

April 6, 2006

OFFICIAL

CECIL TOWNSHIP MUNICIPAL AUTHORITY

RESOLUTION NO. 2-2006

A RESOLUTION OF THE CECIL TOWNSHIP MUNICIPAL AUTHORITY, AN AUTHORITY FORMED UNDER THE MUNICIPAL AUTHORITIES ACT OF 1945, AS AMENDED, 53 P.S. §§ 301-374, AUTHORIZING AND RATIFYING ALL ACTIONS PERMITTED BY LAW FOR NECESSARY ENFORCEMENT AND COLLECTION PROCEEDINGS.

WHEREAS, the Cecil Township Municipal Authority (hereinafter "Authority"), is incorporated under the Municipalities Authorities Act, Act of May 2, 1945, P.L. 382, as amended, 53 P.S. §301 et seq.; and

WHEREAS, the Cecil Township Municipal Authority desires to formally reaffirm and ratify existing Authority Rules and Regulations and formally adopt the Cecil Township Ordinances Regulating its actions;

WHEREAS, the Cecil Township Municipal Authority, intends to formalize and reduce into writing its enforcement and collection procedures to ensure that any costs and expenses attendant to enforcement and collection are borne by the entities or persons who necessitate such procedures; and

WHEREAS, the Pennsylvania Legislature has further authorized the Cecil Township Municipal Authority to carry out necessary enforcement and collection procedures associated with ratepayers failure to adhere to Authority Rules and Regulations;

NOW THEREFORE, BE IT RESOLVED, by the Board of the Cecil Township Municipal Authority, pursuant to the powers vested in them by law as follows:

I. ACTIONS PROVIDED FOR BY LAW

A. AUTHORITY TO TAKE ALL ACTIONS PERMITTED BY LAW

1. The Cecil Township Municipal Authority is hereby authorized to take all actions permitted by federal law, state statute, and county or local ordinances as a duly and regularly formed municipal authority under the Municipalities Authorities Act, Act of May 2, 1945, P.L. 382, as amended, 53 P.S. §301 et seq. ; the Second Class Township Act and all other existing law governing the operation of a public municipal authority.

B. ADOPTION OF ALL RELEVANT REGULATIONS, RULES AND REQUIREMENTS OF THE AUTHORITY AND CERTAIN ORDINANCES OF THE TOWNSHIP OF CECIL

1. The Cecil Township Municipal Authority recognizes that it is a separate legal entity from the Township of Cecil and that it may have separate legal rights and duties under statutory law separate from Cecil Township, the governing body that created it. However, the Authority has agreed to adhere to certain Township Ordinances.

2. Accordingly, the Authority hereby resolves that it will adhere to and follow all relevant regulations formally codified in the Township of Cecil Code of Ordinances, and those established for the Township Sewage Authority.

C. ADOPTION OF RULES AND REGULATIONS

1. The Cecil Township Municipal Authority does hereby adopt the rules and regulations dated February 1, 1986, as amended, which sets forth the rules and regulations governing the use of the Cecil Township Municipal Authority Sewage Disposal System, its operation and maintenance, for all currently existing Districts and any such districts contained in the future.

II. EXPECTATIONS OF RATEPAYERS AND PROPERTY OWNERS

A. RATEPAYERS All ratepayers shall pay their bills when due. All ratepayers shall abide by the rules and regulations of the Authority. All ratepayers, whether tenants or owners of the real property serviced hereunder, shall be responsible for payment of all rates, charges, fees/costs and penalties assessed under statutory law, the resolutions of the Authority or the Rules and Regulations of the Authority.

B. PROPERTY OWNERS Notwithstanding the requirement that all ratepayers pay their bills when due, all owners of real property are ultimately responsible for the payment of all Authority rates, charges, fees/costs and penalties assessed under statutory law, the resolutions of the Authority or the Rules and Regulations of the Authority. Such charges constitute liens against the real estate and run with the land. In the event, that a tenant defaults or becomes delinquent in payments to the Authority, the Property Owner shall be responsible for the payment of such charges.

III. COLLECTION PROCEEDINGS

A. WHEN CHARGES ARE DUE AND PAYABLE; PENALTY AND INTEREST ADDED TO DELINQUENT ACCOUNTS.

1. CHARGES All bills for sanitary sewage collection, transportation and treatment charges imposed under the Cecil Code of Ordinances, shall be due and payable upon the date of presentation, and shall be paid not later than the due date appearing on the bill. Said charges shall be subject to a one and one-half percent (1.5 %) penalty if not paid within 15 days from the billing date and a penalty of one and one-half (1.5%) percent will be added each month to any unpaid balance until the entire balance including interest is paid in full.

2. DELINQUENCY PROCEEDINGS. If such account continues to be delinquent for the period of at least thirty (30) days, the Authority may institute shut-off procedures or authorize legal counsel to take legal action against such delinquent ratepayer or property owner for the delinquent account amount authorized under the Municipal Authorities Act. The Authority may authorize the attorney to either enter a lien against the property owner or authorize an action in assumpsit against the ratepayer, in accordance with the procedures set out herein. When a lien is entered, the Authority shall charge interest on such liened delinquent account at a rate of 10% per annum; said rate to run from the date of liening said account. In the event a judgment is entered against a ratepayer pursuant to an assumpsit action, the judgment shall bear the statutory permitted rate of interest until paid. However, at the discretion of the Authority, reasonable alternative arrangements can be made for payment in special circumstances.

B. **COLLECTION PROCEEDINGS IN THE ALTERNATIVE TO OR IN CONJUNCTION WITH LIENING.**

In an attempt to avoid the expenses of liening, the following procedures may be followed for collection. However, in the event that the charge owed by a ratepayer for sewage service, exceeds Five Hundred (\$500.00), the Authority shall lien the property owner regardless of any other remedies affected hereunder.

C. **SHUT-OFF PROCEDURES.**

a. **NOTICE.** In the event that a bill for sanitary sewage services remains unpaid for a term of at least thirty (30) days, the Authority shall write a demand for payment letter to the delinquent ratepayer, indicating that if the bill is not paid current, or a mutually agreeable payment plan between the Authority and the Ratepayer is not reached within ten (10) days, the Authority will take appropriate legal action to terminate service to the ratepayer.

b. **TERMINATION OF WATER SUPPLY.** If the owner, occupant, or customer shall fail to pay any rate or charge for sewer installation, maintenance sewage or sewage treatment service imposed by the Authority, the Authority, in accordance with 53 P.S. §2231, may in the alternative, or in conjunction with the procedures set forth herein, require the water utility to shut-off the supply of water to such premise until all overdue charges are paid, but shut-off shall only occur after ten (10) days written notice to the person liable for payment of the charges and the premises has been posted as provided by law. Such premises will be subject to inactive charges. The Authority, in cases where no water utility furnishes service, may

terminate service based on the foregoing, by physical means in preventing the use of the building sewer, at the cost of the owner.

(i) **POSTING PROCEDURES.** If the ratepayer fails to make payment in accordance with the demand letter, the Authority shall post the property with a ten (10) day notice of intent to shut-off water and sewage supply. In the event that no response to posting of the premises occurs, the Authority shall, within forty-eight hours, send a copy of the same notice by certified mail to the ratepayer and to the landlord, if landlord is a separate legal entity from the ratepayer.

(ii) **WRITTEN REQUEST TO WATER AUTHORITY TO TERMINATE SERVICE.** If no response to the certified mailing and posting occurs within ten (10) days, the Authority may make a written request to the Water Authority to discontinue service.

(iii) **RETURN OF SERVICE REQUIREMENTS.** If service is discontinued and if no "special-circumstance" arrangements are made, it will not be restored until all unpaid charges, interest and costs are paid.

2. **COLLECTION BY ACTION OF LAW.**

3.

If a ratepayer's account continues to be delinquent for the period of at least thirty (30) days, and the Authority may in addition to or as an alternative to follow liening procedures hereunder, the

Authority may authorize legal counsel to bring an action in assumpsit against the ratepayer for collection of the delinquent account as authorized pursuant to statute, local ordinance and resolutions.

3. **LIENING PROCEDURES**

a. **LIEN AGAINST THE PROPERTY RUNS WITH THE LAND.**

Notwithstanding the definition of the "owner", "occupant" "ratepayer" and "customer", and notwithstanding that the customer, ratepayer, occupant, contractor or any applicant entering into an Agreement with the Authority for the use of sewage service was not the owner of the premises served by the Authority, the owner of the premises shall be liable in-personam and in rem for all sewage charges rendered to said premises, and the Authority may at its option, discontinuc service as previously set forth, and in addition thereto, may file suit in assumpsit against the owner, ratepayer, tenant and customer, severally or jointly, and may use any other remedy provided by law for the collection of delinquent bills. In addition, the Authority may file a Municipal Claim against said property within the time limit required by law for such filing, so that the Claim shall be assessed against the said property in the same way as the other taxes are filed and liened, and may swear out a Writ of Scire Facia or file a suggestion in the same manner and within the same period of time as provided by law for all municipal taxes and claims. The Authority may use any or all of the remedies so provided by law, and the use of any one remedy shall not be exclusive of the Authority's other rights and remedies.

b. **LIEN REVIVAL.** All outstanding liens may be revived from time to time as required by law.

c. **SEWAGE CHARGES- LIEN AGAINST PROPERTY** - All sewage charges herein designated or set forth in the schedule of rates of the Authority are made a lien against the property to provide for non-payment for sewage and other related services, such amounts to be liened and collected against the property in the name of the owner, reputed owner, occupier, mortgagee, or anyone beneficially interested therein as claims which are liened and to be collected under the Municipal Claims Law of the Commonwealth of Pennsylvania.

4. **PARTIAL PAYMENTS.** In the event that special circumstances exist, which in the Authority's discretion prohibit it from requesting the water authority from turning off water and sewerage service, or in the event that the outstanding indebtedness stems from the cost of a connection fee, tap-in fee or major capital expenditure relating to maintenance or tying into the Authority Sanitary Sewer System, the Authority may enter into Partial Payment Arrangements with the customer, client, or property owner subject to the approval of the Authority Board on a case-by-case basis.

(a) In the event that a payment is not made under a payment plan is untimely, or the plan agreement is found to be in default for any other reason, the Authority may instruct its solicitor to prepare and file a lien in the amount of arrearages in the Washington County Prothonotary's Office in accordance with the terms of this Resolution.

(c) The Authority, may from time to time establishes uniform standards for the entry into partial payment plans. These regulations are adopted and ratified as if more formally set forth herein.

IV. **AUTHORIZATION OF IMPOSITION OF THE COSTS OF COLLECTION AND FEES UPON DELINQUENT RATEPAYERS AS PERMITTED BY LAW.**

A. **SCHEDULE OF FEES.**

The Authority hereby authorizes the imposition of collection costs associated with litigation in accordance with the following listed procedures.

1. **ATTORNEY FEES.** The Cecil Township Municipal Authority Sewage Authority authorizes and shall collect attorneys' fees against the delinquent taxpayer/ratepayer pursuant to the provisions of the Sewage Claims Act, 53 P.S. § 7106 (a)(1) and specifically Act 1 of 1996 for any collection proceedings in which the Authority is required to utilize legal counsel for collection proceedings. Attorneys' fees incurred in the collection of any delinquent account shall be at the regularly negotiated municipal attorney hourly rate paid unto the Authority Solicitors in an amount sufficient to compensate attorneys undertaking collection and representation of a claim on behalf of the Cecil Township Municipal Authority.

2. **COLLECTION OF COSTS AND FEES** Costs and filing fees shall also be authorized to be collected against the taxpayer/ratepayer as authorized by Act 1 of 1996 of the Commonwealth of Pennsylvania Legislature. There shall be included in the amounts set forth above the reasonable out-of-pocket expenses of counsel in connection with each of these services, as itemized in the applicable counsel bills, which shall be deemed to be part of the fees. The amount of fees determined as set forth above shall be added to the Authority's claim in each Account.

3. COLLECTION PROCEDURES. The following collection procedures are hereby established in accordance with Act No. 1 of 1996:

(a) At least thirty (30) days prior to assessing or imposing attorney fees in connection with the collection of an Account, the Authority shall mail or cause to be mailed, by certified mail, return receipt requested, a notice of such intention to the taxpayer or other entity liable for the Account (the "Account Debtor").

(b) If within thirty (30) days after mailing the notice in accordance with subsection (a), the certified mail to any Account Debtor is refused or unclaimed or the return receipt is not received, then at least ten (10) days prior to the assessing or imposing such attorney fees, the Authority shall mail or cause to be mailed, by first class mail, a second notice to such Account Debtor.

(c) All notices required by this Ordinance shall be mailed to the Account Debtor's last known post office address as recorded in the records or other information of the Authority, or such other address as it may be able to obtain from the County Office of Assessment and Revision of Taxes.

(d) Each notice as described above shall include the following:

(i) The type of tax or other charge, the date it became due and the amount owed, including penalty and interest;

- (ii) A statement of the Authority's intent to impose or assess attorney fees within thirty (30) days after the mailing of the first notice, or within ten (10) days after the mailing of the second notice;
- (iii) The manner in which the assessment or imposition of attorney fees may be avoided by payment of the Account; and
- (iv) The place of payment of Accounts and the name and telephone number of the Authority official designated as responsible for collection matters.

V. RELATED ACTION.

The proper officials of the Authority are hereby authorized and empowered to take such additional action as they may deem necessary or appropriate to implement this Ordinance.

VI. SAVINGS CLAUSE.

If any section, subsection, paragraph, sentence or phrase of this Resolution is for any reason held to be invalid by a Court of competent jurisdiction, such holding shall not effect the validity of the remaining portions of this Resolution, it being the legislative intent of the Cecil Township Municipal Authority that the same would have been enacted without such section, subsection, paragraph, sentence or phrase. In the event of such holding, the Resolution shall be considered as effective as if enacted without such section, subsection, paragraph, sentence or phrase.

VII. REPEALER.

All previous Resolutions that are inconsistent herewith are repealed to the extent inconsistent herewith.

ATTEST:

Cecil Township Municipal Authority

Gyrene E. Lick
Secretary

By: *Donald R. Hannon*
Chairman