

The Facts about the Regional Stormwater Management Program

Dear Mayors Samuel Alai, Fletcher Berger, Robert Blomquist, Mark Cegelka, Joseph Cicero, Susan Drucker, Merle Gorden, Gary Gottschalk, Jerry Hruby, Edward Kelley, Gregory Kurtz and Thomas Perciak:

It was with great interest that I read the September 20th Plain Dealer article entitled “12 suburbs challenge sewer district, call storm fee ‘involuntarily tax’” and the press release issued to the media regarding our Regional Stormwater Management Program (both attached). It is unfortunate that after 3 years of meetings, voluminous discovery by your attorneys, extensive press coverage, and our repeated offers to address any questions you may have about the Regional Stormwater Management Program, you continue to have a wholly inaccurate understanding of the components of, and need for, a regional approach to stormwater management. With this letter I will clarify a few points and again, I make our offer to meet with you and your Councils for open and productive dialogues about managing our region’s infrastructure.

Inaccuracy #1 The regional stormwater management program will inhibit economic growth and development

This comment is made as if it was fact, yet there is no evidence to support this claim. There are more than 1000 communities across the country and more than 80 in Ohio – including Broadview Heights and Lake County – who have stormwater fees. I have yet to hear of businesses leaving Broadview Heights or Lake County for this reason. In the absence of evidence to support this claim, you should stop attempting to scare the public with these inaccuracies.

Inaccuracy #2 The regional stormwater program is a new tax disguised as a governmental program

The Regional Stormwater Management Program is not a tax. It is a fee for stormwater management services to address problems on the regional stormwater system. As such, we have a detailed financial plan, inventory of existing problems, construction program, inspection and maintenance plans, and credit program. We have presented this information to the Cuyahoga County Mayors and City Managers Association on several occasions. We have met with each of your communities no fewer than three times over the past several years. During each of those meetings, we asked for your input, defined the benefits of the program, and worked with you to identify specific flooding and erosion problems and inspection and maintenance needs. This has allowed us to identify projects to undertake in each community, both construction and inspection and maintenance projects. Investing \$40 million a year in substantive projects to address our region’s infrastructure needs is no ruse.

Furthermore, our regional program does not conflict with your management and control of the local stormwater system. These programs, regional and local, complement each other, just as with the regional and local sanitary sewer and water systems.

Inaccuracy #3 It's not a good time from a stormwater fee because of impending rate increases

Yes, sanitary rates will be increasing. We have not hidden that fact nor do we deny that our region faces tough economic times. However, our region also faces an infrastructure problem that costs us every day. Over the last three decades stormwater problems have increased nearly 400 percent. To date, NEORS has identified a backlog of more than \$200 million in construction and maintenance projects across our region. Your communities are not addressing this backlog. Particularly in these difficult economic times you do not have the resources to fix these problems. Only a regional approach will enable us to stop addressing problems emergency-by-emergency and to start solving problems in a cost-effective manner. For example, we cannot afford to continue reacting and repairing every time the Cuyahoga River floods in Independence. We need instead to better understand and address this, and other, regional problems. As elected officials and public agencies we are either going to show leadership on infrastructure or continue to fight against innovative, collaborative efforts. Our Board has chosen leadership.

Inaccuracy #4 Communities have expended tax dollars and required all new development to install necessary resources and efforts to control, manage and regulate stormwater and drainage with reasonable parameters

We acknowledge that some communities have adopted codes for new development and taken some steps to address stormwater problems in their community. But you do not have sufficient funding to fix problems on the regional system and none of you are looking at stormwater problems on a regional basis. NEORS offers consistent watershed planning and modeling to target regional investments and ensure permanent solutions to stormwater problems, a clear and concise construction program, and a responsive and thorough inspection and maintenance program. Your communities do not offer this to the region. For example, Cleveland Heights does not have the resources to maintain the trash racks at its borders with Shaker Heights and East Cleveland. As a result, Doan Brook is eroding at Fairhill Road and similar problems exist in East Cleveland. We will fix this, you will not.

In our meetings with communities we have heard a number of you express frustration because your neighbors keep sending stormwater – and its resulting problems – your way. We understand that communities such as Solon and Broadview Heights are stormwater leaders in our region. The Regional Stormwater Management Program recognizes that leadership and will add value to those communities. The majority of your 12 communities, however, are not stormwater leaders and it is inaccurate to portray yourselves as such.

Inaccuracy #5 This program extracts money from one community to benefit other communities miles away

Our watershed-based approach to stormwater management acknowledges the reality of the topography of our region. If we manage a project in one community, it will benefit neighboring communities and address a problem at its core. For example, Mill Creek is eroding and threatens to wash out Warner Road in Garfield Heights. Garfield Heights is not the source of this problem but under your approach it would bear complete responsibility for the fix. That is not equitable. Mill Creek receives drainage from 10 communities, including Beachwood, before entering Garfield Heights. Impervious surface in each of these communities is responsible for the erosion impacting Garfield Heights. Under the Regional Stormwater Management Program, they will all take responsibility for the solution.

Inaccuracy #6 Clearly, this is not regionalism. Significant areas of the county, including entire communities and parts of other communities, will not be charged the proposed fees

We would be thrilled to have the ability to manage regional stormwater problems beyond our service area. However, we can only work within our service area. There are portions of our service area that only include a small percentage of the community, like Solon and Bedford Heights. As the Mayor you have the authority to work with your councils to include your entire community and we would welcome that discussion. The issue here is watershed boundaries, not community boundaries, and we will work to solve stormwater system problems impacting our Member Communities. These solutions may be inside or outside our service area depending on the best and most cost-effective approach.

I need to remind you that you have already benefited from a regional program. Our sanitary projects have been solely regional, funded, in most part, by our customers. For example, basement flooding and sewer capacity issues were alleviated in Beachwood, Lyndhurst, Cleveland Heights and other communities through the construction of the Heights Hilltop Interceptor. Olmsted Falls, Strongsville and other communities benefited from regional investment in the Southwest Interceptor. Finally, Brecksville, Independence and other communities benefited from the construction of the Cuyahoga Valley Interceptor. Huge regional investments were made on behalf of these and other communities and we are all better for it. The Regional Stormwater Management Program follows the same structure – regional system, regional problems, regional solutions, and we all have a better Northeast Ohio.

At this point, we have two choices, we can repair stormwater problems that have long been ignored, demonstrating the ability to think as a progressive community or we can let our infrastructure continue to erode and decay, only to be forced to address these issues at a later date

and at a higher cost to your citizens. It's up to you. My offer to meet with you individually is still good. It seems ludicrous to continue to fight, wasting time and citizens' dollars.

Sincerely,

A handwritten signature in black ink, appearing to read "Julius Ciaccia". The signature is stylized with a large initial "J" and a cursive "Ciaccia".

Julius Ciaccia
Executive Director

Attachments (2)

cc: Council, City of Beachwood
Council, City of Bedford Heights
Council, City of Brecksville
Council, City of Broadview Heights
Council, City of Cleveland Heights
Council, Village of Glenwillow
Council, City of Independence
Council, City of Lyndhurst
Council, Village of Oakwood
Council, City of Olmsted Falls
Council, City of Solon
Council, City of Strongsville
Mayors and Trustees of other Member Communities
Sharon Broussard, The Plain Dealer

12 suburbs challenge sewer district, call storm water fee 'involuntary tax'

TONYA SAMS
Plain Dealer Reporter

Twelve suburban communities are calling a proposed regional sewer district storm water fee an "involuntary tax disguised as a fee," according to a joint news release from the cities.

Beachwood, Bedford Heights, Brecksville, Broadview Heights, Cleveland Heights, Glenwillow, Independence, Lyndhurst, Oakwood, Olmsted Falls, Solon and Strongsville are challenging the legality of a lawsuit that was filed against them by the Northeast Ohio Sewer District in Cuyahoga Common Pleas Court over new sewer fees.

This is the first time that mayors and managers of the communities have issued a statement outside of the lawsuit concerning the fee, according to a legal spokesman for the communities.

The sewer district board members decided in January to impose a fee on home and business owners, schools and churches. The fee centers on property sur-

faces such as roofs and driveways.

The fee, which would affect 330,000 people throughout Cuyahoga County and areas of Summit County, is expected to take effect Jan. 1, 2012.

Collection was set to begin July 1, then was delayed until Oct. 1 after a wave of communities opposed the fee by filing suit against the district.

Money raised from the fee, which is expected to be \$38 million annually, will go toward projects to prevent flooding in communities served by the sewer district.

The leaders of the cities say the increase is coming at a time when the economy has taken a severe hit and it could affect business growth.

City leaders said they have already taken measures to make sure that new development complies with storm water and drainage requirements.

They say their communities do not need the burden of additional fees.

Leaders also said there is no legal or environmental requirement for the fee, that it punishes cities that have responsibly addressed storm water issues in their communities and takes money away from them to help cities miles away, that it does not address regionalism because only certain areas will be affected and that the fee is something that should be voted on, according to the news release.

"What's new? They stated that position in their motions in court," said Julius Ciaccia, sewer district executive director, when told of the statement. "We have millions of problems that have gone unattended and the problems are compounding.

"It's amazing that these communities have the money to spend on legal fees when they have cut back on police and fire," he added.

If the fees are implemented, homeowners could pay \$57 more a year and commercial property owners about \$2,300 a year.

To reach this Plain Dealer reporter:
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PRESS RELEASE

September 20, 2010

**JOINT STATEMENT OF THE MAYORS AND MANAGERS OF THE CITIES OF
BEACHWOOD, BEDFORD HEIGHTS, BRECKSVILLE, BROADVIEW HEIGHTS,
CLEVELAND HEIGHTS, GLENWILLOW, INDEPENDENCE, LYNDBURST,
OAKWOOD, OLMSTED FALLS, SOLON, AND STRONGSVILLE REGARDING
THE NORTHEAST OHIO REGIONAL SEWER DISTRICT'S
PROPOSED STORMWATER PROGRAM AND FEES**

The legality of the Northeast Ohio Regional Sewer District's ("Sewer District") proposed Stormwater Plan and involuntary tax disguised as a fee will be determined by the Courts, and we will, therefore, not comment on those pending legal matters. However, in the interim, as Mayors and Managers of twelve communities which have joined together to challenge the Sewer District's actions on behalf of our citizens, it is incumbent upon us to clarify our intentions and place all of this in proper perspective for the public:

- Our sole goal and responsibility is and always has been to ensure and enhance the public health, welfare and safety of our residents in a cost-effective and equitable manner.
- All would agree this is the worst possible economic time to impose a new tax disguised as a governmental program, which at the very least will undoubtedly inhibit business growth and economic development in this area.
- This is not a good time for existing Sewer District customers, as the Sewer District has projected that for various other reasons (not counting the documented corruption) its sewer rates will likely increase between 18% - 20% starting January 1, 2012.
- Our communities have already expended considerable tax dollars, as well as required all new development to install necessary resources and efforts to control, manage and regulate stormwater and drainage within reasonable parameters; thus placing further burdens for this purpose upon our residents, churches, medical facilities, and businesses would approach the confiscatory, especially given projected future increases in the fees under the Sewer District's Plan.

- There is no existing legal, governmental or environmental requirement mandating the imposition of the Plan or fee, other than the Sewer District's Board (who are unelected appointees) arbitrarily determining to take over local stormwater management, regulation, and other related local development issues as a purely discretionary matter.
- The original plan of operation for the Sewer District as conceived in the 1970's related only to sanitary sewers, and that at least provided a direct service and benefit to property owners, as opposed to the current proposal to extract money out of one community for projects to be constructed in another community miles away, and in which stormwater management may never have been addressed, thereby penalizing those cities which have acted most responsibly.
- This clearly is not a "Regionalism" issue, since under the proposed Plan property owners within significant areas of the county, including entire communities and parts of other communities, will not be charged the proposed fees.
- A new stormwater program and tax at the very least warrant public comment and input, and a vote by the electorate on the proposed imposition of this new tax.

What the Sewer District has proposed is not equitable, and simply not fair to many of the area taxpayers – irrespective of the legalities involved. As a consequence, we are undertaking whatever efforts are appropriate and lawful to fight on behalf of all our residents, churches and businesses to force the Sewer District to seek public input and a vote by the people before they implement their Plan and new tax. In the interim, and as a result of the efforts of our Group, the Sewer District has agreed to indefinitely defer implementation of its Plan and the proposed fee.

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