

OPINION 65-209

Syllabus:

Section 1545.02, Revised Code, does not authorize a board of county commissioners to make application for the creation of a park district.

To: George F. Burkhardt, Monroe County Pros. Atty., Woodsfield, Ohio
By: William B. Saxbe, Attorney General, November 30, 1965

Your request for my opinion asks the following question:

" 'May the Board of County Commissioners under Section 1545.02 file an application with the Probate Judge for the creation of a Park District encompassing the entire county?' "

Section 1545.02, Revised Code, states in pertinent part as follows:

"Application for the creation of a park district shall be made to the probate judge of the county within which the district is to be located. Such application shall either be signed by a majority of the electors residing within the proposed district as determined by the number of electors voting in the last preceding general election within such territory, or, in lieu thereof, shall be authorized by resolution adopted by any board of township trustees or legislative authority of any municipal corporation within such proposed district. * * *"

Clearly, Section 1545.02, supra, does not expressly authorize a board of county commissioners to make application for the creation of a park district. Nor does Section 301.26, Revised Code, authorize a board of county commissioners to establish a park district for the county on its own. Opinion No. 2229, Opinions of the Attorney General for 1961, page 276. On pages 277 and 278, that opinion states:

"As to a 'park district' such may be established under Chapter 1545., Revised Code, to which you refer. The establishment is initiated, however, by an application (by qualified electors, or a resolution of a township or municipal corporation in the proposed area) to the probate judge (Section 1545.02, Revised Code). A hearing is then had and the judge may enter an order creating the district (Sections 1545.03 and 1545.04, Revised Code). The district may include all or a part of the county (Section 1545.01, Revised Code). At no time does a board of county commissioners have any authority in the establishment of the park district."

I find the reasoning of Opinion No. 2229, supra, persuasive and concur. A board of county commissioners plays no role whatsoever in the establishment of a park district as outlined in Chapter 1545., Revised Code.

It should be noted that the procedure for establishing a park district has been altered somewhat, in respects

not material to disposition of your question, by Section 302.18 (C), Revised Code, in counties which have adopted the alternative form of government pursuant to Chapter 302., Revised Code.

As a final observation, it seems only reasonable to conclude that where the legislature has specifically provided for two alternative procedures for initiating creation of a park district, in lieu of an application signed by one-half the electorate, these are the only two alternatives which it intended to authorize.

In conclusion, then, it is my opinion that Section 1545.02, Revised Code, does not authorize a board of county commissioners to make application for the creation of a park district.