

**OPINION NO. 82-101****Syllabus:**

Pursuant to R.C. 5543.01, a county engineer may not survey a township road at the request of the board of township trustees if such survey is made solely in connection with the maintenance of such road.

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**To: Richard L. Ross, Morgan County Prosecuting Attorney, McConnellsville, Ohio**  
**By: William J. Brown, Attorney General, December 10, 1982**

I have before me your opinion request in which you ask whether a county engineer must survey a township road upon request of a board of township trustees in order to determine the precise location of a road for maintenance purposes.

As a creature of statute, a county engineer has only those powers and duties imposed upon him by statute. See 1977 Op. Att'y Gen. No. 77-079. Pursuant to R.C. 5543.01(B), a county engineer has general charge of the construction, reconstruction, resurfacing, and improvement of roads by boards of township trustees under certain circumstances. More specifically, R.C. 5573.01 states, in pertinent part:

When the board of township trustees has determined that any road shall be constructed, reconstructed, resurfaced, or improved, such board shall determine by resolution, by unanimous vote if acting without a petition, and by a majority vote if acting upon a petition, the route and termini of such road, the kind and extent of the improvement, and at the same time shall order the county engineer to make such surveys, plans, profiles, cross sections, estimates, and specifications as are required for such improvement.

The board may order the engineer to make alternate surveys, plans, profiles, cross sections, estimates, and specifications, providing therein for different widths of roadway, or different materials, and approve all or any number of such alternate surveys, plans, profiles, cross sections, estimates, and specifications. (Emphasis added.)

Thus, where a board of township trustees contemplates constructing, reconstructing, resurfacing, or improving a road, the county engineer must survey the road when ordered to do so by the board of township trustees. 1956 Op. Att'y Gen. No. 7136, p. 690 (syllabus, paragraph one); 1932 Op. Att'y Gen. No. 4410, vol. II, p. 759. I note, however, that the engineer's duties as set forth in R.C. 5573.01 are limited to those situations where the township has decided to construct, reconstruct, resurface, or improve a road.

It is my understanding, however, that your concern is whether the county engineer must survey a township road where such survey is requested solely for maintenance purposes. R.C. 5543.01 states, in part:

The engineer may not perform any duties in connection with the repair, maintenance, or dragging of roads by boards of township trustees, except that upon the request of any board of township trustees he shall inspect any road designated by it and advise as to the best methods of repairing, maintaining, or dragging such road.  
(Emphasis added.)

This provision expressly prohibits the county engineer from performing any duties in connection with the repair, maintenance, or dragging of roads by a board of township trustees, except that the engineer must, at the request of the township trustees, inspect any road which the township wishes to repair, maintain, or drag, and advise the township as to the best methods to use in performing such functions. Thus, since the township in the situation you pose is requesting the survey solely for purposes of maintenance, the county engineer is not authorized to make such survey.

It is, therefore, my opinion, and you are advised, that pursuant to R.C. 5543.01, a county engineer may not survey a township road at the request of the board of township trustees if such survey is made solely in connection with the maintenance of such road.