

RESOLUTION NO. 25-

IN THE MATTER OF OPPOSING THE OHIO EPA'S PROPOSED FACILITY PLANNING AREA MAPS FOR DELAWARE COUNTY:

It was moved by _____ seconded by _____ to adopt the following:

WHEREAS, the Ohio EPA has provided public notice that the Director of Environmental Protection is proposing to update the State Water Quality Management Plan (208 Plan), as required by Sections 303 and 208 of the Clean Water Act, which includes establishing facility planning areas (FPA) in Delaware County; and

WHEREAS, the Delaware County Board of Commissioners (the "Board") has, pursuant to Chapter 6117 of the Revised Code, established the Delaware County Regional Sewer District ("DCRSD") within the unincorporated areas of Delaware County; and

WHEREAS, pursuant to section 6117.05 of the Revised Code, the Board's jurisdiction through DCRSD continues even upon incorporation or annexation, when certain conditions are met; and

WHEREAS, DCRSD has a proven track record of excellence in wastewater treatment and collection, while also managing rapid growth, and responsibly planning for regionalized sewer infrastructure by maintaining financial and capacity models to ensure that sanitary sewer infrastructure is operated, upgraded and expanded as necessary; and

WHEREAS, the Board has entered into sanitary sewer service agreements with other governmental entities, including the Cities of Columbus, Delaware, Dublin, Sunbury, and Westerville, to establish appropriate boundaries for sanitary sewer service and avoid unnecessary duplication of public resources; and

WHEREAS, upon review of the proposed FPA maps, the Board is concerned that the FPA maps fail to recognize the Board's statutory authority under Chapter 6117 of the Revised Code, ignore completed and pending DCRSD facility planning, inhibit further mutual agreement regarding sanitary sewer service, and infringe on private property rights;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Delaware County, State of Ohio, that:

Section 1. The Board hereby opposes the proposed updates to the Section 208 Plan and FPA maps for Delaware County, finding and determining that the proposed updates:

- A. Unlawfully restrict the Board's authority under Chapter 6117 of the Revised Code;
- B. Fail to acknowledge and give appropriate weight to completed and pending DCRSD facility planning, which is indicative of an unreasonable, capricious, and arbitrary decision-making process by the Ohio EPA;
- C. Inhibit further mutual agreement between the Board and other governmental entities within Delaware County regarding sanitary sewer service, to which the Board has been committed since the existing 208 Plan encouraged cooperation amongst local management agencies; and
- D. Infringe on private property rights by effectively forcing private property owners to bargain for essential sanitary sewer service through annexation or increased rates, under the threat of indefinite delays in development.

Section 2. The Board hereby requests that the Ohio EPA amend the FPA maps to reflect DCRSD as the primary designated management agency (DMA) and its boundaries as the primary FPA, except as the Board may have already agreed in writing. The DCRSD FPA should follow the current municipal corporation boundaries in the absence of a formal sewer service agreement between the Board and a municipal corporation. Any modifications of the DCRSD FPA would then be subject to the proposed modification process, as opposed to the initial 208 Plan amendment. In the alternative, the Board hereby requests that the Ohio EPA permit overlapping FPAs in Delaware County, with DCRSD being the primary DMA in any unincorporated area and the other DMA being secondary.

Section 3. The Board hereby commits to continue working cooperatively with other DMAs within Delaware County to negotiate sanitary sewer service agreements that establish appropriate boundaries for sanitary sewer service and avoid unnecessary duplication of public resources. This commitment includes providing timely letters of support or

other documentation necessary to support FPA modification, when warranted, in accordance with the proposed modification process.

Section 4. The Board hereby authorizes the DCRSD Director/Sanitary Engineer to submit formal comments consistent with this Resolution and other information she determines pertinent.

Section 5. The Board hereby authorizes the County Administrator and General Counsel to take all necessary actions to oppose the proposed FPA maps, including appearing before the Ohio EPA in any administrative proceedings, commencing and prosecuting any available appeals, and commencing and prosecuting any other legal action.

Section 6. The Board hereby directs the Clerk of the Board to submit a certified copy of this Resolution via email to epa.dswcomments@epa.ohio.gov, pursuant to the Ohio EPA's public notice.

Section 7. This Resolution shall be effective immediately upon adoption.

Vote on Motion