

Regular Meeting #14 - 2018
Fairfield County Commissioners' Office
April 3, 2018

Review

The Commissioners met at 9:01 a.m. to review legal issues and pending or future action items and correspondence. Commissioner Davis called the meeting to order with the following Commissioners present: Steve Davis and Dave Levacy. Also present were Carri Brown, Staci Knisley, Josh Horacek, Amy Brown-Thompson, Patrick O'Malia, Tony Vogel, Jon Kochis, Todd McCullough, David Miller, Ray Stemen, Jeff Porter, Jeff Barron, Loudan Klein, Jim Bahnsen, Michael Kaper, Chief Alex Lape, Branden Meyer, Dennis Keller, Kyle Witt, Lisa Reade, Rick Szabrak, and Jon Slater, Jr.

Legal Update

Attorney General Opinion about Official Duties of the Office of Commissioner

Mr. Horacek reported that the legal opinion from Attorney General Mike DeWine has been received and discussed. The opinion is related to the official duties of the office of Commissioner.

Ms. Brown reported that copies of the opinion were in the review packets. (The opinion will also be attached to minutes.)

Commissioner Davis reported that Ms. Brown had a teleconference with Commissioner Kiger on March 26th relating to budget parameters to seek input and consultation. The office of the Commissioner is not vacant.

Prosecuting Attorney Kyle Witt advised the Board to continue communication and involvement with Commissioner Kiger.

Commissioner Levacy stated that he visited with Commissioner Kiger yesterday. Commissioner Kiger hopes to come home on Thursday.

Commissioner Davis stated that he hoped Commissioner Kiger is cleared to come home and hopes he is back with us soon.

Commissioner Davis reported that the updated Land Use Plan is effective immediately after the Board of Commissioners pass the resolution today. The plan is for guidance.

Effective Date of the Land Use Plan

Amy Brown-Thompson reported that she provided an update by email to Commissioner Davis about the Land Use Plan and its adoption, which is effective upon adoption. The Regional Planning Commission will be the primary keeper of the plan. It is posted on their webpage. Pursuant to R.C. 713.23, RPC has the authority to create a Land Use Plan for the County. When the plan also covers non-municipal areas, RPC must recommend the plan to the County Commissioners for its approval. After receiving the recommendation from RPC, the County Commissioners approve the plan by resolution pursuant to R.C. 713.25. After the Commissioners approve the plan, the Commissioners certify to RPC that the plan was adopted. Upon receiving this certification, RPC then files the plan with the County Recorder, pursuant to R.C. 713.27. RPC considers this plan a "strategic plan" – and it is RPC's view that the plan will become effective after it is adopted, and this coincides with the legal analysis.

Administration and Budget Update/Carri's List

a. Announcements and Date Reminders

Ms. Brown announced the following:

- *Wear Blue on April 11 for child abuse prevention awareness.; Circus Night is April 19.*

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- *The State of the County Address is April 24.* This will be at Crossroads, with lunch at 11:30 a.m. and the address beginning at noon. *The Lancaster-Fairfield Chamber will accept RSVPs.*
- The next lunch -n- learn session is with the County Sheriff, *May 1 at 11:30 a.m.*

b. Highlights of Resolutions

Ms. Brown highlighted the resolutions for the voting agenda.

We proposed the *renewal of the grant administration contract* with Community Action for CHIP.

We proposed the approval of an award of bid in the amount of \$269,965.50 to The Shelly Company for the *Walnut Township Sidewalk, Drainage & Park Improvement Project*, a FY2016 CDBG Allocation project. We also propose an award of a bid in the amount of \$143,450 to The Shelly Company for the resurfacing project.

The Sheriff proposes the approval of a transfer of a gun to a *retiring officer*, as reported last week but on the voting agenda this week.

The County Engineer proposed the contract awards for *resurfacing and liquid asphalt projects*.

The County Engineer also proposed the approval of the *Hocking 43 bridge* related contract.

Relating to CHIP terms and conditions, we proposed multiple resolutions for the *satisfaction and release of mortgages, in accordance with grant terms and conditions*.

RPC proposed the adoption of the *Land Use Plan*. RPC also proposed the approval of an extension of time to March 31, 2019, for the *Meadowmore development*.

JFS proposed approval of four *network placement contracts*.

There were *financial resolutions* to approve, such as:

- A resolution authorizing the County Auditor to assess and place on the tax duplicate delinquent sewer rentals for the Buckeye Lake Sewer System for the dates of December 15, 2017, through January 15, 2018;
- The credit of interest for the Park District and Health Department for February;
- Reimbursements relating to WIOA;
- An allocation for GIS for a pilot program and 2nd quarter allocations for JFS, MCJDS, and MSY (FCFACF Council);
- Appropriations from unappropriated funds and a fund to fund transfer in preparation for records and asset center activity;
- Account to account transfers of appropriations to properly classify expenditures for IT and the Sheriff;
- Appropriations from unappropriated funds for EMA, DR Court, and the Engineer (non-general fund activity and multiple resolutions);
- "X-mode" accounting transactions for GIS for a project closed in 2017 without final invoices; and
- The payment of bills as needed.

For months, there has been pending a resolution to authorize the consolidation of various Ditch Maintenance Districts and related funds into Subdivision Drainage Maintenance Districts and funds; Ms. Brown will check on this resolution which was prepared by the County Auditor's Office.

c. Administrative Approvals & Budget Update

Ms. Brown reported that administrative approvals for the week were summarized and included in the review packet. There were no questions posed.

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- On March 23, we had a bid opening conference for the improvements to the *parking lot at DACO*. These proposed improvements are for accessibility. We received no bids yet had interested parties. We *reissued the invitation to bid* and provided some additional information regarding the specifications, such as adding a reasonable adjustment to the timeframe if there are justifiable reasons for moving the timeframe. The timeframe remains important given the grant funding availability and the exhibits that are planned.
- As previously reviewed, we plan to have a *contract for services with Ross County* for the use of defined jail bed space. Ross County is remodeling its jail, and they will be using our excess capacity during that time. However, they are starting their remodeling project later than expected.
- With Common Pleas Court and Sheriff representatives, Ms. Brown reviewed the second *Targeted Community Alternatives Program grant opportunity*. TCAP relates to a grant opportunity for alternative services (which would include treatment). TCAP has opponents and proponents across the state. Here in Fairfield County, we in the Commissioners' Office are willing to serve as grant administrator and will provide support. There is consensus with the Courts and the Commission to apply, and now, we are working on what could make sense for the Sheriff and will proceed with an application if we are able to develop consensus on an approach. We have an extension of time for ODRC.
- The "*drone*" work group met on March 27 to review CORSA recommended policies, develop an approach for the purchase of two drones relative to the envisioned use (law enforcement and general operations), and to discuss the expectations for a demonstration. Multiple purposes are being explored. In addition, legal questions are under review, such as the use of a drone for viewings of road or culvert projects, which was not thought to be a likely purpose. There are multiple purposes for the Sheriff, Engineer, Dog Shelter, and other departments. Ms. Brown will provide a report to the Automated Data Processing Board, as we are still very early in the process.
- We are researching the most appropriate way to put a *redundant tower* in place for the law enforcement radios. Once we have more information we will report on the plans. The local government innovation fund loans are no longer available. This is the funding source that put technological upgrades in place for multiple political subdivisions, the Tyler Content Manager, for example.
- In April, HR will be sending out information about online training modules available to all employees. The training is from *ServiceSkills*, a company which delivers soft-skills education to improve customer service, enhance team collaboration, and manage more effectively. The training modules are available via a hosted platform or as Learning Management System (LMS) courseware, these award-winning eLearning modules deliver proven skills and techniques. We are testing the training modules for this year to determine the interest and outcomes for future periods.
- On March 26, Ms. Brown held a *teleconference with Commissioner Kiger* to discuss the parameters for the 2018 budget, as discussed with the Board during our last meeting. She also sent that letter to him by email. The letter will go to all departments this week. With Commissioner Kiger, she also reviewed the process and content of employee evaluations. Commissioner Kiger reviewed the personnel manual earlier. She and Commissioner Kiger also discussed how they might accomplish the required training together. This would be for the three required training courses for Ethics, Unlawful Harassment, and Cybersecurity. Commissioner Kiger seemed eager to come home and may be able to do that soon.
- *April is National County Government Month*. National County Government Month is held each April as an annual celebration of county government. Since 1991, the National Association of Counties (NACo) has encouraged counties to actively promote services and programs they offer. We have scheduled the State of the County Address on April 24; have provided an opportunity for all employees to participate in a Strengths,

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Weaknesses, Opportunities, and Threats analysis; and have scheduled multiple events. A calendar will be globally emailed. The calendar includes events such as the Child Abuse Prevention Breakfast, Circus Night, OSU Extension events, Earth Day activities, parenting classes, and more. The national theme this year is "Serving the Underserved," which is part of our State of the County Address this year.

d. BRAVOs

- Thanks to *Jeff Camechis* for conducting research to further the objectives of the drone work group.
- Bravo to *Todd McCullough and Michael Kaper* for coordinating to support 4-H and the Dog Adoption Center and Shelter with educational partnerships.
- Thanks to *HR and Department Heads* for organizing an approach for participation in the Municipal Court Community Services Program.
- Bravo to *Jay Mattlin and the security committee* for the final testing and approval of the Hall of Justice fire alarm system.
- Thank you to *David Miller* for assisting an elderly resident in need. Mr. Miller helped the gentleman come in out of the cold and made sure his guardians and advocates were contacted.

Old Business (none)

New Business

Road Vacations

Commissioner Davis reported he was aware that there are procedures under review relating to the vacation of roads with potential updates to how the process is now in place for efficiency.

Ms. Brown reported that on March 30, requests for vacating four roads were received. We expect comments from subject matter experts by Thursday, April 12. In addition, she confirmed we have scheduled a short meeting to review procedures.

General Correspondence Received (none)

Calendar Review/Invitations Received

- a. CPS Kickoff Breakfast – Wednesday, April 11 at 8:00 a.m. (*Commissioner Davis & Levacy already RSVP'd*)
- b. 19th Annual Lighthouse Golf Outing - Saturday, May 5th at Valley View Golf Club
- c. FMC State of the Center Address: May 8, 2018, 5 pm Gathering; 5:30 pm Address; RSVP by May 2, 2018 (*Commissioner Davis & Commissioner Levacy will attend*)
- d. Various Ribbon Cutting Ceremonies

FYI

Ms. Brown reported the following information.

- a. The jail population is now 316.
- b. Retrieval sent a notice about a permit modification sent to the Ohio EPA.
- c. We highlighted the Kids Ride Free Flier.
- d. Circus Night is April 19th. A flier was received and posted.
- e. We received correspondence from ODJFS for the mandated share and participation rate for JFS public assistance programs.

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- f. We received a newsletter for Spring 2018 for the OSU Master Gardeners. (The Fairfield County Master Gardener Volunteers invite you to the 10th annual Dig into Gardening event — a one-day educational seminar slated for 10 a.m. April 28)
- g. We also have a newsletter from the Pickerington Senior Center.

Issues Bin – Two Items

No updates were given on the following items:

- Obtaining information from ODNR
- Interest in County Owned Property (Informational Item)

Open Items (none)

Recess

Commissioner Davis stated at 9:18 a.m. that the Commission would be in recess until the voting meeting.

Commissioners' Regular Meeting

A regular meeting of the Fairfield County Board of Commissioners was held on Tuesday, April 3, 2018 beginning at 10:00 a.m., with the following Commissioners present: Steve Davis and Dave Levacy. Also present were Carri Brown, Staci Knisley, David Miller, Jon Slater, Jr., Jim Bahnsen, Branden Meyer, Josh Horacek, Amy Brown-Thompson, Tony Vogel, Jon Kochis, Todd McCullough, C.J. Roberts, Jeremiah Upp, Lisa Reade, Jeff Barron, Rick Szabrak, Ray Stemen, Loudan Klein, and Dennis Keller.

Pledge of Allegiance

Commissioner Davis asked everyone to rise as able, and he led the Pledge of Allegiance.

Announcements

Commissioner Davis asked if there were any announcements.

There were no announcements.

Public Comment

Commissioner Davis asked if anyone from the public who would like to speak or offer comments.

There was no public comment given.

Approval of Minutes for Tuesday, March 20, 2018

On the motion of Dave Levacy and the second of Steve Davis, the Board of Commissioners voted to approve the minutes for the Tuesday, March 20, 2018 Regular Meeting.

Roll call vote of the motion resulted as follows:
Voting aye thereon: Dave Levacy and Steve Davis
Absent: Mike Kiger

Approval of the Commissioners' Office Resolutions

On the motion of Dave Levacy and the second of Steve Davis, the Board of Commissioners voted to approve the following Commissioners' Office Resolutions:

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- 2018-04.03.a A resolution authorizing the County Auditor to assess and place on the tax duplicate delinquent sewer rentals for the Buckeye Lake Sewer System for the dates of December 15, 2017 through January 15, 2018 – Fairfield County Commissioners [Commissioners]
- 2018-04.03.b A resolution to approve an Award of Bid to The Shelly Company for the CDBG FY2016 Fairfield County, Walnut Township Street Resurfacing Project[Commissioners]
- 2018-04.03.c A resolution to approve an Award of Bid to The Shelly Company for the CDBG FY2016 Fairfield County, Walnut Township Sidewalk, Drainage and Park Improvements [Commissioners]
- 2018-04.03.d A resolution to approve a memo expense for interest allocation reimbursement for Fairfield Department of Health – Fund #7012 & Fund# 7321 [Commissioners]
- 2018-04.03.e A resolution to approve a memo expense for interest allocation reimbursement for Fairfield County Historical Parks – Fund # 7308 [Commissioners]
- 2018-04.03.f A resolution approval of appropriate from unappropriated into major expenditure object categories for the Building/Facilities Capital Improvement Fund# 3850 and Record Assets Fund# 3827 and a fund to fund transfer – Fairfield County Commissioners [Commissioners]
- 2018-04.03.g A resolution authorizing an additional allocation for the Geographical Information Systems department of the County Auditor to implement a pilot program-and- to approve the associated fund to fund transfer [Commissioners]
- 2018-04.03.h A resolution authorizing a fund to fund transfer for Fairfield County Job and Family Services (JFS) –2nd Quarter 2018 Allocation - Fairfield County Commissioners [Commissioners]
- 2018-04.03.i A resolution authorizing a fund to fund transfer to the Fairfield County Family Adult Children First Council for Multi-Youth Committee – 2nd payment for the 2018 Allocation - Fairfield County Commissioners [Commissioners]
- 2018-04.03.j A resolution authorizing a fund to fund transfer for the 2nd Quarter 2018 Allocation for the Multi County Juvenile Detention Center (MCJDC) - Fairfield County Commissioners [Commissioners]

Roll call vote of the motion resulted as follows:
Voting aye thereon: Dave Levacy and Steve Davis
Absent: Mike Kiger

Approval of Commissioners/Community Action Resolutions

On the motion of Dave Levacy and the second of Steve Davis, the Board of Commissioners voted to approve the following Commissioners/Community Action Resolutions:

- 2018-04.03.k Approval of Satisfaction of mortgage for Ty D Garrett and Rebecca N Smith -- FY 2012 Neighborhood Stabilization Program (NSP) [Community Action]
- 2018-04.03.l Approval of Release of mortgage liens for assistance provided through the FY 2004 CHIP for Bryan M Bigham -- Private Homeowners Rehab / Acquisition [Community Action]

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- 2018-04.03.m Approval of Release of mortgage liens for assistance provided through the FY 2004 CHIP for Bryan M Bigham -- down payment assistance / private homeowners rehab [Community Action]
- 2018-04.03.n Approval of Release of mortgage liens for assistance provided through the FY 2004 CHIP for Bryan M Bigham -- Private Homeowners Rehab/Acquisition, book 1367 [Community Action]
- 2018-04.03.o A resolution to approve the contracts between Fairfield County and the Community Action Program (CAP) Commission of the Lancaster-Fairfield County Area for administration of the PY 18 Community Housing Impact and Preservation (CHIP) Program and CHIP Program Income projects [Community Action]

Roll call vote of the motion resulted as follows:
Voting aye thereon: Dave Levacy and Steve Davis
Absent: Mike Kiger

Approval of the Domestic Relations Court Resolution

On the motion of Dave Levacy and the second of Steve Davis, the Board of Commissioners voted to approve the following Domestic Relations Court Resolution:

- 2018-04.03.p A resolution to appropriate from unappropriated in a major expenditure object category for Fund 2379 – Computerizing Court/Computerized Legal Research [Fairfield County Domestic Relations Court] [Domestic Relations Court]

Roll call vote of the motion resulted as follows:
Voting aye thereon: Dave Levacy and Steve Davis
Absent: Mike Kiger

Approval of the Economic Development Resolution

On the motion of Dave Levacy and the second of Steve Davis, the Board of Commissioners voted to approve the following Economic Development Resolution:

- 2018-04.03.q A resolution to approve the reimbursement of expenses incurred by Board of County Commissioners Economic Development Department, the administrative and fiscal agent for the Workforce Innovation and Opportunity Act Area 20/21 for administering the program as a memo expenditure for fund 7831 Workforce Innovation OPP Act 20/21 [Economic & Workforce Development]

Roll call vote of the motion resulted as follows:
Voting aye thereon: Dave Levacy and Steve Davis
Absent: Mike Kiger

Approval of the Emergency Management Agency Resolution

On the motion of Dave Levacy and the second of Steve Davis, the Board of Commissioners voted to approve the following Emergency Management Agency Resolution:

- 2018-04.03.r A resolution to request for appropriations for receipts for EMA fund 2090 (Project EMASR) Siren Project [EMA]

Roll call vote of the motion resulted as follows:
Voting aye thereon: Dave Levacy and Steve Davis
Absent: Mike Kiger

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Approval of the Engineer's Office Resolutions

On the motion of Dave Levacy and the second of Steve Davis, the Board of Commissioners voted to approve the following Engineer's Office resolutions:

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| 2018-04.03.s | A resolution to appropriate from unappropriated in a major expenditure object category County Engineer 2580-Subdivisions for subdivision inspections of Meadowmoore Reserve Section 1 [Engineer] |
| 2018-04.03.t | A resolution to appropriate from unappropriated in a major expenditure object category County Engineer 2024-Motor Vehicle for repairs to Coonpath Rd/33A traffic light [Engineer] |
| 2018-04.03.u | A resolution to appropriate from unappropriated in a major expenditure object category County Engineer 2024-Motor Vehicle for purchasing of plotter paper [Engineer] |
| 2018-04.03.v | A Resolution to Approve the Contract Bid Award for the 2018 Purchase of Liquid Asphalt. [Engineer] |
| 2018-04.03.w | A Resolution to Approve the Contract Bid Award for the HOC-43, FAI-33A-7.125 Bridge Repair Project. [Engineer] |
| 2018-04.03.x | A Resolution to Approve the Contract Bid Award for the FAI-CR12/16/90 Resurfacing Project. [Engineer]. |

Roll call vote of the motion resulted as follows:
Voting aye thereon: Dave Levacy and Steve Davis
Absent: Mike Kiger

Approval of the GIS Resolution

On the motion of Dave Levacy and the second of Steve Davis, the Board of Commissioners voted to approve the following GIS resolution:

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| 2018-04.03.y | A resolution to approve conversion of prior year 2017 encumbrance (X-mode) to current year appropriation, Fairfield County Auditor / GIS Fund Department – 2443 [Auditor- Admin] |
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Roll call vote of the motion resulted as follows:
Voting aye thereon: Dave Levacy and Steve Davis
Absent: Mike Kiger

Approval of the Information Technology Resolution

On the motion of Dave Levacy and the second of Steve Davis, the Board of Commissioners voted to approve the following Information Technology resolution:

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| 2018-04.03.z | A resolution approving an account to account transfer into a major expenditure object category -IT [Auditor- Admin] |
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Roll call vote of the motion resulted as follows:
Voting aye thereon: Dave Levacy and Steve Davis
Absent: Mike Kiger

Approval of Job and Family Services Resolutions

On the motion of Dave Levacy and the second of Steve Davis, the Board of Commissioners voted to approve the following Job and Family Services resolutions:

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| 2018-04.03.aa | A resolution regarding Network Placement and Related Services Agreement between Caregiver's Helper Inc., Child Protective Services Department [JFS] |
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- 2018-04.03.bb A resolution regarding Network Placement and Related Services Agreement between Skyfall Residential Homes, LLC, and Child Protective Services Department [JFS]
- 2018-04.03.cc A resolution regarding Network Placement and Related Services Agreement between George Junior Republic in Pennsylvania, and Job and Family Services, Child Protective Services Department [JFS]
- 2018-04.03.dd A resolution regarding Network Placement and Related Services Agreement between The Village Network, Child Protective Services Department [JFS]

Roll call vote of the motion resulted as follows:
Voting aye thereon: Dave Levacy and Steve Davis
Absent: Mike Kiger

Approval of Regional Planning Resolutions

On the motion of Dave Levacy and the second of Steve Davis, the Board of Commissioners voted to approve the following Regional Planning resolutions:

- 2018-04.03.ee A resolution to adopt the Update to the 2002 Development Strategy and Future Land Use Plan [Regional Planning] [Regional Planning Commission]
- 2018-04.03.ff A resolution to approve an extension to the time frame for completing improvements, updating the Development Agreements executed on January 31, 2017 by and between the Board of Commissioners and John E. Donley [Regional Planning] [Regional Planning Commission]

Discussion: Mr. Loudan Klein thanked the Board of Commissioners and all other stakeholders for their support and participation in the development of the Land Use Plan.

Commissioner Davis thanked Mr. Klein and all other staff and stakeholders who helped with the Land Use Plan.

Roll call vote of the motion resulted as follows:
Voting aye thereon: Dave Levacy and Steve Davis
Absent: Mike Kiger

Approval of Sheriff's Office Resolutions

On the motion of Dave Levacy and the second of Steve Davis, the Board of Commissioners voted to approve the following Sheriff's Office resolutions:

- 2018-04.03.gg A resolution to approve the purchasing of a gun by a retiring Officer Sheriff's Office [Sheriff]
- 2018-04.03.hh A resolution authorizing an account to account transfer Fund 2394 CFLP Litter Enforcement [Sheriff]

Roll call vote of the motion resulted as follows:
Voting aye thereon: Dave Levacy and Steve Davis
Absent: Mike Kiger

Approval of Payment of Bills Resolution

On the motion of Dave Levacy and the second of Steve Davis, the Board of Commissioners voted to approve the following Payment of Bills resolution:

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2018-04.03.ii A resolution authorizing the approval of payment of invoices for departments that need Board of Commissioners' approval [Commissioners]

Roll call vote of the motion resulted as follows:
 Voting aye thereon: Dave Levacy and Steve Davis
 Absent: Mike Kiger

Ms. Knisley stated that the next Regular Meeting is scheduled for Tuesday, April 10, 2018 at 10:00 a.m.

Commissioner Davis thanked everyone for their patience relating to not having a meeting last week. He and Commissioner Levacy will keep a forward look at their schedule to avoid situations like that again if possible. They will make sure they give proper notice if there is another week that a meeting that must be missed.

Adjournment

With no further business, on the motion of Dave Levacy and a second of Steve Davis the Board of Commissioners voted to adjourn at 10:08 a.m.

Roll call vote of the motion resulted as follows:
 Voting aye thereon: Dave Levacy and Steve Davis
 Absent: Mike Kiger

Motion by: Dave Levacy Seconded by: Steve Davis

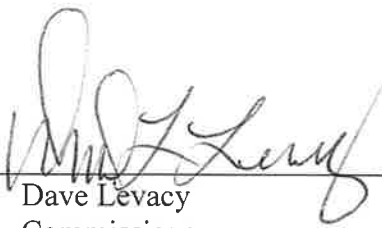
that the April 3, 2018 minutes were approved by the following vote:

YEAS: Levacy, Davis
 ABSTENTIONS: None

NAYS: None
 ABSENT: Mike Kiger

*Approved on April 10, 2018


 Steven A. Davis
 Commissioner


 Dave Levacy
 Commissioner


 Mike Kiger
 Commissioner


 Staci A. Knisley, Acting Clerk

March 20, 2018

The Honorable R. Kyle Witt
Fairfield County Prosecuting Attorney
239 West Main Street
Suite 101
Lancaster, Ohio 43130

SYLLABUS:

2018-007

1. For the purpose of R.C. 305.03(A)(1), the duties of the office of county commissioner are those actions or activities set forth expressly in a statute, or necessarily implied therein that are undertaken by a county commissioner to perform executive and administrative functions for the county.
2. Administration of an oath pursuant to R.C. 305.21, execution of a contract pursuant to R.C. 305.25, execution of a deed pursuant to R.C. 307.10, attendance at a meeting with the county administrator to discuss matters related to the administration of the county, and participation in a training required or suggested by the county's liability insurance carrier are duties of the office of county commissioner for the purpose of R.C. 305.03(A)(1).



MIKE DEWINE
★ OHIO ATTORNEY GENERAL ★

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March 20, 2018

OPINION NO. 2018-007

The Honorable R. Kyle Witt
Fairfield County Prosecuting Attorney
239 West Main Street
Suite 101
Lancaster, Ohio 43130

Dear Prosecutor Witt:

You have requested an opinion whether the performance of certain actions or activities by a county commissioner constitutes the performance of the duties of the office of county commissioner for the purpose of R.C. 305.03(A)(1). You have asked about the following specific actions or activities:

1. A county commissioner's administration of an oath necessary in the discharge of the duties of a board of county commissioners pursuant to R.C. 305.21.
2. A county commissioner's execution of a contract pursuant to R.C. 305.25 when the majority of the board of county commissioners approved the contract and the individual commissioner was given authority to sign the contract on behalf of the board.
3. A county commissioner's execution of a deed pursuant to R.C. 307.09¹ for the transfer of real property that was approved by a majority of the board of county commissioners.
4. A county commissioner's attendance at a meeting with the county administrator to discuss the administration, enforcement, and execution of policies of the board of county commissioners, or other matters relating to the administration of the county.

¹ Your letter cites R.C. 309.10 with respect to your question about the execution of a deed for the transfer of real property by the board of county commissioners. We believe that citation was a typographical error and the intended statute was R.C. 307.09.

5. A county commissioner's participation in a training that the county's insurance carrier requires or suggests all county employees and elected officials attend for the purpose of mitigating the county's exposure to risk.

R.C. 305.03(A)(1) states, "[w]henver any county officer, except the county auditor or county treasurer, fails to perform the duties of office for ninety consecutive days, except in case of sickness or injury as provided in [R.C. 305.03(B) and (C)], the office shall be deemed vacant." If a county officer is "absent because of sickness or injury, the officer shall cause to be filed with the board of county commissioners a physician's certificate of the officer's sickness or injury." R.C. 305.03(B). If a county officer, other than a county auditor or county treasurer, fails to file a physician's certificate within ten days after the expiration of ninety days, the office shall be deemed vacant. *Id.* If a county officer timely files a physician's certificate, "but continues to be absent for an additional thirty days commencing immediately after the last day on which [the physician's] certificate may be filed ..., the office shall be deemed vacant." R.C. 305.03(C).

The word "duties" is not defined in the Revised Code for the purpose of R.C. 305.03. Accordingly, the term should be given its ordinary meaning. *See* R.C. 1.42. *Black's Law Dictionary* 616 (10th ed. 2014) defines "duty" as "[a]ny action, performance, task, or observance owed by a person in an official or fiduciary capacity." Similarly, *Webster's New World College Dictionary* 454 (5th ed. 2014) defines "duty" as "any action, task, etc. required by or relating to one's occupation or position[.]" Those definitions indicate that the word "duties" in R.C. 305.03(A)(1) means those actions, tasks, or observances that are within a county officer's authority to carry out the functions of the county office.

It is well settled that a board of county commissioners is a creature of statute. *State ex rel. Shriver v. Bd. of Comm'rs*, 148 Ohio St. 277, 74 N.E.2d 248 (1947) (syllabus, paragraph 1); 2009 Op. Att'y Gen. No. 2009-040, at 2-296. As a creature of statute, a board of county commissioners and the individual members of that board have only those powers that are expressly set forth in a statute or that are implied as necessary in order to carry out an express power. *State ex rel. Shriver v. Bd. of Comm'rs*, 148 Ohio St. 277, 74 N.E.2d 248 (1947) (syllabus, paragraph 2); *State ex rel. A. Bentley & Sons Co. v. Pierce*, 96 Ohio St. 44, 47, 117 N.E. 6 (1917); 2009 Op. Att'y Gen. No. 2009-040, at 2-296. A board of county commissioners exercises its express and implied statutory powers in order to carry out the executive functions of the county. *See* 2005 Op. Att'y Gen. No. 2005-016, at 2-155 ("[a] board of county commissioners is responsible for governing the county, and is statutorily endowed with a myriad of powers and duties"); 2004 Op. Att'y Gen. No. 2004-051, at 2-439 ("[c]ounty commissioners are responsible for governing the county"); 1957 Op. Att'y Gen. No. 1476, p. 780, at 782 ("[t]he executive functions of a county are largely vested in the board of county commissioners"). The executive functions of the county involve the general government of the county and administration of its affairs. *See generally Webster's New World College Dictionary* 508 (5th ed. 2014) (defining "executive" as "of, capable of, or concerned with carrying out duties, functions, etc. or managing affairs ... empowered and required to administer...; administrative"); *Merriam-Webster's Collegiate Dictionary* 436 (11th ed. 2005) (defining "executive" as "having administrative or managerial responsibility").

The Honorable R. Kyle Witt

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The ordinary meaning of "duty" and the principles explained above governing the powers of a board of county commissioners lead us to conclude that, for the purpose of R.C. 305.03(A)(1), the duties of the office of county commissioner are those actions or activities set forth expressly in a statute, or necessarily implied therein that are undertaken by a county commissioner to perform executive and administrative functions for the county. Thus, any action or activity involving the exercise of express or implied statutory powers in furtherance of the administration and operation of the county is a duty of the office of county commissioner for the purpose of R.C. 305.03(A)(1).

We now consider whether the specific actions and activities mentioned in your letter constitute duties of the office of county commissioner for the purpose of R.C. 305.03(A)(1). The first action or activity described in your letter is a county commissioner's administration of an oath necessary in the discharge of the duties of a board of county commissioners pursuant to R.C. 305.21. R.C. 305.21 states "[a]ny county commissioner may administer any oath necessary in the discharge of the duties of the board of county commissioners." Insofar as the administration of an oath pursuant to R.C. 305.21 is an action or activity set forth expressly in a statute, which is undertaken by a county commissioner to perform executive and administrative functions for the county, it constitutes a duty of the office of county commissioner for the purpose of R.C. 305.03(A)(1).

You next ask whether a county commissioner's execution of a contract pursuant to R.C. 305.25² when the majority of the board of county commissioners approved the contract and the individual commissioner was given authority to sign the contract on behalf of the board and whether a county commissioner's execution of a deed pursuant to R.C. 307.09 for the transfer of real property that was approved by a majority of the board of county commissioners constitute duties of the office of county commissioner. There are several sections of the Revised Code that authorize a board of county commissioners to enter into contracts for a variety of purposes. *See, e.g.*, R.C. 305.171; R.C. 307.02; R.C. 307.05; R.C. 307.15; R.C. 307.63; R.C. 307.69. In addition, R.C. 307.09 authorizes a board of county commissioners to sell any real property belonging to the county that is not needed for public use, when the sale is in the interests of the county. Entering into a contract or executing a deed on behalf of the county for a purpose expressly or impliedly permitted by a statute involves the performance of executive or administrative functions of the county. Accordingly, both of those activities are duties of the office of county commissioner for the purpose of R.C. 305.03(A)(1).

The fourth action taken by a county commissioner, about which you inquire, is a county commissioner's attendance at a meeting with the county administrator to discuss the administration, enforcement, and execution of policies of the board of county commissioners, or other matters relating to the administration of the county. A board of county commissioners may appoint a county administrator, "who shall be the administrative head of the county under the direction and supervision of the board and who shall hold office at the pleasure of the board." R.C. 305.29. "[T]he [county]

² R.C. 305.25 states "[n]o contract entered into by the board of county commissioners ... shall be valid unless it has been assented to at a regular or special session of the board, and entered in the minutes of its proceedings by the county auditor or the clerk of the board."

administrator is responsible for making policy recommendations to the board, implementing the board's programs, policies, and decisions, coordinating the work of county departments and the delivery of county services, and performing such other duties as are assigned by the board of county commissioners." 2005 Op. Att'y Gen. No. 2005-016, at 2-156; *see generally* R.C. 305.30 (powers and duties of a county administrator). In addition, a county administrator "has no independent power [but] derives all of his authority from, and in accordance with the limitations established by, the board of county commissioners." *Id.* at 2-156. The relationship between a board of county commissioners and a county administrator was further described as follows:

An administrator's duties are naturally incident to the performance of the board's own duties, and it is within the statutory authority of the board to assign the performance of the administrator's duties to one or more of the commissioners. Although a board of county commissioners is not required to employ an administrator, it remains directly responsible for ensuring that any necessary duties that could be assigned to an administrator are carried out.

Id. at 2-160 (footnote omitted). Therefore, insofar as a county administrator serves at the pleasure of, and under the direction of the board of county commissioners, and performs duties that are incident to the board's own duties, attendance at a meeting with the county administrator to discuss the administration, enforcement, and execution of policies of the board of county commissioners, or other matters relating to the administration of the county constitutes a duty of the office of county commissioner for the purpose of R.C. 305.03(A)(1).

Finally, you ask whether a county commissioner's participation in a training that the county's insurance carrier requires or suggests all county employees and elected officials attend for the purpose of mitigating the county's exposure to risk constitutes a duty of the office of county commissioner for the purpose of R.C. 305.03(A)(1). A board of county commissioners may be sued, and in certain circumstances, a county may be subject to civil tort liability for injury, death, or loss to person or property caused by an act or omission of the county or its employees. R.C. 305.12; R.C. 2744.02; R.C. 2744.03. To protect the county from loss incurred as a result of a finding of liability, a board of county commissioners is authorized to procure policies of insurance to insure against liability for damage or injury to persons or property caused by county officers and employees. *See, e.g.,* R.C. 9.83; R.C. 307.44; R.C. 307.441; R.C. 2744.08; R.C. 2744.081. Implicit in the express authority to procure a policy of insurance is the authority to comply with the requests or requirements of the insurance carrier to maintain that insurance coverage. Taking steps to mitigate or reduce the potential exposure of the county to civil liability for damage or injury to persons or property is part of a county commissioner's executive and administrative functions. Therefore, a county commissioner's participation in a training that the county's insurance carrier requires or suggests all county employees

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and elected officials attend for the purpose of mitigating the county's exposure to risk constitutes a duty of the office of county commissioner for the purpose of R.C. 305.03(A)(1).³

Based on the foregoing, it is my opinion, and you are hereby advised that:

1. For the purpose of R.C. 305.03(A)(1), the duties of the office of county commissioner are those actions or activities set forth expressly in a statute, or necessarily implied therein that are undertaken by a county commissioner to perform executive and administrative functions for the county.
2. Administration of an oath pursuant to R.C. 305.21, execution of a contract pursuant to R.C. 305.25, execution of a deed pursuant to R.C. 307.10, attendance at a meeting with the county administrator to discuss matters related to the administration of the county, and participation in a training required or suggested by the county's liability insurance carrier are duties of the office of county commissioner for the purpose of R.C. 305.03(A)(1).

Very respectfully yours,



MICHAEL DEWINE
Ohio Attorney General

³ The particular actions or activities identified in your letter and addressed in this opinion are not all the duties of the office of county commissioner. The office of county commissioner involves many duties.

In addition, this opinion does not address the circumstances necessary to deem a county office vacant under R.C. 305.03(A)(1) and does not consider whether, under certain facts, a county commissioner's office is vacant under the statute. This opinion addresses only what constitutes a duty of the office of county commissioner for the purpose of R.C. 305.03(A)(1).