufficient to pay the cost of a water resource project, the board of trustees of a regional water and sewer district may levy an additional assessment to supply the deficiency. Such additional assessment shall be levied against the same properties as were assessed for the cost of the project and shall be assessed among such properties in the same proportion as the assessment for the cost of the project was levied. In case a larger amount from an assessment than is necessary to pay the cost of the project or to retire the bonds or notes issued in anticipation thereof, the amount of such assessments collected in excess of that necessary to pay such cost or retire such bonds or notes shall be returned to the persons from whom it was collected in proportion to the amounts collected from each such person respectively.

When it appears to the board that a special assessment is invalid by reason of informality or irregularity in the proceedings, or when an assessment is adjudged to be illegal by a court of competent jurisdiction, the board may order a reassessment whether the project has been made or not.

Proceedings upon a reassessment, and for the collection thereof, shall be conducted in the same manner as is provided for the original assessment.

Proceedings with respect to projects to be paid for in whole or in part by special assessments shall be liberally construed by the board and by the courts in order to secure a speedy completion of the work at reasonable cost, and the speedy collection of the assessment after the time has elapsed for its payment. Merely formal objections shall be disregarded, but the proceedings shall be strictly construed in favor of the owner of the property assessed or injured as to any limitation on assessment of private property and compensation for damages sustained.

With respect to any assessment upon the abutting, adjacent, and contiguous, or other specially benefited lots or lands in a regional water and sewer district for any part of the cost connected with a project, the passage by the board of a resolution levying such assessment shall be construed a declaration by such board that the project for which it is levied is conducive to the public health, convenience, and welfare. No assessment shall be held invalid by any court because of the omission of the board to declare expressly in the proceedings and legislation for such project and assessment that the project is conducive to the public health, safety, convenience, or welfare.

#### **§ 6119.58. Assessments for planning purposes.**

In order to obtain funds for the preparation of plans, specifications, estimates of cost, tentative assessments, and a plan of financing for any water resource project or part thereof, the board of trustees of a regional water and sewer district may levy upon the property in such district to be benefited by such project assessments apportioned in accordance with one or more of the methods set forth in section 6119.42 of the Revised Code. The aggregate of such assessments shall not exceed the amount determined by the board of trustees to be necessary for such purpose, including costs of financing, legal services, and other incidental costs, and shall be payable in such number of annual installments, not less than one, as the board of trustees prescribes, together with interest on any water resource revenue notes and bonds which may be issued in anticipation of the collection of such assessments.

If the board of trustees proposes to obtain funds in accordance with this section, it shall determine by resolution that it is necessary to construct the water resource project and to maintain and operate the same on behalf of the district.

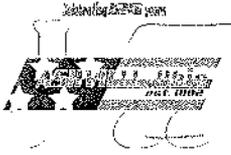
Prior to the adoption of the resolution making such determination, the board of trustees shall give notice of the pendency thereof and of the proposed determination of the necessity of the

construction of such project therein generally described, and such notice shall set forth a description of the properties to be benefited by such project and the time and place of a hearing of objections to, and endorsements of, such project. Such notice shall be given by publication in at least one newspaper having a general circulation in the district once a week for two consecutive weeks, the first publication to be at least two weeks prior to the date set for the hearing, provided that the board of trustees may give, or cause to be given, such alternative or further notice of such hearing as it finds to be necessary or appropriate. At such hearing, or at any adjournment thereof, of which no further notice need be given, the board of trustees shall hear all owners whose properties are proposed to be assessed and such other evidence as is considered to be necessary, and may then adopt its resolution determining that the proposed project is necessary and should be undertaken by the district. In such resolution, the board of trustees shall direct the preparation of the estimated assessments upon the benefited properties and by whom they shall be prepared.

After such assessments have been prepared and filed in the office of the secretary of the board of trustees and prior to the adoption of the resolution levying such assessments, the board of trustees shall give notice of the pendency of such resolution and of the proposed determination to levy such assessments, and such notice shall set forth the time and place of a hearing of objections to such assessments. Such notice shall be given by publication once in at least one newspaper having a general circulation in the district, such publication to be made at least ten days prior to the date set for the hearing, provided that the board of trustees may give or cause to be given, such alternative or further notice of such hearing as it finds to be necessary or appropriate. At such hearing, or at any adjournment thereof, of which no further notice need be given, the board of trustees shall hear all persons whose properties are proposed to be assessed, shall correct any errors and make any revisions in the estimated assessments that appear to be necessary or just, and may then adopt a resolution levying upon the properties determined to be benefited the assessments as originally prepared or as so corrected and revised.

The board of trustees shall have the power at any time to levy additional assessments upon such properties to complete the payment of the costs for which the original assessments were levied or to provide funds for any additional plans, specifications, estimates of cost, tentative assessments, and other incidental costs, provided that the board shall first have held a hearing on objections to such additional assessments in the same manner as required by this section with respect to such original assessments. Such additional assessments shall be payable in such number of annual installments, not less than one, as the board of trustees prescribes, together with interest on any water resource revenue notes and bonds which may be issued in anticipation of the collection of such assessments.

The board of trustees may authorize contracts to carry out the purposes for which such assessments have been levied without the prior issuance of water resource revenue notes and bonds, provided that the payments to be made by the district do not fall due prior to the times when such assessments shall be collected.



www.ashvilleohio.net

Mayor  
Charles K. Wise

Council  
Gayle Blankenship  
Glenn Cook  
Nelson Embrey  
Brian M. Garvine  
Keith Moore  
Brian Stewart

Clerk-Treasurer  
Barbara J. Gilbert

Planning & Zoning  
Brian Stewart  
Chester Gloyd  
Lisa Darnell  
Mike Videkovich  
Mayor Wise

Chief of Police

Tax Administrator  
Patricia Cavince

Village Administrator  
Franklin Christman

Service Superintendent  
David E. Ballard

Utility Dept. Chief  
James R. Welsh

# Memorandum

**To:** Council Utility Committee  
**cc:** Other Council Members  
**From:** Franklin Christman, Chris Tebbe, and Jim Welsh  
**Date:** 5/24/2010  
**Re:** District Formation and SOQ & LOI Selection

District Formation  
Recommendation:

- Do nothing; continue ownership and control of plant.
  - \_\_\_\_\_
- Consider District Formation with South Bloomfield and Harrison Township
  - \_\_\_\_\_
- Consider District Formation without Harrison Township
  - \_\_\_\_\_
- Consider District Formation without South Bloomfield.
  - \_\_\_\_\_
- Consider No District Formation but expansion of Plant.
  - \_\_\_\_\_
- Consider No District Formation relocation of existing plant.
  - \_\_\_\_\_

Chris Tebbe, Jim Welsh, and Franklin Christman reviewed the Statement of Qualifications and Letter of Interest that the Village received regarding the Wastewater Treatment Plant Expansion Project. The Village received SOQ's from 12 firms. The following was the consensus of that review:

- |                    |                   |
|--------------------|-------------------|
| 1) URS             | 7) Triad          |
| 2) DLZ             | 8) MS Consultants |
| 3) Poggemeyer      | 9) Michael Benza  |
| 4) Gannett Fleming | 10) LJB           |
| 5) ADR             | 11) Stantec       |
| 6) CT Consultants  | 12) Floyd Browne  |

A QBS Model was used in that review. At this time we would like to narrow the field to 6 or \_\_\_ firms. That would be followed by updating information and interviewing their key personnel.

If you have any questions please feel free to contact Franklin Christman, Jim Welsh, and/or Chris Tebbe

*"It is a place people will want to live, and businesses will want to locate."*

VILLAGE OF ASHVILLE  
UTILITIES COMMITTEE MEETING  
JUNE 14, 2010

Glenn Cook called the meeting to order at 8:17 PM. Answering roll call were Brian Garvine and Keith Moore. Also present were Gayle Blankenship, Mayor Wise, Brian Stewart, and Franklin Christman.

PRESENTATION – None

Keith Moore moved, seconded by Brian Garvine, to approve the May 25, 2010 minutes as presented. All votes were yea.

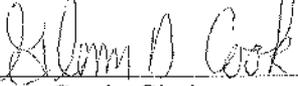
UNFINISHED - None

NEW BUSINESS:

1. Wastewater Plant Project – VA stated he was waiting on the 5 updated Statements of Qualifications and how the companies planned on obtaining funding. Christman stated he wanted the whole package. Discussion of a 6119 district to be on the agenda for the next CEDA meeting, but indications have been negative thus far.

At 8:28 PM Glenn Cook adjourned the meeting.

ACCEPTED AND ATTESTED

  
\_\_\_\_\_  
Glenn Cook, Chairman

  
\_\_\_\_\_  
Barbara J. Gilbert, Clerk



VILLAGE OF ASHVILLE  
UTILITIES COMMITTEE MEETING  
DECEMBER 13, 2010

Glenn Cook called the meeting to order at 6:37 PM. Answering roll call were Brian Garvine and Keith Moore. Also present were Gayle Blankenship, Mayor Wise, Brian Stewart, and Franklin Christman.

PRESENTATION – Ron Quail from Caldwell gave a brief presentation of his company. Quail stressed the importance of comparing apples to apples and stated his prices were higher due to include prevailing wages which they were willing to remove. Quail recommended going to bare metal and then painting the towers. Bob Mattey from Utility Service Company was also present and agreed with Caldwell. Mattey advised to make sure the cheaper proposals didn't just include overcoat.

Meeting recessed until after the Committee of the Whole meeting.  
Meeting resumed @ 8 PM

Keith Moore moved, seconded by Brian Garvine, to approve the June 14, 2010 minutes as presented. All votes were yea.

UNFINISHED - None

NEW BUSINESS:

General discussion:

a. VA highlighted the disconnect of water at 161 West Main Street Apt H for background information only.

b. Committee discussed water tank maintenance proposals. Christman to do more research and make a recommendation.

At 8:28 PM Glenn Cook moved, seconded by Keith Moore to adjourn. All votes were yea.

ACCEPTED AND ATTESTED

Glenn D Cook  
Glenn Cook, Chairman

Gayle Blankenship  
Gayle Blankenship, Acting Clerk

