

The fact that the commissioners appropriated a lump sum for salaries of employees without designating in this appropriation the salary of any particular class of employes in the county home does not prevent the commissioners from later providing by resolution the rate of pay of different classes of employes within the appropriation.

I am therefore of the opinion in specific answer to your questions that:

1. It is not within the power of the board of county commissioners to provide by rule that the superintendent of the county home shall not employ or discharge the employes without the consent of the county commissioners. The statute reposes in the superintendent of the county home power to employ such labor from time to time as may be needed.

2. A board of county commissioners is empowered by statute to fix the rate of wages to be paid to employes in and about the county home and this may be done by resolution of the board of commissioners even though the board had previously appropriated a lump sum for the payment of such employes without designating at the time of the appropriation the rate to be paid the different classes of employes. •

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

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2655.

APPROVAL—ABSTRACT OF TITLE, WARRANTY DEED, CONTRACT ENCUMBRANCE RECORD NO. 14, CONTROLLING BOARD CERTIFICATE AND CERTIFIED COPY OF CONSERVATION COUNCIL PROCEEDINGS RELATING TO THE PROPOSED PURCHASE OF A PARCEL OF LAND IN ST. MARYS TOWNSHIP, AUGLAIZE COUNTY, OHIO.

COLUMBUS, OHIO, May 12, 1934.

HON. WILLIAM H. REINHART, *Conservation Commissioner, Columbus, Ohio.*

DEAR SIR:—You have submitted for my examination and approval an abstract of title, warranty deed, contract encumbrance record No. 14, Controlling Board certificate and a certified copy of certain proceedings of the Conservation Council, all relating to the proposed purchase by the State of Ohio for the use of your Department of a parcel of land situated in St. Marys Township, Auglaize County, Ohio, and being a part of the northeast quarter of section 17, town 6 south, range 4 east. This parcel of land is more particularly described by metes and bounds as follows:

Beginning at an iron post in the northwest corner of lands of said Priscilla and Belva Marshall in said Section, thence easterly along the northerly line thereof, Twenty and six tenths (20.6) feet to an iron stake; thence southerly parallel with and twenty (20) feet distant easterly from the westerly line of said lands about Four Hundred and Fifty (450) feet, more or less to the water line of the Canal Feeder, so-called: thence

westerly along the water lines of said Canal Feeder about Twenty and five tenths (20.5) feet to a point; thence northerly to and along the westerly line of lands of said Grantors, the same being the easterly line of the State Fish Hatchery, so-called, Four Hundred and forty-two (442) feet to the place of beginning, containing about Twenty-one hundredths of an acre of land, subject to the rights of the State of Ohio to said Canal Feeder and adjacent lands and all legal highways.

Upon examination of the abstract of title submitted, which abstract is certified by the abstracter under date of March 14, 1934, I find that Belva Marshall has a good, indefeasible fee simple title to the above described parcel of land subject to an outstanding life estate in Priscilla Marshall, but otherwise free from encumbrances except the undetermined taxes on said property for the year 1934. Inasmuch as, by the provisions of the deed conveying this property to the State of Ohio, the warranty clause therein with respect to taxes extends only to those due and payable in December, 1933, and prior thereto, and the state as the grantee assumes and agrees to pay the taxes on this property thereafter becoming due and payable, the undetermined taxes for the year 1934, above referred to, are not here noted as an exception to the title by which this property is now owned and held; and the same is hereby approved.

From an examination of the warranty deed tendered by said Belva Marshall, the owner of the fee in and to this property, and by Priscilla Marshall, the owner of the life estate therein, I find that this deed has been properly executed and acknowledged by said grantors, and that the form of said deed is such that the same is legally sufficient to convey to the State of Ohio the fee simple title to this property free and clear of all encumbrances except the undetermined taxes for the year 1934, above referred to. Said deed is accordingly herewith likewise approved.

On examination of the copy of contract encumbrance record No. 14 submitted to me, I find that said encumbrance record has been properly executed and that there is shown thereby a sufficient balance in the proper appropriation account to pay the purchase price of said property, which purchase price is the sum of \$225.00.

It likewise appears from the Controlling Board certificate, above mentioned, which is signed by C. H. Burk, President, that on January 29, 1934, said Board approved the transfer of said sum of \$225.00 from the fishing license fund appropriated for the use of the Conservation Division by House Bill No. 699, to the item of G-1 lands for the purpose of making said sum of money available for the purchase of this particular parcel of land, and thereby authorizing such purchase.

It appears further, in this connection, from a copy of the minutes of the Conservation Council, that the purchase of this property for fish hatchery purposes was authorized and provided for by proper proceedings of the Conservation Council duly had and taken at a meeting of said Council under date of January 4, 1934, as provided for by section 1435-1, General Code.

I am herewith returning with my approval said abstract of title, warranty deed, encumbrance record, Controlling Board certificate and other files relating to the purchase of this property.

Respectfully,  
JOHN W. BRICKER,  
*Attorney General.*