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SYLLABUS:

The office of township trustee is incompatible with the position of advisor to the county planning commission and may not be held concurrently by the same person.

Columbus, Ohio, March 26, 1963

Honorable John G. Peterson
Prosecuting Attorney
Greene County
Xenia, Ohio

Dear Sir:

I have before me your request for my opinion which reads:

“The County Commissioners of Greene County have sought my opinion as to the compatibility of the jobs of advisor to the County Planning Commission and that of township trustee.

“The County Commissioners recently employed a township trustee of one of the townships in the county as an advisor to the Planning Commission and have set up a salary and expense allowance for the operation of his office.”

Your inquiry does not indicate the areas in which the township trustee will be required to render advice. It is presumed that such advice will relate to matters wherein the county planning commission is authorized to make recommendations. His responsibilities could include rendering advice as to the location of highways,

parks, civic centers and other improvements specified in Section 713.23, Revised Code.

Section 713.22, Revised Code, authorizes the board of county commissioners to establish a county planning commission which shall consist of eight citizens of the county, together with the members of the board. Its duties, as specified in Section 713.23, Revised Code, are as follows:

“The regional or county planning commission shall make plans and maps of the region or county respectively, showing the commission’s recommendation for systems of transportation, highways, park and recreational facilities, the water supply, sewerage and sewage disposal, garbage disposal, civic centers, and other public improvements which affect the development of the region or county respectively, as a whole or as more than one political unit within the region or county, and which do not begin and terminate within the boundaries of any single municipal corporation.”

As provided by Section 713.25, Revised Code, the board of county commissioners may adopt such plan so far as it relates to nonmunicipal territory and thereafter no public building, roadway, bridge, viaduct, or other public improvement or utility, publicly or privately owned, whose construction or location would constitute a departure from the plan, shall be constructed or authorized by the board except by unanimous vote.

Township trustees, on the other hand, are elected officials and as such are duty bound to act in the best interest of the township. The board of township trustees is empowered to improve roads pursuant to Section 5571.01, Revised Code, which provides as follows:

“The board of township trustees may construct, reconstruct, resurface, or improve any public road or part thereof under its jurisdiction or any county road, inter-county highway, or state highway within its township. In the case of a county road the plans and specifications for the proposed improvement shall first be submitted to the board of county commissioners of the county and receive its approval, and in the case of an intercounty or state highway, plans and specifications shall first be submitted to the director of highways and receive his approval. The board of township trustees may widen,

straighten, or change the direction of any part of a road in connection with the proceedings for its improvement.”

The township trustees may, in accordance with Section 5571.07, Revised Code, be compelled by petition to exercise the power vested in them by Section 5571.01, Revised Code.

A township trustee cannot, of course, abandon his responsibilities to the township while acting in an advisory capacity to the county planning commission. As a township trustee he may be required to review matters relating to the location of highways, parks, civic centers and other improvements considered advantageous to the township. He will be required to pass on the advisability of these improvements as a member of the board of township trustees. As an advisor to the county planning commission he may be required to render advice concerning these same matters. In such advisory capacity he could be in a position to influence recommendations either similar or opposed to those of the board of township trustees.

In addition to the above, it should also be noted that as an advisor to the county planning commission, a township trustee could be in a position to influence recommendations as to county improvements directly affecting his township which will be submitted to the board of county commissioners for approval. As a member of the board of township trustees he may be required subsequently to submit recommendations to the board of county commissioners which depart from those of the county planning commission. In such event, as provided by Section 713.25, Revised Code, the board of county commissioners could not, except by unanimous vote, approve the recommendations of the board of township trustees. Consequently, as advisor to the county planning commission, a township trustee could be in a position to influence recommendations which might subsequently interfere with the exercise of his duties as a township trustee.

In instances where county and township interests do not coincide, it would not be possible for the township trustee to render impartial advice. The fact that the county planning commission need not accept the advice of the township trustee serving in such

advisory capacity is immaterial since a conflict of interest will result in an attempt by one person to discharge the duties of both.

Therefore, it is my opinion and you are advised that the office of township trustee is incompatible with the position of advisor to the county planning commission and may not be held concurrently by the same person.

Respectfully,
WILLIAM B. SAXBE
Attorney General