

**BAZETTA TOWNSHIP TRUSTEES  
SPECIAL MEETING AGENDA**

**Date:** October 19, 2024, 8:00 am  
Bazetta Township Administration Building  
3372 State Route 5, N.E.  
Cortland, Ohio 44410

**Present:**

Chairman Trustee Michael Hovis \_\_\_\_  
Vice Chairman Trustee Bob McBride \_\_\_\_  
Trustee Michael Morelli \_\_\_\_  
Fiscal Officer Stacy Marling \_\_\_\_

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Chairman Trustee Hovis opened the meeting with the Pledge of Allegiance and followed with a moment of silence.

Trustee McBride reminded the assemblage of the Public Comment Procedures and that the meeting was being video, and audio recorded for informational purposes.

**CORRESPONDENCE (COPIES AVAILABLE UPON REQUEST:**

**128-24** Resolution to authorize the Trumbull County Prosecutor’s Office to review the agreement between the Bazetta Township Board of Trustees, the Trumbull County Board of Commissioners, and Trumbull County Engineer Smith, and to waive the conflict-of-interest set forth and explained in Trumbull County Assistant Prosecuting Attorney Jason Toth’s letter of October 16, 2024, to the Board of Trustees for the resurfacing of McCleary Jacoby Road in Bazetta Township.

**Motion:** Trustee \_\_\_\_\_  
**Second:** Trustee \_\_\_\_\_  
**Vote:** Trustee McBride \_\_\_\_ Trustee Hovis \_\_\_\_ Trustee Morelli \_\_\_\_

**129-24** Resolution to adjourn meeting at \_\_\_\_\_.

**Motion:** Trustee \_\_\_\_\_  
**Second:** Trustee \_\_\_\_\_  
**Vote:** Trustee McBride \_\_\_\_ Trustee Hovis \_\_\_\_ Trustee Morelli \_\_\_\_

\_\_\_\_\_  
Chairman Trustee Michael J. Hovis

\_\_\_\_\_  
Date

\_\_\_\_\_  
Vice Chairman Trustee Bob McBride

\_\_\_\_\_  
Date

\_\_\_\_\_  
Trustee Michael Morelli

\_\_\_\_\_  
Date

*First Assistant*  
CHRISTOPHER D. BECKER

*Chief-Civil Division*  
WILLIAM J. DANSO

*Chief-Criminal Division*  
CHARLES L. MORROW

*Senior Trial Attorney*  
MICHAELA A. BURNETT

*Chief Appellate Division*  
RYAN J. SANDERS

*Chief Juvenile Division*  
STANLEY A. ELKINS

*Investigators*  
MICHAEL C. KRAFCIK  
ROY ANNE MALAK



**DENNIS WATKINS**

*Trumbull County Prosecuting Attorney*

4th FLOOR ADMINISTRATION BUILDING  
160 HIGH STREET N.W. • WARREN, OHIO 44481-1092  
PHONE: 330-675-2426 • FAX 330-675-2431  
Prosecutor@co.trumbull.oh.us

*Civil Division*  
LYNN B. GRIFFITH, III  
SAMANTHA L. MONROE  
JASON M. TOTTH  
*Criminal Division*  
DEENA L. DeVICO  
GINA BUCCINO THOMAS  
KEVIN J. TRAPP

*Child Assault Division*  
DIANE L. BARBER, CHIEF  
GABRIEL M. WILDMAN

*Child Support Division*  
DAVID E. BOKER, CHIEF  
JAMES F. LEWIS

*Investigator/Public Information Officer*  
GUY M. VOGRIN

October 16, 2024

Trumbull County Board of Commissioners  
Trumbull County Administration Building  
160 High Street, N.W.  
Warren, Ohio 44481-1092  
(sent via e-mail)

Bazetta Township Board of Trustees  
3372 State Route 5 N.E.  
Cortland, Ohio 44410  
(sent via mail to Board of Trustees and e-mail to Trustee Michael J. Hovis)

Randy L. Smith, PE, PS  
Trumbull County Engineer  
650 North River Road  
Warren, Ohio 44483  
(sent via e-mail)

Re: Resurfacing of McCleary Jacoby Road in Bazetta Township

Dear Commissioners, Trustees, and Engineer Smith:

It is my understanding that Tonya Rogers, Esq. has authorized the expenditure of ARPA funds relative to the resurfacing of McCleary Jacoby Road in Bazetta Township ("Township"). Further, it is my understanding that for ARPA funds to be properly spent on the referenced road resurfacing, Engineer Smith's office will oversee the road resurfacing pursuant to a written agreement between the Board of Commissioners and the Township's Board of Trustees, as authorized by R.C. 5535.08. A copy of the proposed written agreement, which has been drafted on behalf of the Board of Commissioners by Attorney Rogers, is enclosed herewith for your reference.

As you know, our office serves as statutory legal counsel to the Board of Commissioners and Engineer Smith pursuant to R.C. 309.09(A)

and to the Township's Board of Trustees pursuant to R.C. 309:09(B) (1). Accordingly, in order for our office to review the enclosed agreement on behalf of the Township and Engineer Smith, our office must abide by the terms of Ohio Rule of Professional Conduct 1.7.

Ohio R. Prof. Cond. 1.7(a) provides that "[a] lawyer's acceptance or continuation of representation of a client creates a conflict of interest if either of the following applies: (1) the representation of that client will be directly adverse to another current client; (or) (2) there is a substantial risk that the lawyer's ability to consider, recommend, or carry out an appropriate course of action for that client will be materially limited by the lawyer's responsibilities to another client, a former client, or a third person or by the lawyer's own personal interests." (Emphasis in original).

Ohio R. Prof. Cond. 1.7(b) provides that "[a] lawyer shall not accept or continue the representation of a client if a conflict of interest would be created pursuant to division (a) of this rule, unless all of the following apply: (1) the lawyer will be able to provide competent and diligent representation to each affected client; (2) each affected client gives informed consent, confirmed in writing; (and) (3) the representation is not precluded by division (c) of this rule." (Emphasis in original).

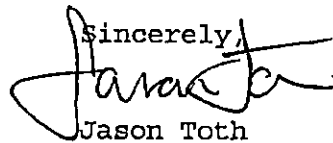
Ohio R. Prof. Cond. 1.7(c), as referenced in Ohio R. Prof. Cond. 1.7(b) (3), provides that "[e]ven if each affected client consents, the lawyer shall not accept or continue representation if either of the following applies: (1) the representation is prohibited by law; (or) (2) the representation would involve the assertion of a claim by one client against another client represented by the lawyer in the same proceeding."

Even though the enclosed agreement pertains to work that should not be controversial to any party, it is possible that litigation could result from such agreement. In the exercise of an abundance of caution, our office will presume that the circumstances set forth in Ohio R. Prof. Cond. 1.7(a) exist. Notwithstanding this presumption, it is our office's position that we will be able to provide competent and diligent representation to the Township and Engineer Smith as concerns a review of the enclosed agreement. Further, it is our office's position that such representation is not prohibited by law, and that currently, such representation does not involve the assertion of a claim by one client against another client. To this end, please be advised that the Board of Commissioners on Grievances and Discipline of the Ohio Supreme Court has opined that a county prosecuting attorney may represent multiple clients in the negotiation of a contract, if the requirements of Ohio R. Prof. Cond. 1.7 are satisfied. See Ohio Adv. Op. 2009-3.

Accordingly, in order for our office to move forward and review the enclosed agreement on behalf of the Township and Engineer Smith, our office requests that the Board of Commissioners and the Township's

Board of Trustees adopt resolutions authorizing our office to review the enclosed agreement on behalf of the Township's Board of Trustees and Engineer Smith, and that Engineer Smith confirm to our office in writing that he authorizes our office to review the enclosed agreement on behalf of him and the Township's Board of Trustees. Otherwise, our office will not be able to review the enclosed agreement and the parties will need to obtain private legal counsel.

If you have any questions relative to the matters discussed herein, I am available to discuss them at your convenience. Further, if the Commissioners have any questions relative to the substance of this letter. Attorney Rogers, who is being copied on this letter, may be contacted.

Sincerely,  


Jason Toth  
Assistant Prosecuting Attorney

Enclosure

Cc: Tonya Rogers, Esq. (sent via e-mail)