

1641.

CITY COUNCIL—POWER TO FIX COMPENSATION FOR ADDITIONAL DUTIES OF PRESIDENT PRO TEM.

SYLLABUS:

Council of a municipality may within the limitations of Section 4209, General Code, fix a greater amount of compensation to cover the additional duties of the president pro tem. However, there is no authority to fix a separate sum for such purpose and any action in reference to the fixing of such salary is subject to the provisions of Section 4213, General Code.

COLUMBUS, OHIO, March 20, 1930.

The Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—Your recent communication reads:

“Section 4210, G. C., reads:—

‘Within ten days from the commencement of their term, the members of council shall elect a president pro tem, a clerk, and such other employes of council as may be necessary, and fix their duties, bonds and compensation. The officers and employes of council shall serve for two years, but may be removed at any time for cause, at a regular meeting by a vote of two-thirds of the members elected to council.’

Section 4209, G. C., fixes the limits of compensation of members of council.

Question. May a city council legally provide compensation in addition to that provided under authority of Section 4209, G. C., for that member who is elected president pro tem?”

Section 4209, General Code, to which you refer and which relates to the compensation of members of council provides:

“The compensation of members of council, if any is fixed, shall be in accordance with the time actually consumed in the discharge of their official duties, but shall not exceed one hundred and fifty dollars per year, each, in cities having a population according to the last preceeding federal census, of twenty-five thousand or less. For every thirty thousand additional inhabitants so determined, such compensation may be, but shall not exceed, an additional one hundred dollars per year, each, but the salary shall not exceed twelve hundred dollars per annum, and shall be paid semi-monthly. A proportionate reduction in his salary shall be made for the non-attendance of any member upon any regular or special meeting of council; provided, however, that two-thirds of the members elected to council may excuse any member from attendance at any regular or special meeting, and when so excused no reduction in his salary shall be made for such non-attendance.”

In my Opinion No. 1543 issued to your bureau under date of February 20, 1930, it was held that under the council-manager plan of municipal government, council could properly fix additional compensation to cover the additional duties imposed upon the chairman. While, of course, an entirely different set of statutes was involved, it is believed by analogy that the conclusions reached in said opinion

will apply to the situation you present. Of course, such salary would necessarily have to be within the limitations set forth in Section 4209, hereinbefore quoted, and there should be but one salary fixed. In other words, there seems to be no authority to fix a salary as councilman and a separate one for the president pro tem, but a different sum may be fixed as the salary of such latter official.

While Section 4209, *supra*, provides for fixing the salaries of councilman, it does not require that the salary of the president pro tem be the same as the amount fixed for other members. Of course, Section 4213, General Code, which inhibits the changing of the salary of an officer during his term would have application to such a proceeding.

You are therefore advised that in my opinion the council of a municipality may within the limitations of Section 4209, General Code, fix a greater amount of compensation to cover the additional duties of the president pro tem. However, there is no authority to fix a separate sum for such purpose and any action in reference to the fixing of such salary is subject to the provisions of Section 4213, General Code.

Respectfully,
GILBERT BETTMAN,
Attorney General.

1642.

APPROVAL, ABSTRACT OF TITLE TO LAND OF MILTON T. DILTS IN
THE CITY OF TROY, MIAMI COUNTY, OHIO.

COLUMBUS, OHIO, March 20, 1930.

HON. ROBERT N. WAID, *Director of Highways, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge receipt of your recent communication submitting for my examination and approval abstract of title, warranty deed, encumbrance estimate No. 1009, and controlling board certificate relating to the proposed purchase of Outlots Nos. 52 and 53 in the city of Troy, Miami County, Ohio, which property is owned of record by one Milton T. Dilts, and is more particularly described as follows:

Beginning at a post at the northwest corner of Out lot No. 53 and being on the east line of Union Street in said city; thence south 89 degrees 32' east, 417.5 feet along the line between Out lots No. 53 and No. 54 to a point on the line of State property on the west side of the Miami and Erie Canal; thence south 5 degrees 13' west, 63 feet along said property line; thence south 2 degrees 45' east 122.0 feet continued along said property line to the line between Out lots No. 51 and No. 52; thence north 89 degrees 32' west, 420.5 feet along the line of said Out lots to the east side of Union Street; thence north 0 degrees 28' east, 183.0 feet along the east side of Union Street to the place of beginning, and containing 1.748 acres.

Upon careful examination of the abstract of title of this property, I find that said Milton T. Dilts has a good merchantable fee simple title to the above described property, free and clear of all encumbrances whatsoever.