

**BOARD OF SANITARY COMMISSIONERS
MUNCIE SANITARY DISTRICT**

RESOLUTION NO 2011-11

**A Resolution concerning the maintenance and repair of
sanitary and/or storm sewers within the Muncie Sanitary
District upon petition by ten or more users and agreement of
the parties.**

WHEREAS the Board of Sanitary Commissioners ("Board") of the Muncie Sanitary District ("District") of the City of Muncie, Indiana ("City") has heretofore established a system of sewers for the collection and sanitary disposal of sewage and storm water throughout the District; and,

WHEREAS the Board has heretofore adopted Resolution 2011-11 which provides a means by which owners of property served by the sanitary and/or storm sewers of the District who need repair, maintenance or replacement of those sanitary sewers or storm sewers may petition for the work and to pay a part of the cost of that work; and

WHEREAS, the Board recognizes that there are instances where owners of property served by the District are in need of having the sanitary and/or storm drain in their immediate neighborhood repaired, or replaced by the District, and

WHEREAS The Board must maintain its sanitary and storm sewers so as to prevent sewer discharges or drainage from polluting the watercourses of the District and by such pollution constituting a menace to the public health and welfare of the citizens served by the District's sewers and drains; and

WHEREAS the State Legislature has established by law a system of Home Rule which has granted to the District not only Powers expressly granted to the District by statute but all Powers necessary or desirable in the conduct of the District's affairs, even though not granted by statute; and

WHEREAS the Board further finds that it is both necessary and desirable, in carrying out the powers and responsibilities of the District, to establish a means by which owners of property in a limited or neighborhood area served by the District may petition for repair, maintenance or replacement of their local sanitary and/or storm sewers and to provide for them a means by which they may pay for a portion of the cost of such repair or maintenance; and

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE MUNCIE SANITARY DISTRICT THAT:

Section 1. That upon petition to the Board by ten or more owners of real estate seeking the maintenance, repair or replacement of sanitary and/or storm drains that serve the petitioner's neighborhood area, the Board shall conduct an investigation of the condition of those drains.

Section 2. Consideration of Project and Costs

(a) If upon investigation the Board finds that (1) the sewage and/or storm water system that is the subject of the petition is in such a state of disrepair so as to pollute by discharge of sewage, and/or drainage harmful matter from the sewage or drainage systems; (2) that the correction of this discharge is necessary for the public health and welfare; and (3) the maintenance, repair or replacement of the system will be of public utility and benefit, the Board shall prepare plans for the project and a map of the location of all real property and personal property that will be affected by the project. The Board shall also have the cost of all work for the project estimated, including any damages to be awarded to the owners of the real and personal property affected by the project.

Section 3. Adoption of Resolution. When the project's plans and map have been prepared by the Board, it shall consider the adoption of a resolution declaring that upon investigation it has found the following:

(1) That the streams or waters particularly described in the resolution are being polluted by the discharge from sewage, drainage, or harmful material accumulating from the need for the maintenance, repair or replacement of the sanitary and/or storm drain and that the drain is a part of drainage system of the District.

(2) That it is necessary for the public health and welfare and will be of public utility and benefit to undertake the needed maintenance, repair or replacement and appropriate the property, if any, that is needed for such work, all as described in the project plans.

As a part of the Resolution the Board shall adopt the plans, map and estimates which shall then be open to inspection by all persons interested in or affected by the construction of the work or the appropriation of property.

Section 4. Agreements with Land Owners.

(1) If the Board adopts the resolution the Board shall enter into an agreement with the effected land owner(s)/ petitioner(s), either individually or collectively, under such terms and conditions as the Board shall require for it to undertake the work of the repair or replacement of the sanitary and/or storm drain and for the land owner to repay the Board for such work. The Board, at its sole and absolute discretion, may undertake the work without having all the involved landowners as parties to the agreement(s).

(2) Land owners who are a party to the agreement(s) shall have the cost that they must pay for each tract or parcel of land capped at thirty five hundred dollars (\$3,500.00) and any costs which exceed that amount shall be paid by the District from funds raised from levy of tax as provided at IC 36-9-25-32 (a) (2) or from revenue raised from fees as provided for at 36-9-25-34 (a).

Section 5. Payment Over Time. Any costs to be paid by the land owners under the terms of their agreement with the District may be paid over a period of five (5) years with the terms, conditions and interest rates of such periodic payments determined by the Board at the Board's sole and absolute discretion. All payments made to the District shall be paid into the Sewage Utility Office unless otherwise designated by the Board.

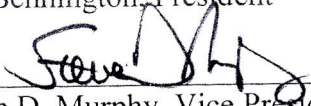
Section 6. Conflict With Resolutions. All resolutions or parts of resolutions previously passed by the Board that are in conflict with this resolution are hereby repealed to the extent of that conflict.

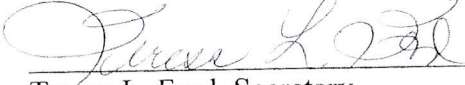
Section 7. Effective Date. This resolution shall be in full force and effect from and after its passage and shall thereafter remain in full force and effect unless amended or rescinded by further action of the Board.

Adopted this 4th day of October, 2011.

BOARD OF SANITARY COMMISSIONERS
OF THE MUNCIE SANITARY DISTRICT


Tom Bennington, President


Steven D. Murphy, Vice President


Teresa L. Ford, Secretary