

**RESOLUTION NO. 2007-04**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE WESTERN WESTMORELAND MUNICIPAL AUTHORITY AMENDING AND SUPPLEMENTING RESOLUTIONS NO. 2005-6 AND 2005-9; SETTING FORTH PROCEDURES FOR CHARGES FOR NON-RESIDENTIAL CAPACITY TAPPING FEES; PROVISIONS FOR THE BILLING AND COLLECTION OF SUCH FEES; AND MAKING OTHER PROVISIONS RELATIVE TO SUCH FEES.**

**WHEREAS**, §5607(d) of the Municipality Authorities Act (53 P.S. §5607(d)) provides that every Authority may exercise all powers necessary or convenient for the carrying out of the purposes set forth in this Section (§5607) of the Act, including but without limiting the generality of the foregoing, the following rights and powers; and

**WHEREAS**, Subsection 9 of said Section authorizes every Authority to fix, alter, charge and collect rates and other charges in the areas served by its facilities at reasonable and uniform rates to be determined exclusively by it for the purpose of providing for the payment of the expenses of the Authority, the construction, improvement, repair, maintenance and operation of its facilities and properties, the payment of the principal of and interest on its obligations and to fulfill the terms and provisions of any agreements made with the purchasers or holders of such obligations, or with a municipality and to determine by itself exclusively the services and improvements required to provide adequate, safe and reasonable services, including extensions thereof, in the areas served; and

**WHEREAS**, Subsection 17 authorizes every Authority to do all acts and things necessary or convenient for the promotion of its business and the general welfare of the Authority and to carry out the powers granted to it by this [Act] or other law; and

**WHEREAS**, Subsection 24 authorizes every Authority to charge enumerated fees to property owners who desire to or are required to connect to the Authority's sewer or water system. Fees shall be based upon the duly adopted fee schedule which is in effect at the time of payment and shall be payable at the time of application or connection or at a time to which the property owner and the Authority shall agree. In the case of projects to serve existing developments the fee shall be payable at a time determined by the Authority. The Authority may require that no capacity be guaranteed for a property owner until the tapping fees have been paid or secured by other financial security. The fees shall be in addition to any charges assessed against the property in construction of a sewer or water main by the Authority under [other subsections of this section] as well as any other user charges imposed by the Authority under [other subsections of this section] which shall not include costs included in the calculation of such fee; and

**WHEREAS**, pursuant to Resolutions No. 2005-6 and 2005-9 The Authority established a capacity tapping fee and charges for the same, together with provisions for the billing and collection of such fee; and

**WHEREAS**, the Board of Directors of the Authority finds it appropriate and necessary to amend and supplement said Resolutions concerning Non-residential users.

**NOW THEREFORE BE IT RESOLVED, AND IT IS HEREBY RESOLVED** by the Board of Directors of the Western Westmoreland Municipal Authority as follows:

Resolutions No. 2005-6 and 2005-9 are hereby amended and supplemented to establish the following procedures for Non-residential Capacity Tapping Fees:

#### NON-RESIDENTIAL CAPACITY TAPPING FEE PROCEDURES

For purposes of calculating the capacity tapping fee for non-residential users, an equivalent dwelling unit, as defined in the Service Agreement by, between and among WWMA and the Service Authorities and Service Municipalities, means each 50,000 gallons or less of water used per year.

In order to determine the number of equivalent dwelling units for a non-residential uses, the user shall provide to the Authority, at the time of application for a capacity tapping fee permit, either: 1) the water records from similar types of establishments; 2) qualified estimates of annual water consumption based upon PA DEP Chapter 73 standards and regulations; or 3) an estimate of annual water consumption for the proposed use or occupancy certified by a licensed, professional engineer.

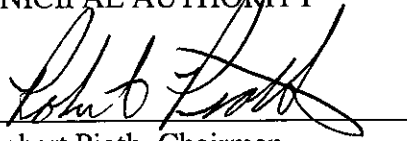
The initial capacity tapping fee charged for such non-residential user shall be based upon the information supplied by the applicant and accepted by the Authority. At the time of issuance of a capacity tapping fee permit the applicant and owner of the property shall enter into a written Agreement with the Authority to:

- a) Provide to the Authority any and all water consumption records for the business, industry or other use from the time of occupancy and continuing for a period of two (2) years after substantial occupancy:
- b. be responsible for any additional sums due as a capacity tapping fee for the business, industry or use based upon said water consumption records; and
- c. authorized and permit the filing of a municipal claim and municipal lien against the applicant/owner and the subject property for any additional capacity tapping fee, which additional sum shall be based upon the difference between the PA DEP approved sewage planning and the estimates of water consumption provided to the Authority by the applicant.

After the payment of any additional capacity tapping fees and costs to the Authority, any municipal claim and/or municipal lien filed by the Authority shall be satisfied.

**RESOLVED** at a regularly scheduled meeting of the Western Westmoreland Municipal Authority on the 25<sup>th</sup> day of September, 2007, a quorum being present.

WESTERN WESTMORELAND  
MUNICIPAL AUTHORITY

By   
Robert Pioth, Chairman

ATTEST: (SEAL)

  
John Shepherd, Secretary

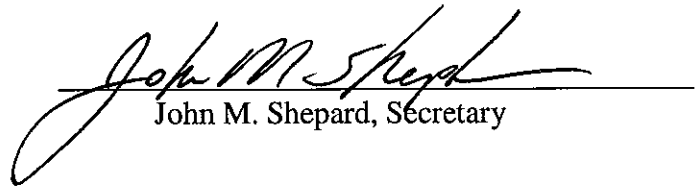
Date: September 25, 2007

**CERTIFICATION**

I, John M. Shepard, duly qualified Secretary of the Board of Directors of the Western Westmoreland Municipal Authority, Westmoreland County, Pennsylvania, do hereby certify that the foregoing Resolution No. 2007-04 is a true and correct copy of the original Resolution No. 2007-04 duly passed and adopted by a majority vote of the Board of Directors of the Western Westmoreland Municipal Authority at a duly advertised and convened regular meeting held on the 25<sup>th</sup> day of September, 2007, and that the minutes of said meeting showing how each member voted have been duly recorded in the official minutes of said Authority and remains in effect as of this date.

**IN WITNESS WHEREOF**, I affix my hand and attach the seal of the Western Westmoreland Municipal Authority, this 25<sup>th</sup> day of September, 2007.

Certified to by:

  
John M. Shepard, Secretary