

RESOLUTION NO. 10-96

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**A RESOLUTION OF THE WEST MIFFLIN SANITARY SEWER
MUNICIPAL AUTHORITY, ALLEGHENY COUNTY, PENNSYLVANIA,
AUTHORIZING REASONABLE ATTORNEY FEES IN THE
COLLECTION OF MUNICIPAL CLAIMS PURSUANT TO ACT 1 OF 1996
OF THE COMMONWEALTH OF PENNSYLVANIA.**

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WHEREAS, Act 1 of 1996, effective April 1, 1996, amended, among other things, the provisions of the Municipal Claim and Tax Lien Law, Act of May 16, 1923 (P.L. 207, No. 153), as amended 53 P.S. §7101 et seq. of the Commonwealth of Pennsylvania; and

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WHEREAS, said amendment to 53 P.S. §7106 (a) authorizes the Authority to impose or assess reasonable attorney fees in collecting municipal claims pursuant to the Municipal Claim and Tax Lien Law, Act of May 16, 1923, as amended; and

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WHEREAS, it is in the best interest of the public health, safety and welfare of the public for the West Mifflin Sanitary Sewer Municipal Authority to be reimbursed for reasonable attorney fees incurred in the collection of delinquent Authority claims.

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WHEREAS, pursuant to aforesaid Municipal Claim and Tax Lien Law, all Authority claims are defined as a municipal claim under said law; and

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WHEREAS, under this Resolution, Authority claims which maybe collected pursuant to the Municipal Claim and Tax Lien Law is also defined as an Authority claim or a municipal claim in this Resolution.

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NOW, THEREFORE, BE IT RESOLVED AND IT IS HEREBY RESOLVED by the Board of Directors of the West Mifflin Sanitary Sewer Municipal Authority, as follows:

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SECTION 1.

<![if !supportEmptyParas]> <![endif]><![if !supportEmptyParas]> <![endif]><![if !supportEmptyParas]> <![endif]>That all municipal claims which may herein after be lawfully imposed, assessed or liened on any property in this Commonwealth, and all such claims heretofore lawfully imposed or assessed within six months before the passage of Act 1 of 1966 said Act amending Act of May 16, 1923 (P.L. 207, No. 153), and not yet liened, in the manner and to the extent hereinafter set forth, shall be and are hereby declared to be a lien on said property, together with all charges, expenses, and fees incurred in the collection of any delinquent account, including reasonable attorney fees, added thereto for failure to pay promptly; and said liens shall arise when lawfully imposed and assessed and shall have priority to and be fully paid and satisfied out of the proceeds of any judicial sale of said property, before any other obligation, judgment, claim, lien, or estate with which the said property may become charged, or for which it may become liable, save and except only the costs of the sale and of the writ upon which it is made, and the taxed imposed or assessed upon said property.

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SECTION 2.

<![if !supportEmptyParas]> <![endif]><![if !supportEmptyParas]> <![endif]>That the Board of Directors of the West Mifflin Sanitary Sewer Municipal Authority, from time to time, shall establish a reasonable attorney fee schedule which shall be in an amount sufficient to compensate attorneys who undertaking collection and representation of the West Mifflin Sanitary Sewer Municipal Authority in actions involving claims arising under or pursuant to the aforesaid Municipal Claim and Tax Lien Law, the Act of May 16, 1923, as amended. It is hereby established that reasonable attorney fees for collection of said municipal claims shall be set at \$125.00 per hour plus reimbursement of all costs incurred by said attorney for collection of the municipal claim. Cost reimbursement shall include but not limited to monies advanced by the attorney for postage, filing fees, copying or reproduction of document fees, title searches or title determination, telephone charges and facsimile charges. Facsimile costs are hereby set at \$5.00 for the first facsimile page which shall include the cover page, and \$1.00 for each additional page. The hourly rate of \$125.00 per hour plus the amount of cost to reimburse to the attorney which are not recoverable as court cost shall constitute the amount of attorney fees to be assessed.

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SECTION 3.

<![if !supportEmptyParas]> <![endif]><![if !supportEmptyParas]> <![endif]>That the Solicitor or any other attorney at law retained by the West Mifflin Sanitary Sewer Municipal Authority to collect Authority claims shall be required to keep time records together with itemized costs incurred.

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SECTION 4.

That at least thirty (30) days prior to assessing or imposing attorney fees in connection with the collection of a delinquent Authority claim, the West Mifflin Sanitary Sewer Municipal Authority or its designated agent, by United States Certified Mail, postage prepaid, shall give notice to the owner of the property as follows:

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- a. The aforesaid notice shall be mailed to the owners last known post office address by virtue of the knowledge and information based upon the records maintained by the county office responsible for assessments and revisions of taxes.

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- b. If within thirty (30) days of mailing the aforesaid notice hereinafter required, if the certified mail is refused or unclaimed, or the return receipt is not received. then at least ten (10) days prior to assessing or imposing the attorney fees in connection with the collection of delinquent account, the Authority or its designated agent shall by United States First Class Mail, mail to the owner the notice hereinafter set forth.

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SECTION 5.

That the aforesaid notice is required to be mailed to the owner prior to imposing or assessing attorney fees in connection with collection of delinquent accounts and said notice shall include the following information:

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- a. A statement of the Authority's intent to impose or assess attorney fees within thirty (30) days of mailing the notice pursuant to Section 4 of this Resolution or within ten (10) days of mailing of the notice pursuant to Section 4 of this Resolution if the original notice is refused, unclaimed or returned.

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- b. The manner in which the imposition or assessment of attorney fees may be avoided by the property owner by payment of the delinquent account.

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SECTION 6. Subsequent to a Writ of Scire Facias and if no affidavit of defense is filed within the time designated, judgment may be entered and damages assessed by the Prothonotary by default, for want thereof and such assessment shall include a fee for the collection to the West Mifflin Sanitary Sewer Municipal Authority's attorney or to plaintiff's attorney in accordance with the aforesaid Act of May 16, 1923 (P.L. 207, No. 153), referred to as the Municipal Claim and Tax Lien Law, amended December 19, 1990 (P.L. 1092, No. 199), and as amended by Act No. 1 of 1966, which provides that when a judgment is entered for a tax claim or a municipal claim in the Prothonotary's Office, that the judgment entered and the damages assessed by the Prothonotary will include a fee for collection to Plaintiff's attorney.

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SECTION 7.

That pursuant to the aforesaid Municipal Claim and Tax Lien Law, municipal claims are prima facie evidence of the facts averred therein in all cases; the averments in both tax and municipal claims shall be conclusive evidence of the facts averred therein, except in the particulars in which those averments shall be specifically denied by the filing of an affidavit of defense, or an amendment thereof duly allowed. A compulsory nonsuit, upon trial, shall be equivalent to a verdict for the defendant, whether the plaintiff appears or not. If plaintiff recovers a verdict, upon trial, in excess of the amount admitted by the defendant in his affidavit of defense or pleading, plaintiff shall be entitled to attorney fees for collection in accordance with this Resolution.

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SECTION 8. SEVERABILITY

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In the event that any section, paragraph, sentence, clause or phrase of this Resolution be declared unconstitutional, illegal or invalid, such declaration shall not affect the validity of any of the remaining provisions of this Resolution.

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SECTION 9.

That any Resolution or part of Resolution providing with the confliction of this Resolution being the same is hereby repealed.

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RESOLVED and ADOPTED, this 7th day of November, 1996

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ATI'EST:

Daniel Davis, Secretary

WEST MIFFLIN SANITARY SEWER MUNICIPAL AUTHORITY

Anthony J. Panichelli, Chairman