

JACKSON CITY COUNCIL
Regular Session
April 28, 2008
7:00 p.m.

Call to Order..... President Speakman
Pledge of Allegiance..... Mr. Wiggins
Opening Prayer..... Mr. Wiggins

Roll Call

Approval of Minutes

April 14, 2008

VISITORS:

COMMITTEE REPORTS:

- Utility
- Budget & Finance
- Police, Fire & Traffic
- Service
- Railroad
- Building/Recreation
- City Auditor
- Law Director
- Mayor
- Service/Safety Director

ORDINANCES AND RESOLUTIONS

CORRESPONDENCE

OLD BUSINESS

NEW BUSINESS

ADJOURN

JACKSON CITY COUNCIL

Minutes from
April 14, 2008
7:00 p.m.
Regular Session

Jackson City Council met in regular session on Monday, April 14, 2008 at 7:00 p.m. at the Jackson City Council chambers. President Ron Speakman called the meeting to order. The Pledge of Allegiance was given, led by Mr. Elliott. The Prayer was given, led by Mr. Wiggins.

A roll call was taken as follows:

- Mr. Evans – present
- Mr. Adams – present
- Mr. Eric Brown – present
- Mr. Smith – present
- Mr. Cary Brown – absent
- Mr. Elliott - present
- Mr. Wiggins – present

Mr. Eric Brown made a motion to excuse Mr. Cary Brown, seconded by Mr. Wiggins. In a voice vote, all Council agreed.

Mr. Smith made a motion to approve the minutes of March 24, 2008 regular session seconded by Mr. Elliott. In a voice vote, all Council agreed.

VISITORS - None

COMMITTEE REPORTS

UTILITY – No Report

BUDGET & FINANCE – No report

POLICE, FIRE & TRAFFIC – No Report

SERVICE

Mr. Smith stated two meetings had been held to discuss the cemetery at Hammertown. Mr. Detty noted that he had done more research and spoke with outside council and they cannot find a way to give this property to the township it will have to be bid. Mayor Heath asked if we can accept or reject any and all bids. Mr. Detty stated that Council had adopted legislation to give the bid to the most responsible. Mr. Evans stated that it must state cemetery use only, this could cause litigation. Mr. Detty stated this could not be allowed to be sold for developmental use. Mr. Smith made a motion to have the bid state for cemetery use only, pinpointing the amount of acreage needed, seconded by Mr. Brown. Mr. Evans stated that it should not exceed a certain amount and let the buyer pay for the survey. Mr. Smith and Mr. Brown with drew their motions. Mr. Smith made a motion to allow Mr. Detty to draw up a bid with guidelines, acreage and surveying cost, seconded by Mr. Eric Brown.

Mr. Smith went on to say that Mr. Sommers and Mr. Volrath visited the meeting, they provided good information on the tree harvesting at Hammertown. This project should be completed on November 1, 2008. They approved of the work that had been completed, and assured the committee that the financial obligation had been paid to date. The forest should be reviewed again in 10-15 years, this includes the Jisco forest. We can not stop this project now, we must fulfill the contract. Mr. Sheward stated that he was meeting with Mr. Sommers on Wednesday at 9:00 a.m. to walk the area. Mr. Speakman stated that he still thinks this is criminal, he is not a tree hugger, but feels the funds generated will be wasted. Mr. Smith noted that this was passed by the past council and administration and that only 15% of the project remains

to be completed. Mr. Smith went on to say that potholes, alleys, yellow line and the street cut ordinance were passed on to the administration for review and recommendation.

RAILROAD

Mr. Wiggins passed out a report (see attached) stating that all members were present at the last meeting. Operations were discussed, pending new business and rehab. A meeting is scheduled for Thursday to discuss moneys to be used, Belliso could have heavy cars, and we look forward to upgrading the rail.

BUILDING/RECREATION

Mr. Smith noted that the committee had met twice; they discussed the state of the Memorial Building, pictures were presented to show the water damage, the roof definitely needs repaired. They requested that the administration proceed with the architects for recommendations. The Municipal Pool Complex was discussed; see adjusted rates and changes to the name and hours. There was also discussion of an entrance to the Manpower Park. Mr. Sheward stated that the entrance is now closed, after meeting with BOE, they will utilize an entrance between the bus garage and cleaners and the city will install a fence to separate the buses. The fence will be rented for \$600; this is for a 6 month period and will be installed next week. The park will be closed next week, due to the demolition of the structures at the Walgreen's site. Mr. Heath stated that Mrs. Hudson was concerned with the 3rd and 4th hour rate, this puts higher than Wellston and Oakhill. Mr. Smith stated this is up in the air, discussed rental over a two hour period. Mr. Heath stated Wellston's 4 hour rate is \$140.00, and that would cover our cost. Mr. Smith asked if anyone ever rented over two hours. Mr. Eric Brown stated that the two hour rate was set, with the hopes of scheduling two parties per night. This gives the city more opportunity to rent the pool. Mr. Smith stated leave it as judgment call with the administration. Mr. Sheward stated the items for the skate park are ordered, the street and alley had removed the rocks and cutting material and sand was installed around the edges.

CITY AUDITOR

Mr. Humphreys stated that he had passed out the monthly report, see attached. In regards to the Memorial Building, we have the permits to proceed upstairs, still need to meet with the state inspector. This building needs a roof quickly. Mr. Humphreys noted that Mr. Wiggins comments on a low interest loan for the railroad, the city can not afford this, we must be cautious. Ordinances 43-08 and 44-08 need passed tonight, re-enrollment starts Wednesday. Mr. Evans stated as far as the railroad, when it was purchased, two items were set in stone, never to sell to an operator and no city funds would be spent on the railroad. Those are two things he will not go against.

LAW DIRECTOR

Mr. Detty discussed a memo given to the council members, regarding ethics laws and a summary of the sunshine law concerning executive session. He has been approached about legislation on the following: j-turns, (this will go to Police, Fire & Traffic committee), possible drive off on gas requiring customer to pay before pumping and junk dealers, whom and where materials obtained (this will go to the Service committee). In regards to the Criminal complaint filed against the city this was dismissed, with additional matters. Requesting executive session to discuss: Pending litigation captioned Uribe v City of Jackson, Pending litigation captioned State of Ohio v City of Jackson – consent decree/EPA matters, Potential/Imminent/Threatened litigation involving the Auditor of State as to rents and right of ways, Potential/Imminent/Threatened litigation concerning city owned real estate located next to Manpower park, Potential/Imminent/Threatened litigation involving the Ohio Department of Natural Resources/EPA, Mr. Smith stated there are only two scrap dealers in the city, Star Recycling and Mr. Cary Brown's yard, and isn't there legislation pending at the state level. Mr. Detty stated that the police have checked on several things taken to dealers.

MAYOR

Mayor Heath discussed the field house, when this structure was built it was promised to the public. The city contracted with BOE for \$10,000, which help fund a full time recreation director. The BOE has elected to discontinue their involvement with the city, this is very disappointing, and we could lose the full time position and many programs. School officials are formulating a plan to do this in house. Our numbers are down in the leagues, if we lose the recreation director we will lose the ability to offer these programs. The goal is to see programs with youth in our community. This is open for discussion, we cannot justify this position.

We had to replace the vinyl fence at Manpower due to vandalism; it will most likely need chain link. The executive session can wait until all business is done. Mr. Humphreys asked if they were shutting the field house down. Mr. Heath stated just while they restructure. Mr. Eric Brown asked do we fund the resource officer. Mrs. Sexton stated \$11,000 a year is provided by the school. Mr. Heath stated grants were for new officers, and then required the city to keep the officer. Mr. Eric Brown stated he had seen where Oakhill has officers partially funded by grants. Mr. Heath stated he will look into, often the grants run out; we have not money to pay. Mr. Speakman stated make sure this is all looked at when we talk to the BOE. Mr. Elliott asked if Lisa could be the director at the pool. Mr. Heath stated most sports are from May to July, with no much after that, the basketball program is in question with out the field house.

SAFETY/SERVICE DIRECTOR

Mr. Sheward stated that memos were included in the packets, cost to keep the streets clean did not get an exact figure, but snow removal was around \$20,000. The report on the work of the Fire Fighters Association on the former BCS building, the project is complete the agreement was met and there was little cost to the city, looks very nice. This was a very good project. We recently made an agreement with Ohio Valley Recovery Services, to collect unpaid utility bills; we have given them two years worth. They keep 40% of monies recovered. \$40,000 outstanding from last year. Mr. Speakman asked how it will be handled when the city does the collection. Mr. Sheward stated that the city had kept some; Mrs. Young is the lead for the city. There was no movement in the change order, please don't bring off the table. He had talked with Panich & Noel, engineering and bid packet for the roof at the Memorial Building. Mr. Speakman asked about the condition of the foam. Mr. Sheward stated the foam is exposed, scar fire; add 1" of foam and reseal, also around the drains. A lot of water is coming from those drains. Will come back with recommendation. Mr. Speakman stated the roof should have had yearly maintenance. Mr. Sheward stated that two years ago, the cost was \$80,000 to repair.

Mr. Smith made a motion to go into executive session to discuss: Pending litigation captioned Uribe v City of Jackson, Pending litigation captioned State of Ohio v City of Jackson – consent decree/EPA matters, Potential/Imminent/Threatened litigation involving the Auditor of State as to rents and right of ways, Potential/Imminent/Threatened litigation concerning city owned real estate located next to Manpower park, Potential/Imminent/Threatened litigation involving the Ohio Department of Natural Resources/EPA, seconded by Mr. Eric Brown. In a roll call vote, all Council agreed. Council went into executive session at 7:55. Mr. Smith made a motion to return to regular session, seconded by Mr. Eric Brown. In a voice vote, all Council agreed.

ORINANCES AND RESOLUTIONS

ORDINANCE 27-08

AN ORDINANCE AUTHORIZING A CHANGE ORDER IN A CONTRACT BETWEEN THE CITY OF JAKCSON, OHIO, AND GAYLOR, INC. CONCERNING THE VETERANS DRIVE SUBSTATION, LICK SUBSTATION, AND 138 KV TRANSMISSION LINE CONSTRUCTION PROJECT, AND DECLARING AN EMERGENCY.

Third Reading

Ordinance is dead, due to lack of motion to put back on the table.

ORDINANCE NO. 41-08

AN ORDINANCE AMENDING JACKSON CODIFIED ORDINANCE SECTION 957.01, RELATING TO RATES AND RENTALS – MUNICIPAL POOL, AND 957.02, RELATING TO HOURS – MUNICIPAL POOL.

Second Reading

Mr. Smith stated that this should only be a second reading, in order to review the 3 and 4 hour rate for pool parties.

Mr. Eric Brown made a motion to amend the ordinance by adding an emergency clause, seconded by Mr. Smith. In a voice vote, all council agreed.

ORDINANCE NO. 43-08

AN ORDINANCE FINDING THE LOWEST RESPONSIBLE AND RESPONSIVE BID, AWARDED THE CONTRACT FOR HEALTH INSURANCE COVERAGE, TO ANTHEM, THROUGH OAK HILL FINANCIAL INSURANCE AGENCY, 135 E. HURON STREET, JACKSON, OHIO 45640, AND DECLARING AN EMERGENCY.

First Reading

Mr. Eric Brown made a motion to adopt the ordinance, seconded by Mr. Evans. In a voice vote, all Council agreed.

Mr. Sheward stated the committee had met, discussed different proposals and we picked the policy with the same coverage, little higher deductible, with minor access to the Max 105 and with a 0% rate increase. Mr. Heath commended Mr. Sheward and the employees in their effort to save the citizens of Jackson money.

Mr. Evans made a motion to suspend the rules, seconded by Mr. Adams. In a roll call vote, Council voted as follows:

Mr. Evans – yes
Mr. Adams – yes
Mr. Eric Brown – yes
Mr. Smith – yes
Mr. Cary Brown – absent
Mr. Elliott – yes
Mr. Wiggins – yes

In a roll call vote to adopt the ordinance, Council voted as follows:

Mr. Evans – yes
Mr. Adams – yes
Mr. Eric Brown – abstain
Mr. Smith – yes
Mr. Cary Brown – absent
Mr. Elliott – yes
Mr. Wiggins – yes

ORDINANCE NO. 43-08 DULY ADOPTED

ORDINANCE NO. 44-08

AN ORDINANCE FINDING THE LOWEST RESPONSIBLE AND RESPONSIVE BIDS, AWARDED THE CONTRACT FOR VISION INSURANCE COVERAGE, TO THE ANTHEM INSURANCE CO., THROUGH OAK HILL FINANCIAL INSURANCE AGENCY, 135 E. HURON STREET, JACKSON,

OHIO 45640, AND AWARDING THE CONTRACT FOR DENTAL INSURANCE AND LIFE INSURANCE COVERAGE, TO THE STANDARD INSURANCE CO., THROUGH OAK HILL FINANCIAL INSURANCE AGENCY, 135 E. HURON STREET, JACKSON, OH IO 45640 AND DECLARING AN EMERGENCY.

First Reading

Mr. Evans made a motion to adopt the ordinance, seconded by Mr. Smith. In a voice vote, all Council agreed.

Mr. Sheward thanked the Auditor's office and Mrs. Sexton for their dedicated work on this project.

Mr. Evans made a motion to suspend the rules, seconded by Mr. Smith. In a roll call vote, Council voted as follows:

Mr. Evans – yes
Mr. Adams – yes
Mr. Eric Brown – yes
Mr. Smith – yes
Mr. Cary Brown – absent
Mr. Elliott – yes
Mr. Wiggins – yes

In a roll call vote to adopt the ordinance, Council voted as follows:

Mr. Evans – yes
Mr. Adams – yes
Mr. Eric Brown – abstain
Mr. Smith – yes
Mr. Cary Brown – absent
Mr. Elliott – yes
Mr. Wiggins – yes

ORDINANCE NO. 44-08 DULY ADOPTED

ORDINANCE NO. 45-08

AN ORDINANCE FINDING THE LOWEST RESPONSIBLE AND RESPONSIVE BID, AWARDING THE CONTRACT FOR THE WATER PLANT FIELD MAINTENANCE SOFTWARE SYSTEM TO IWATER, 11 MARCONI, SUITE A, IRVINE, CALIFORNIA 92618-2786, AND DECLARING AN EMERGENCY.

First Reading

Mr. Eric Brown made a motion to adopt the ordinance, seconded by Mr. Adams. In a voice vote, all Council agreed.

Mr. Sheward stated this was the software discussed with the Utility Committee and it was recommended.
Mr. Adams stated that the funding was there for this purchase.

Mr. Wiggins made a motion to suspend the rules, seconded by Mr. Smith. In a roll call vote, Council voted as follows:

Mr. Evans – yes
Mr. Adams – yes
Mr. Eric Brown – yes
Mr. Smith – yes
Mr. Cary Brown – absent

Mr. Elliott – yes
Mr. Wiggins – yes

In a roll call vote to adopt the ordinance, Council voted as follows:

Mr. Evans – yes
Mr. Adams – yes
Mr. Eric Brown – yes
Mr. Smith – yes
Mr. Cary Brown – absent
Mr. Elliott – yes
Mr. Wiggins – yes

ORDINANCE NO. 45-08 DULY ADOPTED

RESOLUTION NO. 12-08

A RESOLUTION AUTHORIZING A THEN AND NOW CERTIFICATE, AND DECLARING AN EMERGENCY.

First Reading

Mr. Eric Brown made a motion to adopt the resolution, seconded by Mr. Elliott. In a voice vote, all Council agreed.

Mr. Humphreys stated there are four then and nows, two of which he could not sign. The service director is trying to stop this, will meet with the supervisor tomorrow to show the proper procedure to avoid. Mr. Heath stated that Mr. Sheward had talked to the employee today and made it clear this was not to happen again. Mr. Evans stated this is the last meeting that he will vote for a then and now.

Mr. Adams made a motion to suspend the rules, seconded by Mr. Smith. In a roll call vote, Council voted as follows:

Mr. Evans – yes
Mr. Adams – yes
Mr. Eric Brown – yes
Mr. Smith – yes
Mr. Cary Brown – absent
Mr. Elliott – yes
Mr. Wiggins – yes

In a roll call vote to adopt the resolution, Council voted as follows:

Mr. Evans – yes
Mr. Adams – yes
Mr. Eric Brown – yes
Mr. Smith – yes
Mr. Cary Brown – absent
Mr. Elliott – yes
Mr. Wiggins – yes

RESOLUTION NO. 12-08 DULY ADOPTED

RESOLUTION NO. 13-08

A RESOLUTION AUTHORIZING A THEN AND NOW CERTIFICATE, AND DECLARING AN EMERGENCY.

First Reading

Mr. Eric Brown made a motion to adopt the resolution, seconded by Mr. Elliott. In a voice vote, all Council agreed.

Mr. Smith made a motion to suspend the rules, seconded by Mr. Adams. In a roll call vote, Council voted as follows:

Mr. Evans – yes
Mr. Adams – yes
Mr. Eric Brown – yes
Mr. Smith – yes
Mr. Cary Brown – absent
Mr. Elliott – yes
Mr. Wiggins – yes

In a roll call vote to adopt the resolution, Council voted as follows:

Mr. Evans – yes
Mr. Adams – yes
Mr. Eric Brown – yes
Mr. Smith – yes
Mr. Cary Brown – absent
Mr. Elliott – yes
Mr. Wiggins – yes

RESOLUTION NO. 13-08 DULY ADOPTED

RESOLUTION NO. 14-08

A RESOLUTION AUTHORIZING A THEN AND NOW CERTIFICATE, AND DECLARING AN EMERGENCY.

First Reading

Mr. Wiggins made a motion to adopt the resolution, seconded by Mr. Elliott. In a voice vote, all Council agreed.

Mr. Sheward stated this was an ongoing project, started during the temporary budget and there were unexpected cost. Mr. Eric Brown asked if this was a second repair. Mr. Sheward stated yes, there was a problem with the generator, adjustments were made along with additional repairs and one was rented during this process.

Mr. Smith made a motion to suspend the rules, seconded by Mr. Eric Brown. In a roll call vote, Council voted as follows:

Mr. Evans – yes
Mr. Adams – yes
Mr. Eric Brown – yes
Mr. Smith – yes
Mr. Cary Brown – absent
Mr. Elliott – yes
Mr. Wiggins – yes

In a roll call vote to adopt the resolution, Council voted as follows:

Mr. Evans – yes
Mr. Adams – yes

Mr. Eric Brown – yes
Mr. Smith – yes
Mr. Cary Brown – absent
Mr. Elliott – yes
Mr. Wiggins – yes

RESOLUTION NO. 14-08 DULY ADOPTED

RESOLUTION NO. 15-08

A RESOLUTION AUTHORIZING A THEN AND NOW CERTIFICATE, AND DECLARING AN EMERGENCY.

First Reading

Mr. Eric Brown made a motion to adopt the resolution, seconded by Mr. Wiggins. In a voice vote, all Council agreed.

Mr. Sheward stated that Mr. Humphreys could have approved this. Mr. Smith asked if these were background checks for employees. Mrs. Sexton stated yes, there was an error in the estimate.

Mr. Smith made a motion to suspend the rules, seconded by Mr. Elliott. In a roll call vote, Council voted as follows:

Mr. Evans – yes
Mr. Adams – yes
Mr. Eric Brown – yes
Mr. Smith – yes
Mr. Cary Brown – absent
Mr. Elliott – yes
Mr. Wiggins – yes

In a roll call vote to adopt the resolution, Council voted as follows:

Mr. Evans – yes
Mr. Adams – yes
Mr. Eric Brown – yes
Mr. Smith – yes
Mr. Cary Brown – absent
Mr. Elliott – yes
Mr. Wiggins – yes

RESOLUTION NO. 15-08 DULY ADOPTED

RESOLUTION NO. 16-08

A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF JACKSON TO SUBMIT AN APPLICATION FOR THE COMMUNITY HOUSING IMPROVEMENT PROGRAM (CHIP), AND EXECUTE ANY AND ALL DOCUMENTS CONCERNING THE CHIP, AND DECLARING AN EMERGENCY.

First Reading

Mr. Eric Brown made a motion to adopt the resolution, seconded by MR. Adams. In a voice vote, all Council agreed.

Mr. Heath stated this and the next resolution concern the Community Housing Program and need passed tonight.

Mr. Evans made a motion to suspend the rules, seconded by Mr. Elliott. In a roll call vote, Council voted as follows:

Mr. Evans – yes
Mr. Adams – yes
Mr. Eric Brown – yes
Mr. Smith – yes
Mr. Cary Brown – absent
Mr. Elliott – yes
Mr. Wiggins – yes

In a roll call vote to adopt the resolution, Council voted as follows:

Mr. Evans – yes
Mr. Adams – yes
Mr. Eric Brown – yes
Mr. Smith – abstain
Mr. Cary Brown – absent
Mr. Elliott – yes
Mr. Wiggins – yes

RESOLUTION NO. 16-08 DULY ADOPTED

RESOLUTION NO. 17-08

A RESOLUTION ADOPTING A RESIDENTIAL ANTI-DISPLACEMENT AND RELOCATION ASSISTANCE PLAN FOR THE CITY OF JACKSON, OHIO, AND DECLARING AN EMERGENCY.

First Reading

Mr. Adams made a motion to adopt the resolution, seconded by Mr. Eric Brown. In a voice vote, all Council agreed.

Mr. Wiggins made a motion to suspend the rules, seconded by Mr. Eric Brown. In a roll call vote, Council voted as follows:

Mr. Evans – yes
Mr. Adams – yes
Mr. Eric Brown – yes
Mr. Smith – yes
Mr. Cary Brown – absent
Mr. Elliott – yes
Mr. Wiggins – yes

In a roll call vote to adopt the resolution, Council voted as follows:

Mr. Evans – yes
Mr. Adams – yes
Mr. Eric Brown – yes
Mr. Smith – abstain
Mr. Cary Brown – absent
Mr. Elliott – yes
Mr. Wiggins – yes

RESOLUTION NO. 17-08 DULY ADOPTED

Mr. Smith made a motion to go into executive session to discuss the following: Pending litigation captioned Uribe v City of Jackson, Pending litigation captioned State of Ohio v City of Jackson – consent decree/EPA matters, Potential/Imminent/Threatened litigation involving the Auditor of State as to rents and right of ways, Potential/Imminent/Threatened litigation concerning city owned real estate located next to Manpower park, Potential/Imminent/Threatened litigation involving the Ohio Department of Natural Resources/EPA,, seconded by Mr. Wiggins. In a roll call vote, all Council approved. Council went into executive session at 8:21 p.m.

Mr. Eric Brown made a motion to come out of executive session, seconded by Mr. Smith. In a voice vote, all Council agreed. Council returned to executive session at 9:05 p.m.

CORRESPONDENCE - None

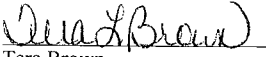
OLD BUSINESS

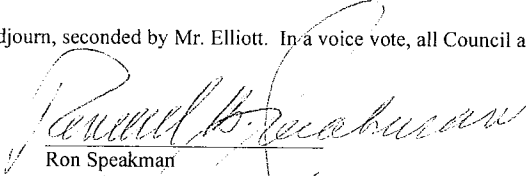
Mr. Evans stated that we were still paying the attorneys from Columbus, \$35,000 this year, not including this month. Would like to give 30 day notice. Mr. Evans made a motion that all information on pending cases need to be forwarded to Mr. Detty, he will prepare a letter to send to the attorneys, seconded by Mr. Adams. Mr. Heath stated that Mr. Detty has taken steps in that direction, the only items they are working on are the rents and right of ways, home rule in regards to the consent order, those records can go to Mr. Martin. Mr. Detty stated there should be minor expenses for April. Mr. Evans stated we have paid close to a \$1 million to these attorneys and have not won a case. In a roll call vote, all Council agreed.

NEW BUSINESS - None

ADJOURN

Mr. Smith made a motion to adjourn, seconded by Mr. Elliott. In a voice vote, all Council agreed. Council adjourned at 9:10 p.m.


Tera Brown
Clerk
Date 4-28-08


Ron Speakman
Council President
Date 4-28-08



RANDY R. HEATH, *Mayor*
WILLIAM R. SHEWARD, *Director of Public Service / Safety*

CITY OF JACKSON

MEMORIAL BUILDING 145 BROADWAY ST. JACKSON, OHIO 45640
(740) 286-3224 (740) 286-2201

MEMORANDUM

TO: City Council Members
FROM: Bill Sheward,
Director of Public Service/Safety
DATE: April 10, 2008
RE: Snow Removal Report

During the Winter of 2007-2008:

<i>Call outs:</i>	<i>18</i>		
<i>Tons of salt used:</i>	<i>324</i>	<i>=</i>	<i>\$15,552.00</i>
<i>Total hours worked:</i>	<i>159</i>	<i>=</i>	<i>\$2,600.00 labor approx.</i>
<i>Total miles treated:</i>	<i>3,393</i>	<i>=</i>	<i>\$1,512.00 fuel approx.</i>
<i>Number of trucks used:</i>	<i>1 - 4</i>		

*\$19,664.00 Total approx. cost of
2007-08 snow removal*

Jackson County Apple Festival
Held Annually Third Full Week in September





RANDY R. HEATH, *Mayor*
WILLIAM R. SHEWARD, *Director of Public Service / Safety*

CITY OF JACKSON

MEMORIAL BUILDING 145 BROADWAY ST. JACKSON, OHIO 45640
(740) 286-3224 (740) 286-2201

MEMORANDUM

TO: City Council Members
FROM: Bill Sheward,
Director of Public Service/Safety
DATE: April 10, 2008
RE: Completion of Fire Dept building renovation

Attached you will find a list of expenses incurred and salvage income from the recent demolition and partial reconstruction of the former Buckeye Community Services building by the Jackson Firefighters Association. There were no injuries, all work performed was voluntary and without compensation. The group worked together and completed the project in very reasonable time considering weather conditions.

The firefighters deserve kudos for a job well done, and as a result of the efforts they have, even if only temporarily, a very attractive usable meeting and training center.

Jackson County Apple Festival
Held Annually Third Full Week in September



Memorandum

To: Mr. William Sheward
Safety/ Service Director

cc: Mr. Randy Heath, Mayor
Members of City Council

From: David Channell, Assistant Fire Chief

Date: April 14, 2008

Re: Buckeye Community Services Building

An agreement was reached between the City of Jackson and the Jackson Firefighters Association for the demolition of the unusable portion of the Buckeye Community Services building that was damaged by fire. The agreement stated that the Association would demolish the building and receive any monies collected from the salvage. The final amount received from all salvageable materials was \$2595.86. These monies have been used to purchase items that will allow the remaining portion of the building to be used as a training/meeting room. This is something our department has needed for 35 years.

Monies from the Fire Department budget were used for the demolition and renovation of the BCS building. Below is a summary of those expenditures.

Rumpke Waste	For waste removal	\$1344.02
John's Fire Extinguisher	2 Fire Extinguishers	\$72.00
Jerry's Do It Center	Supplies	\$3089.14
Quality Supply	Supplies	\$521.48
West Virginia Electric	Supplies	\$1438.32
State of Ohio	Permit Fee	\$403.25
Stewart Electric	Pre State Inspection Fee	\$140.00
Total Expenditures		\$7008.21

Donations to this project were made by Western Auto (fence supplies) and Allen Jones (labor).

WILLIAM C. MARTIN
ATTORNEY AT LAW

141 Portsmouth Street
Post Office Box 926, Jackson, Ohio 45640
*telephone (740) 286-8054 * fax (740) 286-1878*

April 7, 2008

John L. Detty
City of Jackson Law Director
145 Broadway St.
Jackson, OH 45640

Re: State of Ohio vs. City of Jackson (re sewage deposit)
Jackson County Municipal Court, Case No. 08-CRB-256

Dear Jack:

Enclosed is a file-stamped copy of the Dismissal Order in above-referenced case.

Sincerely,



William C. Martin

WCM/bd
Enclosure

cc: Prosecuting Attorney Jonathan Blanton, with enclosure
Ron Speakman, with enclosure
Mayor Randy Heath, with enclosure

IN THE MUNICIPAL COURT OF JACKSON COUNTY, OHIO

State of Ohio
Division of Wildlife,

Plaintiff

-vs-

City of Jackson,

Defendant

*
*
*
*
*
*
*
*

Case No. CRB 0800256

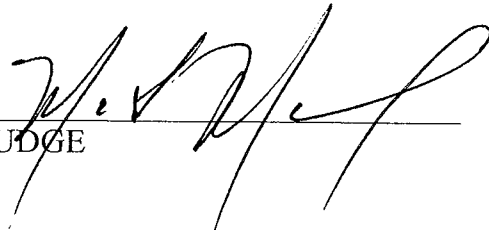
FILED

APR 7 2008

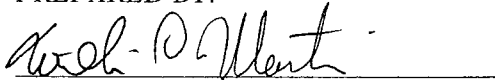
JACKSON COUNTY MUNICIPAL COURT
Diana K. Morris, Clerk DISMISSAL ORDER

Upon the Plaintiff's motion and for good cause shown, this case is
DISMISSED without prejudice.

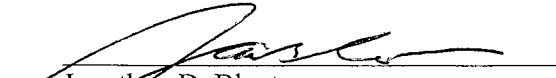
JUDGE



PREPARED BY:


William C. Martin
Attorney for Defendant City of Jackson

ORDER AGREED TO BY:


Jonathan D. Blanton
Prosecuting Attorney

Railroad Committee Report

April 14, 2008

Thank you, Mr. President.

The Railroad Committee met on March 27, 2008. All members of the committee, plus Service Director-Bill Sheward, Council President,-Ron Speakman, Councilmen Cary Brown and Eric Brown, were present. Also attending the meeting was Gabriel Hall, John Hall, and Shane Goodman of U.S. Rail Corporation. Separate minutes of this meeting were kept and filed by Council Clerk Tera Brown.

Curt Wiggins reported that U.S. Rail had kept it's commitment of providing all requested information and reports by Mid-March. This information was turned over to Randy Smith and Tom Evans for their review.

Several railroad operation items were discussed including railroad inspections, AluChem Sur-Charge, Car Storage in Vinton County, the pending lawsuit with a rail car leasing company, conditions of the railroad line, tunnels, and bridges, and methods to improve overall communication between the City and the Railroad Operator.

We discussed pending new rail business opportunities involving Ohio Basic Minerals and Bellisio Foods. Everyone agreed that it was important to hold a joint meeting with Ohio Railroad Development Commission (ORDC), as requested by Lou Jannazo, Chief, of Project Development for ORDC.

Two subsequent meetings including Mayor Heath and Service Director Sheward, the Railroad Committee, and U.S. Rail have been held with ORDC. A third meeting is scheduled for this Thursday, April 17th. The purpose of these meetings has been to develop a plan to maximize our joint efforts to leverage federal, state, and local Grants and Low Interest Loan monies for rehabilitating our railroad.

The pending new business involves very heavy rail cars, which makes it imperative that we rehabilitate the railroad. We have also involved The Jackson County Economic Development unit in these activities. We plan to finalize the potential movement volume by customer, the number of new jobs, and the revenue stream at the meeting this Thursday.

I would like to personally thank everyone that has been involved for the strong effort of cooperation necessary to bring this project to a satisfactory conclusion.

I would ask Councilman Evans and Councilman Smith if they have any comments to add.

Curt Wiggins,
Chair, Railroad Committee

City of Jackson

Phone: 740-286-1112

Fax: 740-286-8788

E-Mail: jdetty@jacksonohio.us

John L. "Jack" Detty

Law Director

Memorandum

TO: Randy Heath, Mayor
William Sheward, Safety/Service
Director
Ronald Speakman, Council President
Tom Evans, Council Member at Large
Troy Adams, Council Member at Large
Eric Brown, Council Member at Large
Randy Smith, 1st Ward Council
Member
Cary Brown, 2nd Ward Council Member
Jeff Elliott, 3rd Ward Council Member
Curt Wiggins, 4th Ward Council
Member

FROM: John L. "Jack" Detty

Cc: Tera King, City Council Clerk

DATE: April 14, 2008

SUBJECT: Executive Sessions

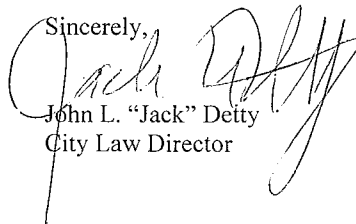
Privileged and Confidential Communication


Dear Administration and Council Members:

In order to familiarize yourself with the law and process of going into Executive Sessions find attached excerpts from the Ohio Attorney General's Open Meetings book.

This information explains the reasons an executive session may occur, as well as the process and procedures.

Hopefully this information will be beneficial to you. If you have any questions please feel free to contact me.

Sincerely,

John L. "Jack" Detty
City Law Director

 **Open Meetings Act:
The Public's Rights**

RIGHT TO ATTEND. A person is guaranteed the right to attend and observe a public meeting, *not* the right to be heard at that meeting.¹²⁰ A disruptive person waives this right to attend and may be removed from the meeting.¹²¹

RIGHT TO RECORD. Audio and video recording may *not* be prohibited¹²², but the public body is permitted to establish reasonable rules regulating the use of such equipment, such as requiring equipment to be silent, unobtrusive, self-contained, and self-powered to limit interference with the ability of others to hear, see, and participate in the meeting.¹²³ However, at least one federal court has held that there is no constitutional right to videotape public meetings.¹²⁴

VOTING METHOD. Unless a particular statute requires a specified method of voting, the public cannot insist on a particular form of voting – the body may use its own discretion in determining the method it will use.¹²⁵ The Open Meetings Act does not require a roll call vote, except when adjourning into executive session.¹²⁶ The use of secret ballots has only been recognized as permissible for county political party central committees.¹²⁷

¹²⁰ *Community Concerned Citizens v. Union Twp. Bd. of Zoning Appeals*, No. CA91-01-009, 1991 Ohio App. LEXIS 5718 (12th Dist. Dec. 2, 1991), *aff'd*, 66 Ohio St.3d 452, 613 N.E.2d 580 (1993); *Black v. Mecca Twp. Bd. of Trustees*, 91 Ohio App.3d 351, 632 N.E.2d 923 (11th Dist. 1993); 1992 Ohio Atty. Gen. Ops. No. 032; *Forman v. Blaser*, No. 13-87-12, 1988 Ohio App. LEXIS 3405 (3rd Dist. Aug. 8, 1988).

¹²¹ *Forman v. Blaser*, No. 13-87-12, 1988 Ohio App. LEXIS 3405 (3rd Dist. Aug 8, 1988). *See, also, Jones v. Heyman*, 888 F.2d 1328 (11th Cir. 1989) (no violation of 1st and 14th Amendments where disruptive person was removed from a public meeting).

¹²² *McVey v. Carthage Twp. Trustees*, 2005 Ohio App. LEXIS 2690, 2005-Ohio-2869 (4th Dist. June 1, 2005) (trustees violated RC 121.22 by banning videotaping).


¹²³ *Kline v. Davis*, 2001 Ohio App. LEXIS 5598 (4th Dist. Dec. 11, 2001) (blanket prohibition on recording a public meeting not justified); 1988 Ohio Atty. Gen. Ops. No. 087 (trustees have authority to adopt reasonable rules for use of recording equipment at their meetings.)

¹²⁴ *Whiteland Woods v. Twp. of West Whiteland*, 193 F.3d 177 (3rd Cir. 1999) (while a person may have a constitutional right to attend public meetings, there is no right to videotape those meetings.)

¹²⁵ *State ex rel. Roberts v. Snyder*, 149 Ohio St. 333, 78 N.E.2d 716 (1948).

¹²⁶ Ohio Rev. Code Ann. § 121.22(G).

¹²⁷ 1980 Ohio Atty. Gen. Ops. No. 80-083.

 **Exceptions to Openness:
Executive Session – General Principles**

An “executive session” is a private conference between members of a public body from which the public is excluded.¹²⁸ The public body is permitted to invite anyone it chooses into an executive session,¹²⁹ and, conversely, may exclude anyone it so chooses.¹³⁰ Because an executive session means that discussions on public business will occur outside the public view, there are limitations on the use of executive sessions.

First, there are limited reasons for which an executive session may be called.¹³¹ Second, there is a specific procedure that must be followed when a public body adjourns into an executive session.¹³² Finally, the public body may take no formal action in an executive session.¹³³

If a public body is challenged in court for discussions or deliberations held in executive session, the public body has the burden of proof to establish that one of the statutory exceptions permitted the executive session.¹³⁴

¹²⁸ *Weisel v. Palmyra Township Bd. of Zoning Appeals*, No. 90-P-2193, 1991 Ohio App. LEXIS 3379 (11th Dist. July 19, 1991); *Davidson v. Sheffield-Sheffield Lake Bd. of Educ.*, No. 89-CA004624, 1990 Ohio App. LEXIS 2190 (9th Dist. May 23, 1990).

¹²⁹ *Chudner v. Cleveland City School Dist.*, No. 68572, 1995 Ohio App. LEXIS 3303 (8th Dist. Aug. 10, 1995); *Weisel v. Palmyra Township Bd. of Zoning Appeals*, No. 90-P-2193, 1991 Ohio App. LEXIS 3379 (11th Dist. July 19, 1991); *Davidson v. Sheffield-Sheffield Lake Bd. of Educ.*, No. 89-CA004624, 1990 Ohio App. LEXIS 2190 (9th Dist. May 23, 1990).


¹³⁰ *Chudner v. Cleveland City School Dist.*, No. 68572, 1995 Ohio App. LEXIS 3303 (8th Dist. Aug. 10, 1995).

¹³¹ Ohio Rev. Code Ann. §121.22(G)(1)-(7) and (J).

¹³² Ohio Rev. Code Ann. § 121.22(G)(1) and (7) (requiring roll call vote and specificity in motion.) *See also*, , *State ex rel. Long v. Cardington Village Council*, 92 Ohio St.3d 54, 748 N.E.2d 58 (2001); *State ex rel. Fenley v. Kyger*, 72 Ohio St.3d 164, 648 N.E.2d 493 (1995); *The Wheeling Corp. v. Columbus & Ohio River R.R.*, 147 Ohio App.3d 460, 2001 Ohio 8751, 771 N.E.2d 263 (10th Dist. Dec. 20, 2001); *Wright v. Mt. Vernon City Council*, 1997 Ohio App. LEXIS 4931 (5th Dist. Oct. 23, 1997) (A public body must strictly comply with both the substantive and procedural limitations of R.C. § 121.22(G)); *Jones v. Brookfield Twp. Trustees*, No. 92-T-4692, 1995 Ohio App. LEXIS 2805 (11th Dist. June 30, 1995); *Vermillion Teachers' Ass'n v. Vermillion Local School Dist. Bd. of Educ.*, 98 Ohio App.3d 524, 648 N.E.2d 1384 (6th Dist. 1994); 1988 Ohio Atty. Gen. Ops. No. 029.

¹³³ Ohio Rev. Code Ann. §121.22(H).

¹³⁴ *State ex rel. Bond v. City of Montgomery*, 63 Ohio App.3d 728, 580 N.E.2d 38 (1st Dist. 1989).

 **Exceptions to Openness:**
Executive Session – Permissible Reasons

There are very limited **valid reasons** for a public body to adjourn into executive session:

PERSONNEL. A public body may adjourn into executive session to consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official, or [to consider] the investigation of charges or complaints against a public employee, official, licensee, or regulated individual, unless the employee, official, licensee, or regulated individual requests a public hearing.¹³⁵ But a public body may *not* hold an executive session to consider the discipline of an elected official for conduct related to the performance of the official's duties or to consider that person's removal from office.¹³⁶ This exception does *not* grant a substantive right to a public hearing – such right must exist elsewhere in Ohio or federal law before a person may demand a public hearing under this exception.¹³⁷

➤ **Non-Specific Personnel.** The courts disagree as to whether this exception may be used when discussing a category of personnel, rather than specific personnel or regulated individuals.¹³⁸ These decisions also indicate that it may be inappropriate to use this exception to discuss the creation of a new position.¹³⁹ These courts have determined that the “personnel” exception is only appropriately used to discuss matters that directly affect specific personnel or regulated individuals.

PROPERTY. A public body may adjourn into executive session to consider the purchase of property, whether real or personal property, whether it is tangible or intangible.¹⁴⁰ A public body may also adjourn into executive session to consider the sale of property by competitive bid (real or personal property) *if* disclosure of the information would result in a competitive advantage to the other side.¹⁴¹ No member of a public body may use this exception as subterfuge for providing covert information to prospective buyers or sellers.¹⁴²

¹³⁵ Ohio Rev. Code Ann. § 121.22(G)(1). See *Brownfield v. Bd. of Educ.*, No. 89 CA 26, 1990 Ohio App. LEXIS 3878 (4th Dist. Aug. 28, 1990) (upon request, teacher was entitled to have deliberations regarding his dismissal in open meetings.)

¹³⁶ Ohio Rev. Code Ann. § 121.22(G)(1).

¹³⁷ *Davidson v. Sheffield-Sheffield Lake Bd. of Educ.*, No. 89-CA004624, 1990 Ohio App. LEXIS 2190, at 12-13 (9th Dist. May 23, 1990); *State ex rel. Harris v. Indus. Comm'n of Ohio*, No. 95APE07-891, 1995 Ohio App. LEXIS 5491, at 6 (10th Dist. Dec. 14, 1995).

¹³⁸ *Gannett Satellite Info. Network v. Chillicothe City School Dist.*, 41 Ohio App.3d 218, 534 N.E.2d 1239 (4th Dist. 1988); *Davidson v. Sheffield-Sheffield Lake Bd. of Educ.*, No. 89-CA004624, 1990 Ohio App. LEXIS 2190 (9th Dist. May 23, 1990). But, see, *Wright v. Mt. Vernon City Council*, No. 97-CA-7, 1997 Ohio App. LEXIS 4931 (5th Dist. Oct. 23, 1997) (permissible for public body to discuss merit raises for exempt city employees in executive session without referring to individuals in particular positions).

¹³⁹ *Gannett Satellite Info. Network v. Chillicothe City School Dist.*, 41 Ohio App.3d 218, 534 N.E.2d 1239 (4th Dist. 1988); *Davidson v. Sheffield-Sheffield Lake Bd. of Educ.*, No. 89-CA004624, 1990 Ohio App. LEXIS 2190 (9th Dist. May 23, 1990).

¹⁴⁰ Ohio Rev. Code Ann. § 121.22(G)(2). See, also, 1988 Ohio Atty. Gen. Ops. No. 003.

¹⁴¹ Ohio Rev. Code Ann. § 121.22(G)(2). See, also, 1988 Ohio Atty. Gen. Ops. No. 003.

¹⁴² Ohio Rev. Code Ann. § 121.22(G)(2).

COURT ACTION. A public body may adjourn into executive session *with the public body's attorney* to discuss *pending or imminent* court action.¹⁴³ Court action is “pending” if a lawsuit has been commenced; court action is “imminent” if it is on the point of happening or is impending.¹⁴⁴ A public body *may not* use this exception to adjourn into executive session for discussions with a board member who also happens to be an attorney – the attorney should be the duly appointed counsel for the public body.¹⁴⁵

COLLECTIVE BARGAINING. A public body may adjourn into executive session to prepare for, conduct, or review collective bargaining strategy.¹⁴⁶

CONFIDENTIAL MATTERS. A public body may adjourn into executive session to discuss matters required to be kept confidential by federal law, federal rules, or state statutes.¹⁴⁷

➤ ***Documents Discussed:*** If a document is a “public record” and is not otherwise exempt under one of the exceptions to the Public Records Act,¹⁴⁸ the record *will* be subject to public disclosure notwithstanding the appropriateness of confidential discussions about it. For instance, if a public body properly discusses pending litigation in executive session,¹⁴⁹ a settlement proposal drafted during that executive session is nevertheless subject to public disclosure.¹⁵⁰

SECURITY MATTERS. A public body may adjourn into executive session to discuss details of security arrangements and emergency response protocols where disclosure could be expected to jeopardize the security of the public body or public office.¹⁵¹

COUNTY HOSPITAL TRADE SECRETS. A public body may adjourn into executive session to discuss trade secrets of a county hospital organized under Ohio Rev. Code Chapter 339.¹⁵²

¹⁴³ Ohio Rev. Code Ann. § 121.22(G)(3).

¹⁴⁴ *State ex rel. Cincinnati Enquirer v. Hamilton County Commissioners*, 2002 Ohio App. LEXIS 1977 (1st Dist. Apr. 26, 2002) (“imminent” is satisfied when a public body has moved beyond mere investigation and assumed an aggressive litigative posture manifested by the decision to commit government resources to the prospective litigation); *State ex rel. Bond v. City of Montgomery*, 63 Ohio App.3d 728, 580 N.E.2d 38 (1st Dist. 1989). *But, compare, Greene County Guidance Center, Inc. v. Greene-Clinton Community Mental Health Bd.*, 19 Ohio App.3d 1, 482 N.E.2d 982 (2nd Dist. 1984) (discussion with legal counsel in executive session under 121.22(G)(3) is permitted where litigation is a “reasonable prospect”).

¹⁴⁵ *Awadalla v. Robinson Memorial Hosp.*, No. 91-P-2385, 1992 Ohio App. LEXIS 2838 (11th Dist. June 5, 1992).

¹⁴⁶ Ohio Rev. Code Ann. § 121.22(G)(4).

¹⁴⁷ Ohio Rev. Code Ann. § 121.22(G)(5). *See also State ex rel. Cincinnati Enquirer v. Hamilton County Cmsrs*, 2002 Ohio 2038, 2002 Ohio App. LEXIS 1977 (1st Dist. April 26, 2002) (R.C. § 121.22(G)(5) is intended to allow a public body to convene an executive session to discuss matters that they are *legally bound* to keep from the public); *J.C. Penney Properties, Inc. v. Bd. of Revision of Franklin County*, Nos. 81-D-509, 81-D-510, 1982 Ohio Tax LEXIS 535 (Ohio Bd. of Tax Appeals Jan. 19, 1982) (common law attorney-client privilege may not be available under Ohio Rev. Code Ann. § 121.22(G)(5) given the presence of Ohio Rev Code Ann. § 121.22(G)(3)). *But, see, Theile v. Harris*, No. C-860103, 1986 Ohio App. LEXIS 7096, at *16 (1st Dist. June 11, 1986) (public officials have right and duty to seek legal advice from their duly constituted legal advisor.)

¹⁴⁸ *See generally*, “Ohio’s Sunshine Laws: Public Records,” page 35.

¹⁴⁹ Ohio Rev. Code Ann. § 121.22(G)(3).


¹⁵⁰ *State ex rel. Findlay Publ'g Co. v. Hancock County Bd. of Cmsrs*, 80 Ohio St.3d 134, 684 N.E.2d 1222 (1997) (R.C. § 121.22(G)(3) permits private discussions about litigation, but settlement agreement resulting from those discussions is public record.)

¹⁵¹ Ohio Rev. Code Ann. § 121.22(G)(6).

VETERANS SERVICE COMMISSIONS. A Veterans Service Commission must hold an executive session when considering an applicant's request for financial assistance, unless the applicant requests a public hearing.¹⁵³

¹⁵² Ohio Rev. Code Ann. § 121.22(G)(7).

¹⁵³ Ohio Rev. Code Ann. § 121.22(J).

 **Exceptions to Openness:
Executive Session –Proper Procedure**

As a primary matter, an executive session must always begin and end in an open meeting.¹⁵⁴ Then, there must be a proper motion, a second, and a roll call vote.¹⁵⁵

THE MOTION. The open meetings law *itself* indicates that a motion for executive session must *specifically identify* “which one or more of the approved matters listed...are to be considered at the executive session.”¹⁵⁶

For instance, if the purpose of the executive session is to discuss one of the matters listed in the personnel exception, the motion must specify one or more of the listed purposes, *i.e.*, “to discuss the dismissal of a public employee.”¹⁵⁷ **Without question, it is not sufficient to simply state “personnel” as a reason for executive session.**¹⁵⁸ But, the motion does *not* need to specify by name the person who is to be discussed.¹⁵⁹

THE SECOND. After the motion, there must be a second on the motion.

THE ROLL CALL VOTE. Members of a public body may adjourn into executive session only after a majority of a quorum of the public body approves the motion *by a roll call vote*.¹⁶⁰ The vote may not be by acclamation or by show of hands, and the vote must be recorded in the minutes.¹⁶¹

¹⁵⁴ Ohio Rev. Code Ann. § 121.22(G).

¹⁵⁵ *Vermillion Teachers' Ass'n v. Vermillion Local School Dist. Bd. of Educ.*, 98 Ohio App.3d 524, 648 N.E.2d 1384 (6th Dist. 1994); 1988 Ohio Atty. Gen. Ops. No. 029 (detailing proper procedure for executive session).

¹⁵⁶ Ohio Rev. Code Ann. § 121.22(G)(1) and (7).


¹⁵⁷ *Jones v. Brookfield Twp. Trustees*, No. 92-T-4692, 1995 Ohio App. LEXIS 2805 (11th Dist. June 30, 1995); 1988 Ohio Atty. Gen. Ops. No. 029; *State ex rel. Long v. Cardington Village Council*, 92 Ohio St.3d 54, 748 N.E.2d 58 (June 13, 2001). See also, “Executive Session: Permissible Reasons – Personnel,” page 26.

¹⁵⁸ *State ex rel. Long v. Cardington Village Council*, 92 Ohio St.3d 54, 748 N.E.2d 58 (2001) (using general terms like “personnel” instead of one or more of the specified statutory purposes is a violation of R.C. § 121.22(G)(1)); *Jones v. Brookfield Twp. Trustees*, No. 92-T-4692, 1995 Ohio App. LEXIS 2805 (11th Dist. June 30, 1995); 1988 Ohio Atty. Gen. Ops. No. 029.

¹⁵⁹ Ohio Rev. Code Ann. § 121.22(G)(1); *Beisel v. Monroe County Bd. of Educ.*, No. CA-678, 1990 Ohio App. LEXIS 3761 (7th Dist. Aug. 29, 1990).

¹⁶⁰ Ohio Rev. Code Ann. § 121.22(G).

¹⁶¹ Ohio Rev. Code Ann. § 121.22(G); 1988 Ohio Atty. Gen. Ops. No. 029. See *Shaffer v. Village of West Farmington*, 82 Ohio App.3d 579, 612 N.E.2d 1247 (11th Dist. Sept. 18, 1992) (minutes may not be conclusive evidence as to whether roll call vote was taken.)

 **Exceptions to Openness:
Executive Session – Restrictions**

NO FORMAL ACTION. There can be no formal action taken in an executive session.¹⁶² And if a public body does take formal action in an executive session (or otherwise violates the open meetings law), the resulting action is invalid.¹⁶³

NO COMMINGLED TOPICS. Only matters specifically listed in R.C. § 121.22(G) may be discussed in executive session. Further, even when other matters are intertwined with those permitted matters, the other matters must *not* be discussed in the executive session.¹⁶⁴

DISCLOSING INFORMATION. The Open Meetings Act does not prohibit the public body or one of its members from disclosing the information discussed in executive session.¹⁶⁵ However, other provisions of law may prohibit such disclosure, depending on the subject matter.¹⁶⁶

¹⁶² *Pickutowski v. South Central Ohio Educational Service Center Governing Bd.*, 2005 Ohio App. LEXIS 2691, 2005-Ohio-2868 (4th Dist. June 3, 2005) (resolution approved in open session proposing creation of new school district invalid where it resulted from improper deliberations in executive session); *Mansfield City Council v. Richland County Council*, 2003 Ohio App. LEXIS 6654 at *13-14 (5th Dist. Dec. 24, 2003) (“formal action” occurred in executive session when members subsequently issued press release stating decision not to take action on union complaint); *Mathews v. Eastern Local School Dist.*, 2001 Ohio App. LEXIS 1677 (4th App. Dist. Jan. 4, 2001); *State ex rel. Humphrey v. Adkins*, 18 Ohio App.2d 101, 247 N.E.2d 330 (2nd Dist. 1969); *State ex rel. Vindicator Printing Co. v. Hughley*, 2 Ohio Bar Rep. 449 (Mahoning Cty. C.P. 1982); *Drake v. Fairfield County Bd. of Health*, No. 28-CA-90, 1991 Ohio App. LEXIS 301 (5th Dist. Jan. 22, 1991).

¹⁶³ Ohio Rev. Code Ann. § 121.22(H). *Mathews v. E. Local School Dist.*, 2001 Ohio 2372, 2001 Ohio App. LEXIS 1677 (4th Dist. Jan. 4, 2001); *State ex rel. Kinsley v. Berea Bd. of Educ.*, 64 Ohio App.3d 659, 582 N.E.2d 653 (8th Dist. Oct. 17, 1990). *See also, Staley v. St. Clair Twp. Bd. of Trustees*, No. 87-C-44, 1987 Ohio App. LEXIS 10087 (7th Dist. Dec. 15, 1987). *But, see, Barbeck v. Twinsburg Township Bd. of Trustees*, 73 Ohio App.3d 587, 597 N.E.2d 1204 (9th Dist. 1992). *See also* “Open Meetings Act: Remedies”, page 31.

¹⁶⁴ *State ex rel. Vindicator Printing Co. v. Hughley*, 2 Ohio Bar Rep. 449 (Mahoning Cty. C.P. 1982). *But, see, Chudner v. Cleveland City School Dist.*, No. 68572, 1995 Ohio App. LEXIS 3303 (8th Dist. Aug. 10, 1995).

¹⁶⁵ *But, cf.*, Ohio Rev. Code Ann. § 121.22(G)(2) (“no member of a public body shall use [executive session under property exception] as a subterfuge for providing covert information to prospective buyers or sellers.”)

¹⁶⁶ *See, e.g.*, Ohio Rev. Code Ann. § 102.03(B) (public official must not disclose or use any information acquired in course of official duties that is confidential because of statutory provisions, or that has been clearly designated as confidential); *Springfield Local School Dist. Bd. of Educ. v. Ohio Ass’n of Public School Employees*, 106 Ohio App.3d 855, 667 N.E.2d 458 (9th Dist. 1995); Informal Opinion of the Ohio Ethics Comm’n issued to Elaine S. Buck (Oct. 10, 1986).

City of Jackson

Phone: 740-286-1112

Fax: 740-286-8788

E-Mail: jdetty@jacksonohio.us

John L. "Jack" Detty

Law Director

Memorandum

TO: Randy Heath, Mayor
William Sheward, Safety/Service
Director
Ronald Speakman, Council President
Tom Evans, Council Member at Large
Troy Adams, Council Member at Large
Eric Brown, Council Member at Large
Randy Smith, 1st Ward Council
Member
Cary Brown, 2nd Ward Council Member
Jeff Elliott, 3rd Ward Council Member
Curt Wiggins, 4th Ward Council
Member

FROM: John L. "Jack" Detty

Cc: Tera King, City Council Clerk

DATE: April 14, 2008

SUBJECT: Conflicts of Interest; Public
Officials/Family/Associates
Having an interest In Public Contracts

Privileged and Confidential Communication

Dear Administration and Council Members:

The issue of conflicts of interest, public contracts, and general ethics questions are issues you need to be familiar with. In an effort to address the general concerns please find attached a copy of the Ohio Ethics Law as provided by the Ohio Ethics Commission. Be advised that each of you are public officials and subject to the law. I would encourage each of you to review the law, and if you have any questions please ask them.

In particular I would like to address the area of a public official, a member of his family, or a business associate having an interest in a public contract. Although this issue has been addressed quite thoroughly in the past, I feel it is important to reiterate certain areas of this issue.

Ohio Revised Code Section 2921.42(A) generally sets forth that public officials shall refrain from having an interest in public contracts.

(A) No public official shall knowingly do any of the following:

- (1) ***Authorize, or employ the authority or influence of his office*** to secure authorization of any public contract in which he, a member of his family, or any of his business associates has an interest; (emphasis added)
- (2) * * *
- (3) * * *
- (4) Have an interest in the profits or benefits of a public contract entered into by or for the use of the political subdivision or governmental agency or instrumentality with which he is connected;
- (5) Have an interest in the profits or benefits of a public contract that is not let by competitive bidding if required by law and that involves more than one hundred fifty dollars.

There is an exemption to the general rule that is set forth in O.R.C. Section 2921.42(C) that permits a public official to be involved in a public contract when ***all of the following apply***:

- The subject of the public contract is necessary supplies or services for the political subdivision.
- The supplies or services are unobtainable elsewhere for the same or lower cost, or are being furnished to the political subdivision as part of a continuing course of dealing established prior to the public official's becoming associated with the political subdivision.
- The treatment afforded the political subdivision is either preferential to or the same as that accorded other customers or clients in similar transactions.
- The entire transaction is conducted at arm's length, with full knowledge by the political subdivision of the interest of the public official, and the public official takes no part in deliberations or decision of the political subdivision with respect to the public contract.

The Ohio Ethics Commission has held and determined that the criteria in 2921.42(C) is strictly applied, and the burden is on the public official claiming the exemption to demonstrate compliance. This must be demonstrated by some objective standard. I would caution against any public official, his family members, or business associates, from having a contractual interest with the City unless all four exemption requirements are clearly present and documented.

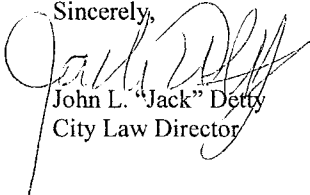
A public contract has a broad definition, and may include employment with the City, it may include the City funding in part or whole an organization of which we may belong, or it may include a myriad of other type of contracts.

Please note that the law prohibits the public official from using “the authority or influence of his office”. The law does not place an absolute prohibition on a public official, a member of the public official’s family, or a business associate of the public official, from having an interest in a public contract. It only prohibits the public official from using his authority or influence in obtaining the public contract. However, it is my opinion that we all should individually take all efforts to avoid even the appearance of impropriety.

I would caution against any public official, members of his family, or business associates, from having a contractual interest with the City unless all the exemption requirements set forth in O.R.C. 2921.42(C) are clearly present and documented.

The penalty for a public official having an unauthorized interest in a public contract is a fourth degree felony for violation of section (A)(1) or (2), and misdemeanor of the first degree for a violation of section (A) (3), (4), or (5). Thus, there are serious implications if a public official chooses to conduct business with the City, and it is later determined the exemption does not apply.

Hopefully this information is beneficial in addressing the matter. If you have any questions please contact me.

Sincerely,

John L. "Jack" Detty
City Law Director

THE OHIO ETHICS LAW: CHAPTER 102. OF THE REVISED CODE**Section 102.01** As used in this chapter:

(A) "Compensation" means money, thing of value, or financial benefit. "Compensation" does not include reimbursement for actual and necessary expenses incurred in the performance of official duties.

(B) "Public official or employee" means any person who is elected or appointed to an office or is an employee of any public agency. "Public official or employee" does not include a person elected or appointed to the office of precinct, ward, or district committee member under section 3517.03 of the Revised Code, any presidential elector, or any delegate to a national convention. "Public official or employee" does not include a person who is a teacher, instructor, professor, or other kind of educator whose position does not involve the performance of, or authority to perform, administrative or supervisory functions.

(C) "Public agency" means the general assembly, all courts, any department, division, institution, board, commission, authority, bureau or other instrumentality of the state, a county, city, village, or township, the five state retirement systems, or any other governmental entity. "Public agency" does not include a department, division, institution, board, commission, authority, or other instrumentality of the state or a county, municipal corporation, township, or other governmental entity that functions exclusively for cultural, educational, historical, humanitarian, advisory, or research purposes; does not expend more than ten thousand dollars per calendar year, excluding salaries and wages of employees; and whose members are uncompensated.

(D) "Immediate family" means a spouse residing in the person's household and any dependent child.

(E) "Income" includes gross income as defined and used in the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as amended, interest and dividends on obligations or securities of any state or of any political subdivision or authority of any state or political subdivision, and interest or dividends on obligations of any authority, commission, or instrumentality of the United States.

(F) Except as otherwise provided in division (A) of section 102.08 of the Revised Code, "appropriate ethics commission" means:

(1) For matters relating to members of the general assembly, employees of the general assembly, employees of the legislative service commission, and candidates for the office of member of the general assembly, the joint legislative ethics committee;

(2) For matters relating to judicial officers and employees, and candidates for judicial office, the board of commissioners on grievances and discipline of the supreme court;

(3) For matters relating to all other persons, the Ohio ethics commission.

(G) "Anything of value" has the same meaning as provided in section 1.03 of the Revised Code and includes, but is not limited to, a contribution as defined in section 3517.01 of the Revised Code.

(H) "Honorarium" means any payment made in consideration for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal, or similar gathering. "Honorarium" does not include ceremonial gifts or awards that have insignificant monetary value; unsolicited gifts of nominal value or trivial items of informational value; or earned income from any person, other than a legislative agent, for personal services that are customarily provided in connection with the practice of a bona fide business, if that business initially began before the public official or employee conducting that business was elected or appointed to the public official's or employee's office or position of employment.

(I) "Employer" means any person who, directly or indirectly, engages an executive agency lobbyist or legislative agent.

(J) "Executive agency decision," "executive agency lobbyist," and "executive agency lobbying activity" have the same meanings as in section 121.60 of the Revised Code.

(K) "Legislation," "legislative agent," "financial transaction," and "actively advocate" have the same meanings as in section 101.70 of the Revised Code.

(L) "Expenditure" has the same meaning as in section 101.70 of the Revised Code when used in relation to activities of a legislative agent, and the same meaning as in section 121.60 of the Revised Code when used in relation to activities of an executive agency lobbyist.

Section 102.02

(A) Except as otherwise provided in division (H) of this section, all of the following shall file with the appropriate ethics commission the disclosure statement described in this division on a form prescribed by the appropriate commission: every person who is elected to or is a candidate for a state, county, or city office and every person who is appointed to fill a vacancy for an unexpired term in such an elective office; all members of the state board of education; the director, assistant directors, deputy directors, division chiefs, or persons of equivalent rank of any administrative department of the state; the president or other chief administrative officer of every state institution of higher education as defined in section 3345.011 of the Revised Code; the executive director and the members of the capitol square review and advisory board appointed or employed pursuant to section 105.41 of the Revised Code; the chief executive officer and the members of the board of each state retirement system; each employee of a state retirement board who is a state retirement system investment officer licensed pursuant to section 1707.163 of the Revised Code; the members of the Ohio retirement study council appointed pursuant to division (C) of section 171.01 of the Revised Code; employees of the Ohio retirement study council, other than employees who perform purely administrative or clerical functions; the administrator of workers' compensation and each voting member of the workers' compensation oversight commission; the chief investment officer of the bureau of workers' compensation; all members of the board of commissioners on grievances and discipline of the supreme court and the ethics commission created under section 102.05 of the Revised Code; every business manager, treasurer, or superintendent of a city, local, exempted village, joint vocational, or cooperative education school district or an educational service center; every person who is elected to or is a candidate for the office of member of a board of education of a city, local,

exempted village, joint vocational, or cooperative education school district or of a governing board of an educational service center that has a total student count of twelve thousand or more as most recently determined by the department of education pursuant to section 3317.03 of the Revised Code; every person who is appointed to the board of education of a municipal school district pursuant to division (B) or (F) of section 3311.71 of the Revised Code; all members of the board of directors of a sanitary district that is established under Chapter 6115. of the Revised Code and organized wholly for the purpose of providing a water supply for domestic, municipal, and public use, and that includes two municipal corporations in two counties; every public official or employee who is paid a salary or wage in accordance with schedule C of section 124.15 or schedule E-2 of section 124.152 of the Revised Code; members of the board of trustees and the executive director of the tobacco use prevention and control foundation; members of the board of trustees and the executive director of the southern Ohio agricultural and community development foundation; and every other public official or employee who is designated by the appropriate ethics commission pursuant to division (B) of this section.

The disclosure statement shall include all of the following:

(1) The name of the person filing the statement and each member of the person's immediate family and all names under which the person or members of the person's immediate family do business;

(2)(a) Subject to divisions (A)(2)(b), and (c) of this section and except as otherwise provided in section 102.022 of the Revised Code, identification of every source of income, other than income from a legislative agent identified in division (A)(2)(b) of this section, received during the preceding calendar year, in the person's own name or by any other person for the person's use or benefit, by the person filing the statement, and a brief description of the nature of the services for which the income was received. If the person filing the statement is a member of the general assembly, the statement shall identify the amount of every source of income received in accordance with the following ranges of amounts: zero or more, but less than one thousand dollars; one thousand dollars or more, but less than ten thousand dollars; ten thousand dollars or more, but less than twenty-five thousand dollars; twenty-five thousand dollars or more, but less than fifty thousand dollars; fifty thousand dollars or more, but less than one hundred thousand dollars; and one hundred thousand dollars or more. Division (A)(2)(a) of this section shall not be construed to require a person filing the statement who derives income from a business or profession to disclose the individual items of income that constitute the gross income of that business or profession, except for those individual items of income that are attributable to the person's or, if the income is shared with the person, the partner's, solicitation of services or goods or performance, arrangement, or facilitation of services or provision of goods on behalf of the business or profession of clients, including corporate clients, who are legislative agents. A person who files the statement under this section shall disclose the identity of and the amount of income received from a person who the public official or employee knows or has reason to know is doing or seeking to do business of any kind with the public official's or employee's agency.

(b) If the person filing the statement is a member of the general assembly, the statement shall identify every source of income and the amount of that income that was received from a legislative agent, during the preceding calendar year, in the person's own name or by any other person for the person's use or benefit, by the person filing the statement, and a brief description of the nature of the services for which the income was received. Division (A)(2)

(b) of this section requires the disclosure of clients of attorneys or persons licensed under section 4732.12 of the Revised Code, or patients of persons certified under section 4731.14 of the Revised Code, if those clients or patients are legislative agents. Division (A)(2)(b) of this section requires a person filing the statement who derives income from a business or profession to disclose those individual items of income that constitute the gross income of that business or profession that are received from legislative agents.

(c) Except as otherwise provided in division (A)(2)(c) of this section, division (A)(2)(a) of this section applies to attorneys, physicians, and other persons who engage in the practice of a profession and who, pursuant to a section of the Revised Code, the common law of this state, a code of ethics applicable to the profession, or otherwise, generally are required not to reveal, disclose, or use confidences of clients, patients, or other recipients of professional services except under specified circumstances or generally are required to maintain those types of confidences as privileged communications except under specified circumstances. Division (A)(2)(a) of this section does not require an attorney, physician, or other professional subject to a confidentiality requirement as described in division (A)(2)(c) of this section to disclose the name, other identity, or address of a client, patient, or other recipient of professional services if the disclosure would threaten the client, patient, or other recipient of professional services, would reveal details of the subject matter for which legal, medical, or professional advice or other services were sought, or would reveal an otherwise privileged communication involving the client, patient, or other recipient of professional services. Division (A)(2)(a) of this section does not require an attorney, physician, or other professional subject to a confidentiality requirement as described in division (A)(2)(c) of this section to disclose in the brief description of the nature of services required by division (A)(2)(a) of this section any information pertaining to specific professional services rendered for a client, patient, or other recipient of professional services that would reveal details of the subject matter for which legal, medical, or professional advice was sought or would reveal an otherwise privileged communication involving the client, patient, or other recipient of professional services.

(3) The name of every corporation on file with the secretary of state that is incorporated in this state or holds a certificate of compliance authorizing it to do business in this state, trust, business trust, partnership, or association that transacts business in this state in which the person filing the statement or any other person for the person's use and benefit had during the preceding calendar year an investment of over one thousand dollars at fair market value as of the thirty-first day of December of the preceding calendar year, or the date of disposition, whichever is earlier, or in which the person holds any office or has a fiduciary relationship, and a description of the nature of the investment, office, or relationship. Division (A)(3) of this section does not require disclosure of the name of any bank, savings and loan association, credit union, or building and loan association with which the person filing the statement has a deposit or a withdrawable share account.

(4) All fee simple and leasehold interests to which the person filing the statement holds legal title to or a beneficial interest in real property located within the state, excluding the person's residence and property used primarily for personal recreation;

(5) The names of all persons residing or transacting business in the state to whom the person filing the statement owes, in the person's own name or in the name of any other person, more than one thousand dollars. Division (A)(5) of this section shall not be construed to require the disclosure of debts owed by the person resulting from the ordinary conduct of a business or profession or debts on the person's residence or real property used primarily for

personal recreation, except that the superintendent of financial institutions shall disclose the names of all state-chartered savings and loan associations and of all service corporations subject to regulation under division (E)(2) of section 1151.34 of the Revised Code to whom the superintendent in the superintendent's own name or in the name of any other person owes any money, and that the superintendent and any deputy superintendent of banks shall disclose the names of all state-chartered banks and all bank subsidiary corporations subject to regulation under section 1109.44 of the Revised Code to whom the superintendent or deputy superintendent owes any money.

(6) The names of all persons residing or transacting business in the state, other than a depository excluded under division (A)(3) of this section, who owe more than one thousand dollars to the person filing the statement, either in the person's own name or to any person for the person's use or benefit. Division (A)(6) of this section shall not be construed to require the disclosure of clients of attorneys or persons licensed under section 4732.12 or 4732.15 of the Revised Code, or patients of persons certified under section 4731.14 of the Revised Code, nor the disclosure of debts owed to the person resulting from the ordinary conduct of a business or profession.

(7) Except as otherwise provided in section 102.022 of the Revised Code, the source of each gift of over seventy-five dollars, or of each gift of over twenty-five dollars received by a member of the general assembly from a legislative agent, received by the person in the person's own name or by any other person for the person's use or benefit during the preceding calendar year, except gifts received by will or by virtue of section 2105.06 of the Revised Code, or received from spouses, parents, grandparents, children, grandchildren, siblings, nephews, nieces, uncles, aunts, brothers-in-law, sisters-in-law, sons-in-law, daughters-in-law, fathers-in-law, mothers-in-law, or any person to whom the person filing the statement stands in loco parentis, or received by way of distribution from any inter vivos or testamentary trust established by a spouse or by an ancestor;

(8) Except as otherwise provided in section 102.022 of the Revised Code, identification of the source and amount of every payment of expenses incurred for travel to destinations inside or outside this state that is received by the person in the person's own name or by any other person for the person's use or benefit and that is incurred in connection with the person's official duties, except for expenses for travel to meetings or conventions of a national or state organization to which any state agency, including, but not limited to, any legislative agency or state institution of higher education as defined in section 3345.011 of the Revised Code, pays membership dues, or any political subdivision or any office or agency of a political subdivision pays membership dues;

(9) Except as otherwise provided in section 102.022 of the Revised Code, identification of the source of payment of expenses for meals and other food and beverages, other than for meals and other food and beverages provided at a meeting at which the person participated in a panel, seminar, or speaking engagement or at a meeting or convention of a national or state organization to which any state agency, including, but not limited to, any legislative agency or state institution of higher education as defined in section 3345.011 of the Revised Code, pays membership dues, or any political subdivision or any office or agency of a political subdivision pays membership dues, that are incurred in connection with the person's official duties and that exceed one hundred dollars aggregated per calendar year;

(10) If the financial statement is filed by a public official or employee described in division (B)(2) of section 101.73 of the Revised Code or division (B)(2) of section 121.63 of the

Revised Code who receives a statement from a legislative agent, executive agency lobbyist, or employer that contains the information described in division (F)(2) of section 101.73 of the Revised Code or division (G)(2) of section 121.63 of the Revised Code, all of the nondisputed information contained in the statement delivered to that public official or employee by the legislative agent, executive agency lobbyist, or employer under division (F)(2) of section 101.73 or (G)(2) of section 121.63 of the Revised Code.

A person may file a statement required by this section in person or by mail. A person who is a candidate for elective office shall file the statement no later than the thirtieth day before the primary, special, or general election at which the candidacy is to be voted on, whichever election occurs soonest, except that a person who is a write-in candidate shall file the statement no later than the twentieth day before the earliest election at which the person's candidacy is to be voted on. A person who holds elective office shall file the statement on or before the fifteenth day of April of each year unless the person is a candidate for office. A person who is appointed to fill a vacancy for an unexpired term in an elective office shall file the statement within fifteen days after the person qualifies for office. Other persons shall file an annual statement on or before the fifteenth day of April or, if appointed or employed after that date, within ninety days after appointment or employment. No person shall be required to file with the appropriate ethics commission more than one statement or pay more than one filing fee for any one calendar year.

The appropriate ethics commission, for good cause, may extend for a reasonable time the deadline for filing a statement under this section.

A statement filed under this section is subject to public inspection at locations designated by the appropriate ethics commission except as otherwise provided in this section.

(B) The Ohio ethics commission, the joint legislative ethics committee, and the board of commissioners on grievances and discipline of the supreme court, using the rule-making procedures of Chapter 119. of the Revised Code, may require any class of public officials or employees under its jurisdiction and not specifically excluded by this section whose positions involve a substantial and material exercise of administrative discretion in the formulation of public policy, expenditure of public funds, enforcement of laws and rules of the state or a county or city, or the execution of other public trusts, to file an annual statement on or before the fifteenth day of April under division (A) of this section. The appropriate ethics commission shall send the public officials or employees written notice of the requirement by the fifteenth day of February of each year the filing is required unless the public official or employee is appointed after that date, in which case the notice shall be sent within thirty days after appointment, and the filing shall be made not later than ninety days after appointment.

Except for disclosure statements filed by members of the board of trustees and the executive director of the tobacco use prevention and control foundation, and members of the board of trustees and the executive director of the southern Ohio agricultural and community development foundation, disclosure statements filed under this division with the Ohio ethics commission by members of boards, commissions, or bureaus of the state for which no compensation is received other than reasonable and necessary expenses shall be kept confidential. Disclosure statements filed with the Ohio ethics commission under division (A) of this section by business managers, treasurers, and superintendents of city, local, exempted village, joint vocational, or cooperative education school districts or educational service centers shall be kept confidential, except that any person conducting an audit of any

such school district or educational service center pursuant to section 115.56 or Chapter 117. of the Revised Code may examine the disclosure statement of any business manager, treasurer, or superintendent of that school district or educational service center. The Ohio ethics commission shall examine each disclosure statement required to be kept confidential to determine whether a potential conflict of interest exists for the person who filed the disclosure statement. A potential conflict of interest exists if the private interests of the person, as indicated by the person's disclosure statement, might interfere with the public interests the person is required to serve in the exercise of the person's authority and duties in the person's office or position of employment. If the commission determines that a potential conflict of interest exists, it shall notify the person who filed the disclosure statement and shall make the portions of the disclosure statement that indicate a potential conflict of interest subject to public inspection in the same manner as is provided for other disclosure statements. Any portion of the disclosure statement that the commission determines does not indicate a potential conflict of interest shall be kept confidential by the commission and shall not be made subject to public inspection, except as is necessary for the enforcement of Chapters 102. and 2921. of the Revised Code and except as otherwise provided in this division.

(C) No person shall knowingly fail to file, on or before the applicable filing deadline established under this section, a statement that is required by this section.

(D) No person shall knowingly file a false statement that is required to be filed under this section.

(E)(1) Except as provided in divisions (E)(2) and (3) of this section, the statement required by division (A) or (B) of this section shall be accompanied by a filing fee of forty dollars.

(2) The statement required by division (A) of this section shall be accompanied by the following filing fee to be paid by the person who is elected or appointed to or is a candidate for any of the following offices:

For state office, except member of the state board of education	\$65
For office of member of general assembly	\$40
For county office	\$40
For city office	\$25
For office of member of the state board of education	\$25
For office of member of a city, local, exempted village, or cooperative education board of education or educational service center governing board	\$20
For position of business manager, treasurer, or superintendent of a city, local, exempted village, joint vocational, or cooperative education school district or educational service center	\$20

(3) No judge of a court of record or candidate for judge of a court of record, and no referee or magistrate serving a court of record, shall be required to pay the fee required under division (E)(1) or (2) or (F) of this section.

(4) For any public official who is appointed to a nonelective office of the state and for any employee who holds a nonelective position in a public agency of the state, the state agency

that is the primary employer of the state official or employee shall pay the fee required under division (E)(1) or (F) of this section.

(F) If a statement required to be filed under this section is not filed by the date on which it is required to be filed, the appropriate ethics commission shall assess the person required to file the statement a late filing fee of ten dollars for each day the statement is not filed, except that the total amount of the late filing fee shall not exceed two hundred fifty dollars.

(G)(1) The appropriate ethics commission other than the Ohio ethics commission shall deposit all fees it receives under divisions (E) and (F) of this section into the general revenue fund of the state.

(2) The Ohio ethics commission shall deposit all receipts, including, but not limited to, fees it receives under divisions (E) and (F) of this section and all moneys it receives from settlements under division (G) of section 102.06 of the Revised Code, into the Ohio ethics commission fund, which is hereby created in the state treasury. All moneys credited to the fund shall be used solely for expenses related to the operation and statutory functions of the commission.

(H) Division (A) of this section does not apply to a person elected or appointed to the office of precinct, ward, or district committee member under Chapter 3517. of the Revised Code; a presidential elector; a delegate to a national convention; village or township officials and employees; any physician or psychiatrist who is paid a salary or wage in accordance with schedule C of section 124.15 or schedule E-2 of section 124.152 of the Revised Code and whose primary duties do not require the exercise of administrative discretion; or any member of a board, commission, or bureau of any county or city who receives less than one thousand dollars per year for serving in that position.

Sec. 102.021

(A)(1) For the twenty-four month period immediately following the end of the former state elected officer's or staff member's service or public employment, except as provided in division (B) or (D) of this section, each former state elected officer or staff member who filed or was required to file a disclosure statement under section 102.02 of the Revised Code shall file, on or before the deadlines specified in division (D) of this section, with the joint legislative ethics committee a statement that shall include the information described in divisions (A)(2), (3), (4), and (5) of this section, as applicable. The statement shall be filed on a form and in the manner specified by the joint legislative ethics committee. This division does not apply to a state elected officer or staff member who filed or was required to file a disclosure statement under section 102.02 of the Revised Code, who leaves service or public employment, and who takes another position as a state elected officer or staff member who files or is required to file a disclosure statement under that section.

No person shall fail to file, on or before the deadlines specified in division (D) of this section, a statement that is required by this division.

(2) The statement referred to in division (A)(1) of this section shall describe the source of all income received, in the former state elected officer's or staff member's own name or by any other person for the person's use or benefit, and briefly describe the nature of the services for which the income was received if the source of the income was any of the following:

(a) An executive agency lobbyist or a legislative agent;

(b) The employer of an executive agency lobbyist or legislative agent, except that this division does not apply if the employer is any state agency or political subdivision of the state;

(c) Any entity, association, or business that, at any time during the two immediately preceding calendar years, was awarded one or more contracts by one or more state agencies that in the aggregate had a value of one hundred thousand dollars or more, or bid on one or more contracts to be awarded by one or more state agencies that in the aggregate had a value of one hundred thousand dollars or more.

(3) If the former state elected officer or staff member received no income as described in division (A)(2) of this section, the statement referred to in division (A)(1) of this section shall indicate that fact.

(4) If the former state elected officer or staff member directly or indirectly made, either separately or in combination with another, any expenditure or gift for transportation, lodging, or food or beverages to, at the request of, for the benefit of, or on behalf of any public officer or employee, and if the former state elected officer or staff member would be required to report the expenditure or gift in a statement under sections 101.70 to 101.79 or sections 121.60 to 121.69 of the Revised Code, whichever is applicable, if the former state elected officer or staff member was a legislative agent or executive agency lobbyist at the time the expenditure or gift was made, the statement referred to in division (A)(1) of this section shall include all information relative to that gift or expenditure that would be required in a statement under sections 101.70 to 101.79 or sections 121.60 to 121.69 of the Revised Code if the former state elected officer or staff member was a legislative agent or executive agency lobbyist at the time the expenditure or gift was made.

(5) If the former state elected officer or staff member made no expenditure or gift as described in division (A)(4) of this section, the statement referred to in division (A)(1) of this section shall indicate that fact.

(B) If, at any time during the twenty-four month period immediately following the end of the former state elected officer's or staff member's service or public employment, a former state elected officer or staff member who filed or was required to file a disclosure statement under section 102.02 of the Revised Code becomes a legislative agent or an executive agency lobbyist, the former state elected officer or staff member shall comply with all registration and filing requirements set forth in sections 101.70 to 101.79 or sections 121.60 to 121.69 of the Revised Code, whichever is applicable, and, the former state elected officer or staff member also shall file a statement under division (A)(1) of this section except that the statement filed under division (A)(1) of this section does not need to include information regarding any income source, expenditure, or gift to the extent that that information was included in any registration or statement filed under sections 101.70 to 101.79 or sections 121.60 to 121.69 of the Revised Code.

(C) Except as otherwise provided in this division, division (A)(2) of this section applies to attorneys, physicians, and other persons who engage in the practice of a profession and who, pursuant to a section of the Revised Code, the common law of this state, a code of ethics applicable to the profession, or otherwise, generally are required not to reveal, disclose, or

use confidences of clients, patients, or other recipients of professional services except under specified circumstances or generally are required to maintain those types of confidences as privileged communications except under specified circumstances. Division (A)(2) of this section does not require an attorney, physician, or other professional subject to a confidentiality requirement as described in this division to disclose the name, other identity, or address of a client, patient, or other recipient of professional services if the disclosure would threaten the client, patient, or other recipient of professional services, would reveal details of the subject matter for which legal, medical, or professional advice or other services were sought, or would reveal an otherwise privileged communication involving the client, patient, or other recipient of professional services. Division (A)(2) of this section does not require an attorney, physician, or other professional subject to a confidentiality requirement as described in this division to disclose in the brief description of the nature of services required by division (A)(2) of this section any information pertaining to specific professional services rendered for a client, patient, or other recipient of professional services that would reveal details of the subject matter for which legal, medical, or professional advice was sought or would reveal an otherwise privileged communication involving the client, patient, or other recipient of professional services.

(D)(1) Each state elected officer or staff member who filed or was required to file a disclosure statement under section 102.02 of the Revised Code and who leaves public service or public employment shall file an initial statement under division (A)(1) of this section not later than the day on which the former state elected officer or staff member leaves public service or public employment. The initial statement shall specify whether the person will, or will not, receive any income from a source described in division (A)(2)(a), (b), or (c) of this section.

If a person files an initial statement under this division that states that the person will receive income from a source described in division (A)(2)(a), (b), or (c) of this section, the person is required to file statements under division (A)(2), (3), (4), or (5) of this section at the times specified in division (D)(2) of this section.

If a person files an initial statement under this division that states that the person will not receive income from a source described in division (A)(2)(a), (b), or (c) of this section, except as otherwise provided in this division, the person is not required to file statements under division (A)(2), (4), or (5) of this section or to file subsequent statements under division (A)(3) of this section. If a person files an initial statement under this division that states that the person will not receive income from a source described in division (A)(2)(a), (b), or (c) of this section, and, subsequent to the filing of that initial statement, the person receives any income from a source described in division (A)(2)(a), (b), or (c) of this section, the person within ten days shall file a statement under division (A)(2) of this section that contains the information described in that division, and the person thereafter shall file statements under division (A)(2), (3), (4), or (5) of this section at the times specified in division (D)(2) of this section.

(2) After the filing of the initial statement under division (D)(1) of this section, each person required to file a statement under division (A)(2), (3), (4), or (5) of this section shall file it on or before the last calendar day of January, May, and September. The statements described in divisions (A)(2), (3), and (5) of this section shall relate to the sources of income the person received in the immediately preceding filing period from each source of income in each of the categories listed in division (A)(2) of this section. The statement described in division (A)(4) of this section shall include any information required to be reported

regarding expenditures and gifts of the type described in division (A)(4) of this section occurring since the filing of the immediately preceding statement.

If, pursuant to this division, a person files a statement under division (A)(2) of this section, the person is required to file statements under division (A)(4) of this section, and subsequent statements under division (A)(2), (3), or (5) of this section, at the times specified in this division. In addition, if, subsequent to the filing of the statement under division (A)(2) of this section, the person receives any income from a source described in division (A)(2)(a), (b), or (c) of this section that was not listed on the statement filed under division (A)(2) of this section, the person within ten days shall file a statement under division (A)(2) of this section that contains the information described in that division regarding the new income source.

If, pursuant to this division, a person files a statement under division (A)(3) of this section, except as otherwise provided in this division, the person thereafter is not required to file statements under division (A)(2), (4), or (5) of this section, or to file subsequent statements under division (A)(3) of this section. If, subsequent to the filing of the statement under division (A)(3) of this section, the person receives any income from a source described in division (A)(2)(a), (b), or (c) of this section, the person within ten days shall file a statement under division (A)(2) of this section that contains the information described in that division regarding the new income source, and the person thereafter shall file statements under division (A)(4) of this section, and subsequent statements under division (A)(2) or (3) of this section, at the times specified in this division.

(3) No fee shall be required for filing an initial statement under division (D)(1) of this section. The person filing a statement under division (D)(2) of this section that is required to be filed on or before the last calendar day of January, May, and September shall pay a ten dollar filing fee with each such statement not to exceed thirty dollars in any calendar year. The joint legislative ethics committee may charge late fees in the same manner as specified in division (G) of section 101.72 of the Revised Code.

(E) Any state elected officer or staff member who filed or was required to file a disclosure statement under section 102.02 of the Revised Code and who leaves public service or public employment shall provide a forwarding address to the officer's or staff member's last employer, and the employer shall provide the person's name and address to the joint legislative ethics committee. The former elected state officer or staff member shall provide updated forwarding addresses as necessary to the joint legislative ethics committee during the twenty-four month period during which division (A)(1) of this section applies. The public agency or appointing authority that was the last employer of a person required to file a statement under division (A)(2) of this section shall furnish to the person a copy of the form needed to complete the initial statement required under division (D)(1) of this section.

(F) During the twenty-four month period immediately following the end of the former state elected officer's or staff member's service or public employment, no person required to file a statement under this section shall receive from a source described in division (A)(2)(a), (b), or (c) of this section, and no source described in division (A)(2)(a), (b), or (c) of this section shall pay to that person, any compensation that is contingent in any way upon the introduction, modification, passage, or defeat of any legislation or the outcome of any executive agency decision.

(G) As used in this section "state elected officer or staff member" means any elected officer

of this state, any staff, as defined in section 101.70 of the Revised Code, or any staff, as defined in section 121.60 of the Revised Code.

Sec. 102.022

Each person who is an officer or employee of a political subdivision, who receives compensation of less than sixteen thousand dollars a year for holding an office or position of employment with that political subdivision, and who is required to file a statement under section 102.02 of the Revised Code, and each member of the board of trustees of a state institution of higher education as defined in section 3345.011 of the Revised Code who is required to file a statement under section 102.02 of the Revised Code, shall include in that statement, in place of the information required by divisions (A)(2), (7), (8), and (9) of that section, the following information:

(A) Exclusive of reasonable expenses, identification of every source of income over five hundred dollars received during the preceding calendar year, in the officer's or employee's own name or by any other person for the officer's or employee's use or benefit, by the person filing the statement, and a brief description of the nature of the services for which the income was received. This division shall not be construed to require the disclosure of clients of attorneys or persons licensed under section 4732.12 or 4732.15 of the Revised Code or patients of persons certified under section 4731.14 of the Revised Code. This division shall not be construed to require a person filing the statement who derives income from a business or profession to disclose the individual items of income that constitute the gross income of the business or profession.

(B) The source of each gift of over five hundred dollars received by the person in the officer's or employee's own name or by any other person for the officer's or employee's use or benefit during the preceding calendar year, except gifts received by will or by virtue of section 2105.06 of the Revised Code, received from parents, grandparents, children, grandchildren, siblings, nephews, nieces, uncles, aunts, brothers-in-law, sisters-in-law, sons-in-law, daughters-in-law, fathers-in-law, mothers-in-law, or any person to whom the person filing the statement stands in loco parentis, or received by way of distribution from any inter vivos or testamentary trust established by a spouse or by an ancestor.

Section 102.03

(A)(1) No present or former public official or employee shall, during public employment or service or for twelve months thereafter, represent a client or act in a representative capacity for any person on any matter in which the public official or employee personally participated as a public official or employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or other substantial exercise of administrative discretion.

(2) For twenty-four months after the conclusion of service, no former commissioner or attorney examiner of the public utilities commission shall represent a public utility, as defined in section 4905.02 of the Revised Code, or act in a representative capacity on behalf of such a utility before any state board, commission, or agency.

(3) For twenty-four months after the conclusion of employment or service, no former public official or employee who personally participated as a public official or employee through

decision, approval, disapproval, recommendation, the rendering of advice, the development or adoption of solid waste management plans, investigation, inspection, or other substantial exercise of administrative discretion under Chapter 343. or 3734. of the Revised Code shall represent a person who is the owner or operator of a facility, as defined in section 3734.01 of the Revised Code, or who is an applicant for a permit or license for a facility under that chapter, on any matter in which the public official or employee personally participated as a public official or employee.

(4) For a period of one year after the conclusion of employment or service as a member or employee of the general assembly, no former member or employee of the general assembly shall represent, or act in a representative capacity for, any person on any matter before the general assembly, any committee of the general assembly, or the controlling board. Division (A)(4) of this section does not apply to or affect a person who separates from service with the general assembly on or before December 31, 1995. As used in division (A)(4) of this section "person" does not include any state agency or political subdivision of the state.

(5) As used in divisions (A)(1), (2), and (3) of this section, "matter" includes any case, proceeding, application, determination, issue, or question, but does not include the proposal, consideration, or enactment of statutes, rules, ordinances, resolutions, or charter or constitutional amendments. As used in division (A)(4) of this section, "matter" includes the proposal, consideration, or enactment of statutes, resolutions, or constitutional amendments. As used in division (A) of this section, "represent" includes any formal or informal appearance before, or any written or oral communication with, any public agency on behalf of any person.

(6) Nothing contained in division (A) of this section shall prohibit, during such period, a former public official or employee from being retained or employed to represent, assist, or act in a representative capacity for the public agency by which the public official or employee was employed or on which the public official or employee served.

(7) Division (A) of this section shall not be construed to prohibit the performance of ministerial functions, including, but not limited to, the filing or amendment of tax returns, applications for permits and licenses, incorporation papers, and other similar documents.

(B) No present or former public official or employee shall disclose or use, without appropriate authorization, any information acquired by the public official or employee in the course of the public official's or employee's official duties that is confidential because of statutory provisions, or that has been clearly designated to the public official or employee as confidential when that confidential designation is warranted because of the status of the proceedings or the circumstances under which the information was received and preserving its confidentiality is necessary to the proper conduct of government business.

(C) No public official or employee shall participate within the scope of duties as a public official or employee, except through ministerial functions as defined in division (A) of this section, in any license or rate-making proceeding that directly affects the license or rates of any person, partnership, trust, business trust, corporation, or association in which the public official or employee or immediate family owns or controls more than five per cent. No public official or employee shall participate within the scope of duties as a public official or employee, except through ministerial functions as defined in division (A) of this section, in any license or rate-making proceeding that directly affects the license or rates of any person to whom the public official or employee or immediate family, or a partnership, trust,

business trust, corporation, or association of which the public official or employee or the public official's or employee's immediate family owns or controls more than five per cent, has sold goods or services totaling more than one thousand dollars during the preceding year, unless the public official or employee has filed a written statement acknowledging that sale with the clerk or secretary of the public agency and the statement is entered in any public record of the agency's proceedings. This division shall not be construed to require the disclosure of clients of attorneys or persons licensed under section 4732.12 or 4732.15 of the Revised Code, or patients of persons certified under section 4731.14 of the Revised Code.

(D) No public official or employee shall use or authorize the use of the authority or influence of office or employment to secure anything of value or the promise or offer of anything of value that is of such a character as to manifest a substantial and improper influence upon the public official or employee with respect to that person's duties.

(E) No public official or employee shall solicit or accept anything of value that is of such a character as to manifest a substantial and improper influence upon the public official or employee with respect to that person's duties.

(F) No person shall promise or give to a public official or employee anything of value that is of such a character as to manifest a substantial and improper influence upon the public official or employee with respect to that person's duties.

(G) In the absence of bribery or another offense under the Revised Code or a purpose to defraud, contributions made to a campaign committee, political party, legislative campaign fund, political action committee, or political contributing entity on behalf of an elected public officer or other public official or employee who seeks elective office shall be considered to accrue ordinarily to the public official or employee for the purposes of divisions (D), (E), and (F) of this section.

As used in this division, "contributions," "campaign committee," "political party," "legislative campaign fund," "political action committee," and "political contributing entity" have the same meanings as in section 3517.01 of the Revised Code.

(H)(1) No public official or employee, except for the president or other chief administrative officer of or a member of a board of trustees of a state institution of higher education as defined in section 3345.011 of the Revised Code, who is required to file a financial disclosure statement under section 102.02 of the Revised Code shall solicit or accept, and no person shall give to that public official or employee, an honorarium. Except as provided in division (H)(2) of this section, this division and divisions (D), (E), and (F) of this section do not prohibit a public official or employee who is required to file a financial disclosure statement under section 102.02 of the Revised Code from accepting and do not prohibit a person from giving to that public official or employee the payment of actual travel expenses, including any expenses incurred in connection with the travel for lodging, and meals, food, and beverages provided to the public official or employee at a meeting at which the public official or employee participates in a panel, seminar, or speaking engagement or provided to the public official or employee at a meeting or convention of a national organization to which any state agency, including, but not limited to, any state legislative agency or state institution of higher education as defined in section 3345.011 of the Revised Code, pays membership dues. Except as provided in division (H)(2) of this section, this division and divisions (D), (E), and (F) of this section do not prohibit a public official or employee who

is not required to file a financial disclosure statement under section 102.02 of the Revised Code from accepting and do not prohibit a person from promising or giving to that public official or employee an honorarium or the payment of travel, meal, and lodging expenses if the honorarium, expenses, or both were paid in recognition of demonstrable business, professional, or esthetic interests of the public official or employee that exist apart from public office or employment, including, but not limited to, such a demonstrable interest in public speaking and were not paid by any person or other entity, or by any representative or association of those persons or entities, that is regulated by, doing business with, or seeking to do business with the department, division, institution, board, commission, authority, bureau, or other instrumentality of the governmental entity with which the public official or employee serves.

(2) No person who is a member of the board of a state retirement system, a state retirement system investment officer, or an employee of a state retirement system whose position involves substantial and material exercise of discretion in the investment of retirement system funds shall solicit or accept, and no person shall give to that board member, officer, or employee, payment of actual travel expenses, including expenses incurred with the travel for lodging, meals, food, and beverages.

(I) A public official or employee may accept travel, meals, and lodging or expenses or reimbursement of expenses for travel, meals, and lodging in connection with conferences, seminars, and similar events related to official duties if the travel, meals, and lodging, expenses, or reimbursement is not of such a character as to manifest a substantial and improper influence upon the public official or employee with respect to that person's duties. The house of representatives and senate, in their code of ethics, and the Ohio ethics commission, under section 111.15 of the Revised Code, may adopt rules setting standards and conditions for the furnishing and acceptance of such travel, meals, and lodging, expenses, or reimbursement.

A person who acts in compliance with this division and any applicable rules adopted under it, or any applicable, similar rules adopted by the supreme court governing judicial officers and employees, does not violate division (D), (E), or (F) of this section. This division does not preclude any person from seeking an advisory opinion from the appropriate ethics commission under section 102.08 of the Revised Code.

(J) For purposes of divisions (D), (E), and (F) of this section, the membership of a public official or employee in an organization shall not be considered, in and of itself, to be of such a character as to manifest a substantial and improper influence on the public official or employee with respect to that person's duties. As used in this division, "organization" means a church or a religious, benevolent, fraternal, or professional organization that is tax exempt under subsection 501(a) and described in subsection 501(c) (3), (4), (8), (10), or (19) of the "Internal Revenue Code of 1986." This division does not apply to a public official or employee who is an employee of an organization, serves as a trustee, director, or officer of an organization, or otherwise holds a fiduciary relationship with an organization. This division does not allow a public official or employee who is a member of an organization to participate, formally or informally, in deliberations, discussions, or voting on a matter or to use his official position with regard to the interests of the organization on the matter if the public official or employee has assumed a particular responsibility in the organization with respect to the matter or if the matter would affect that person's personal, pecuniary interests.

(K) It is not a violation of this section for a prosecuting attorney to appoint assistants and

employees in accordance with division (B) of section 309.06 and section 2921.421 of the Revised Code, for a chief legal officer of a municipal corporation or an official designated as prosecutor in a municipal corporation to appoint assistants and employees in accordance with sections 733.621 and 2921.421 of the Revised Code, for a township law director appointed under section 504.15 of the Revised Code to appoint assistants and employees in accordance with sections 504.151 and 2921.421 of the Revised Code, or for a coroner to appoint assistants and employees in accordance with division (B) of section 313.05 of the Revised Code.

As used in this division, "chief legal officer" has the same meaning as in section 733.621 of the Revised Code.

Sec. 102.031

(A) As used in this section:

(1) "Business associate" means a person with whom a member of the general assembly is conducting or undertaking a financial transaction.

(2) "Contribution" has the same meaning as in section 3517.01 of the Revised Code.

(3) "Employee" does not include a member of the general assembly whose nonlegislative position of employment does not involve the performance of or the authority to perform administrative or supervisory functions; or whose nonlegislative position of employment, if the member is a public employee, does not involve a substantial and material exercise of administrative discretion in the formulation of public policy, expenditure of public funds, enforcement of laws and rules of the state or a county or city, or execution of other public trusts.

(B) No member of the general assembly shall vote on any legislation that the member knows is then being actively advocated if the member is one of the following with respect to a legislative agent or employer that is then actively advocating on that legislation:

(1) An employee;

(2) A business associate;

(3) A person, other than an employee, who is hired under contract to perform certain services and that position involves a substantial and material exercise of administrative discretion in the formulation of public policy.

(C) No member of the general assembly shall knowingly accept any of the following from a legislative agent or a person required to file a statement described in division (A)(2) of section 102.021 of the Revised Code:

(1) The payment of any expenses for travel or lodging except as otherwise authorized by division (H) of section 102.03 of the Revised Code;

(2) More than seventy-five dollars aggregated per calendar year as payment for meals and other food and beverages, other than for those meals and other food and beverages provided

to the member at a meeting at which the member participates in a panel, seminar, or speaking engagement, at a meeting or convention of a national organization to which any state agency, including, but not limited to, any legislative agency or state institution of higher education as defined in section 3345.011 of the Revised Code, pays membership dues, or at a dinner, party, or function to which all members of the general assembly or all members of either house of the general assembly are invited;

(3) A gift of any amount in the form of cash or the equivalent of cash, or a gift of any other thing of value whose value exceeds seventy-five dollars. As used in division (C)(3) of this section, "gift" does not include any contribution or any gifts of meals and other food and beverages or the payment of expenses incurred for travel to destinations either inside or outside this state that is received by a member of the general assembly and that is incurred in connection with the member's official duties.

(D) It is not a violation of division (C)(2) of this section if, within sixty days after receiving notice from a legislative agent that the legislative agent has provided a member of the general assembly with more than seventy-five dollars aggregated in a calendar year as payment for meals and other food and beverages, the member of the general assembly returns to that legislative agent the amount received that exceeds seventy-five dollars.

(E) The joint legislative ethics committee may impose a fine of not more than one thousand dollars upon a member of the general assembly who violates division (B) of this section.

Section 102.04

(A) Except as provided in division (D) of this section, no person elected or appointed to an office of or employed by the general assembly or any department, division, institution, instrumentality, board, commission, or bureau of the state, excluding the courts, shall receive or agree to receive directly or indirectly compensation other than from the agency with which he serves for any service rendered or to be rendered by him personally in any case, proceeding, application, or other matter that is before the general assembly or any department, division, institution, instrumentality, board, commission, or bureau of the state, excluding the courts.

(B) Except as provided in division (D) of this section, no person elected or appointed to an office of or employed by the general assembly or any department, division, institution, instrumentality, board, commission, or bureau of the state, excluding the courts, shall sell or agree to sell, except through competitive bidding, any goods or services to the general assembly or any department, division, institution, instrumentality, board, commission, or bureau of the state, excluding the courts.

(C) Except as provided in division (D) of this section, no person who is elected or appointed to an office of or employed by a county, township, municipal corporation, or any other governmental entity, excluding the courts, shall receive or agree to receive directly or indirectly compensation other than from the agency with which he serves for any service rendered or to be rendered by him personally in any case, proceeding, application, or other matter which is before any agency, department, board, bureau, commission, or other instrumentality, excluding the courts, of the entity of which he is an officer or employee.

(D) A public official who is appointed to a nonelective office or a public employee shall be

exempted from division (A), (B), or (C) of this section if both of the following apply:

- (1) The agency to which the official or employee wants to sell the goods or services, or before which the matter that involves the rendering of his services is pending, is an agency other than the one with which he serves;
- (2) Prior to rendering the personal services or selling or agreeing to sell the goods or services, he files a statement with the appropriate ethics commission, with the public agency with which he serves, and with the public agency before which the matter is pending or that is purchasing or has agreed to purchase goods or services.

The required statement shall contain the official's or employee's name and home address, the name and mailing address of the public agencies with which he serves and before which the matter is pending or that is purchasing or has agreed to purchase goods or services, and a brief description of the pending matter and of the personal services to be rendered or a brief description of the goods or services to be purchased. The statement shall also contain the public official's or employee's declaration that he disqualifies himself for a period of two years from any participation as such public official or employee in any matter involving any public official or employee of the agency before which the present matter is pending or to which goods or services are to be sold. The two-year period shall run from the date of the most recently filed statement regarding the agency before which the matter was pending or to which the goods or services were to be sold. No person shall be required to file statements under this division with the same public agency regarding a particular matter more than once in a calendar year.

(E) No public official or employee who files a statement or is required to file a statement under division (D) of this section shall knowingly fail to disqualify himself from any participation as a public official or employee of the agency with which he serves in any matter involving any official or employee of an agency before which a matter for which he rendered personal services was pending or of a public agency that purchased or agreed to purchase goods or services.

(F) This section shall not be construed to prohibit the performance of ministerial functions including, but not limited to, the filing, or amendment of tax returns, applications for permits and licenses, incorporation papers, and other documents.

Section 102.05

There is hereby created the Ohio ethics commission consisting of six members, three of whom shall be members of each of the two major political parties, to be appointed by the governor with the advice and consent of the senate. Within thirty days of the effective date of this section, the governor shall make initial appointments to the commission. Of the initial appointments made to the commission, one shall be for a term ending one year after the effective date of this section, and the other appointments shall be for terms ending two, three, four, five, and six years, respectively, after the effective date of this section. Thereafter, terms of office shall be for six years, each term ending on the same day of the same month of the year as did the term that it succeeds. Each member shall hold office from the date of his appointment until the end of the term for which he was appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall hold office for the remainder of that term.

No person shall be appointed to the commission or shall continue to serve as a member of the commission if the person is subject to section 102.02 of the Revised Code other than by reason of his appointment to the commission or if the person is a legislative agent registered under sections 101.70 to 101.79 of the Revised Code or an executive agency lobbyist registered under sections 121.60 to 121.69 of the Revised Code. Each member shall be paid seventy-five dollars for each meeting held in the discharge of his official duties, except that no member shall be paid more than eighteen hundred dollars in any fiscal year. Each member shall be reimbursed for expenses actually and necessarily incurred in the performance of his official duties.

The commission shall meet within two weeks after all members have been appointed, at a time and place determined by the governor. At its first meeting, the commission shall elect a chairman and other officers that are necessary and shall adopt rules for its procedures. After the first meeting, the commission shall meet at the call of the chairman or upon the written request of a majority of the members. A majority of the members of the commission constitutes a quorum. The commission shall not take any action without the concurrence of a majority of the members of the commission.

The commission may appoint and fix the compensation of an executive director and other technical, professional, and clerical employees that are necessary to carry out the duties of the commission.

The commission may appoint hearing examiners to conduct hearings pursuant to section 102.06 of the Revised Code. The hearing examiners have the same powers and authority in conducting the hearings as is granted to the commission. Within thirty days after the hearing, the hearing examiner shall submit to the commission a written report of his findings of fact and conclusions of law and a recommendation of the action to be taken by the commission. The recommendation of the hearing examiner may be approved, modified, or disapproved by the commission, and no recommendation shall become the findings of the commission until so ordered by the commission. The findings of the commission shall have the same effect as if the hearing had been conducted by the commission. Hearing examiners appointed pursuant to this section shall possess the qualifications the commission requires. Nothing contained in this section shall preclude the commission from appointing a member of the commission to serve as a hearing examiner.

Section 102.06

(A) The appropriate ethics commission shall receive and may initiate complaints against persons subject to this chapter concerning conduct alleged to be in violation of this chapter or section 2921.42 or 2921.43 of the Revised Code. All complaints except those by the commission shall be by affidavit made on personal knowledge, subject to the penalties of perjury. Complaints by the commission shall be by affidavit, based upon reasonable cause to believe that a violation has occurred.

(B) The appropriate ethics commission shall investigate complaints, may investigate charges presented to it, and may request further information, including the specific amount of income from a source, from any person filing with the commission a statement required by section 102.02 or 102.021 of the Revised Code, if the information sought is directly relevant to a complaint or charges received by the commission pursuant to this section. This information is confidential, except that the commission, in its discretion, may share

information gathered in the course of any investigation with, or disclose the information to, the inspector general, any appropriate prosecuting authority, any law enforcement agency, or any other appropriate ethics commission. If the accused person is a member of the public employees retirement board, state teachers retirement board, school employees retirement board, board of trustees of the Ohio police and fire pension fund, or state highway patrol retirement board, the commission, in its discretion, also may share information gathered in the course of an investigation with, or disclose the information to, the attorney general and the auditor of state. The person so requested shall furnish the information to the commission, unless within fifteen days from the date of the request the person files an action for declaratory judgment challenging the legitimacy of the request in the court of common pleas of the county of the person's residence, the person's place of employment, or Franklin county. The requested information need not be furnished to the commission during the pendency of the judicial proceedings. Proceedings of the commission in connection with the declaratory judgment action shall be kept confidential except as otherwise provided by this section. Before the commission proceeds to take any formal action against a person who is the subject of an investigation based on charges presented to the commission, a complaint shall be filed against the person. If the commission finds that a complaint is not frivolous, and there is reasonable cause to believe that the facts alleged in a complaint constitute a violation of section 102.02, 102.021, 102.03, 102.04, 102.07, 2921.42, or 2921.43 of the Revised Code, it shall hold a hearing. If the commission does not so find, it shall dismiss the complaint and notify the accused person in writing of the dismissal of the complaint. The commission shall not make a report of its finding unless the accused person requests a report. Upon the request of the accused person, the commission shall make a public report of its finding. The person against whom the complaint is directed shall be given reasonable notice by certified mail of the date, time, and place of the hearing and a statement of the charges and the law directly involved, and shall be given the opportunity to be represented by counsel, to have counsel appointed for the person if the person is unable to afford counsel without undue hardship, to examine the evidence against the person, to produce evidence and to call and subpoena witnesses in the person's defense, to confront the person's accusers, and to cross-examine witnesses. The commission shall have a stenographic record made of the hearing. The hearing shall be closed to the public.

(C)(1)(a) If, upon the basis of the hearing, the appropriate ethics commission finds by a preponderance of the evidence that the facts alleged in the complaint are true and constitute a violation of section 102.02, 102.021, 102.03, 102.04, 102.07, 2921.42, or 2921.43 of the Revised Code, it shall report its findings to the appropriate prosecuting authority for proceedings in prosecution of the violation and to the appointing or employing authority of the accused. . If the accused person is a member of the public employees retirement board, state teachers retirement board, school employees retirement board, board of trustees of the Ohio police and fire pension fund, or state highway patrol retirement board, the commission shall also report its findings to the Ohio retirement study council.

(b) If the Ohio ethics commission reports its findings to the appropriate prosecuting authority under division (C)(1)(a) of this section and the prosecuting authority has not initiated any official action on those findings within ninety days after receiving the commission's report of them, the commission may publicly comment that no official action has been taken on its findings, except that the commission shall make no comment in violation of the Rules of Criminal Procedure or about any indictment that has been sealed pursuant to any law or those rules. The commission shall make no comment regarding the merits of its findings. As used in division (C)(1)(b) of this section, "official action" means prosecution, closure after investigation, or grand jury action resulting in a true bill of

indictment or no true bill of indictment.

(2) If the appropriate ethics commission does not find by a preponderance of the evidence that the facts alleged in the complaint are true and constitute a violation of section 102.02, 102.021, 102.03, 102.04, 102.07, 2921.42, or 2921.43 of the Revised Code or if the commission has not scheduled a hearing within ninety days after the complaint is filed or has not finally disposed of the complaint within six months after it has been heard, it shall dismiss the complaint and notify the accused person in writing of the dismissal of the complaint. The commission shall not make a report of its finding unless the accused person requests a report. Upon the request of the accused person, the commission shall make a public report of the finding, but in this case all evidence and the record of the hearing shall remain confidential unless the accused person also requests that the evidence and record be made public. Upon request by the accused person, the commission shall make the evidence and the record available for public inspection.

(D) The appropriate ethics commission, or a member of the commission, may administer oaths, and the commission may issue subpoenas to any person in the state compelling the attendance of witnesses and the production of relevant papers, books, accounts, and records. The commission shall issue subpoenas to compel the attendance of witnesses and the production of documents upon the request of an accused person. Section 101.42 of the Revised Code shall govern the issuance of these subpoenas insofar as applicable. Upon the refusal of any person to obey a subpoena or to be sworn or to answer as a witness, the commission may apply to the court of common pleas of Franklin county under section 2705.03 of the Revised Code. The court shall hold proceedings in accordance with Chapter 2705. of the Revised Code. The commission or the accused person may take the depositions of witnesses residing within or without the state in the same manner as prescribed by law for the taking of depositions in civil actions in the court of common pleas.

(E) At least once each year, the Ohio ethics commission shall report on its activities of the immediately preceding year to the majority and minority leaders of the senate and house of representatives of the general assembly. The report shall indicate the total number of complaints received, initiated, and investigated by the commission, the total number of complaints for which formal hearings were held, and the total number of complaints for which formal prosecution was recommended or requested by the commission. The report also shall indicate the nature of the inappropriate conduct alleged in each complaint and the governmental entity with which any employee or official that is the subject of a complaint was employed at the time of the alleged inappropriate conduct.

(F) All papers, records, affidavits, and documents upon any complaint, inquiry, or investigation relating to the proceedings of the appropriate ethics commission shall be sealed and are private and confidential, except as otherwise provided in this section and section 102.07 of the Revised Code.

(G)(1) When a complaint or charge is before it, the Ohio ethics commission or the appropriate prosecuting authority, in consultation with the person filing the complaint or charge, the accused, and any other person the commission or prosecuting authority considers necessary, may compromise or settle the complaint or charge with the agreement of the accused. The compromise or settlement may include mediation, restitution, rescission of affected contracts, forfeiture of any benefits resulting from a violation or potential violation of law, resignation of a public official or employee, or any other relief that is agreed upon between the commission or prosecuting authority and the accused.

(2) Any settlement agreement entered into under division (G)(1) of this section shall be in writing and be accompanied by a statement of the findings of the commission or prosecuting authority and the reasons for entering into the agreement. The commission or prosecuting authority shall retain the agreement and statement in the commission's or prosecuting authority's office and, in the commission's or prosecuting authority's discretion, may make the agreement, the statement, and any supporting information public, unless the agreement provides otherwise.

(3) If a settlement agreement is breached by the accused, the commission or prosecuting authority, in the commission's or prosecuting authority's discretion, may rescind the agreement and reinstitute any investigation, hearing, or prosecution of the accused. No information obtained from the accused in reaching the settlement that is not otherwise discoverable from the accused shall be used in any proceeding before the commission or by the appropriate prosecuting authority in prosecuting the violation. Notwithstanding any other section of the Revised Code, if a settlement agreement is breached, any statute of limitations for a violation of this chapter or section 2921.42 or 2921.43 of the Revised Code is tolled from the date the complaint or charge is filed until the date the settlement agreement is breached.

Section 102.07

No member, employee, or agent of the Ohio ethics commission, board of commissioners on grievances and discipline of the supreme court, or joint legislative ethics committee shall divulge any information or any books, papers, or documents presented to the commission, joint legislative ethics committee, or board of commissioners on grievances and discipline without the consent, in writing, of the appropriate ethics commission, unless such books, papers, or documents were presented at a public hearing, except as provided in section 102.06 of the Revised Code.

No person shall divulge information that appears on a disclosure statement and is required to be kept confidential under division (B) of section 102.02 of the Revised Code.

Section 102.08*

* See also following version of this section and explanation after that version.

(A)(1) Subject to division (A)(2) of this section, the board of commissioners on grievances and discipline of the supreme court and the house and senate legislative ethics committees may recommend legislation relating to ethics, conflicts of interest, and financial disclosure and shall render advisory opinions with regard to questions concerning these matters for persons for whom it is the appropriate ethics commission. When the appropriate ethics commission renders an advisory opinion relating to a special set of circumstances involving ethics, conflict of interest, or financial disclosure under Chapter 102. or section 2921.42 or 2921.43 of the Revised Code, the person to whom the opinion was directed or who was similarly situated may reasonably rely upon the opinion and shall be immune from criminal prosecutions, civil suits, or actions for removal from his office or position of employment for a violation of Chapter 102. or section 2921.42 or 2921.43 of the Revised Code based on facts and circumstances covered by the opinion, if the opinion states there is no violation of Chapter 102. or section 2921.42 or 2921.43 of the Revised Code. Except as otherwise

provided in division (A)(2) of this section, the appropriate ethics commission shall include in every advisory opinion it renders a statement as to whether the set of circumstances described in the opinion constitutes a violation of section 2921.42 or 2921.43 of the Revised Code. The appropriate ethics commission shall provide a continuing program of education and information concerning the provisions of Chapter 102. and sections 2921.42 and 2921.43 of the Revised Code and other provisions of law pertaining to ethics, conflicts of interest, and financial disclosure. As used in division (A) of this section, "appropriate ethics commission" does not include the Ohio ethics commission.

(2) The board of commissioners on grievances and discipline of the supreme court shall issue advisory opinions only in a manner consistent with Rule V of the Supreme Court Rules for the Government of the Bar of Ohio.

(B) The Ohio ethics commission may recommend legislation relating to ethics, conflicts of interest, and financial disclosure and may render advice with regard to questions concerning these matters for persons for whom it is the appropriate ethics commission. When the Ohio ethics commission renders a written formal or staff advisory opinion relating to a special set of circumstances involving ethics, conflict of interest, or financial disclosure under Chapter 102. or section 2921.42 or 2921.43 of the Revised Code, the person to whom the opinion was directed or who was similarly situated may reasonably rely upon the opinion and shall be immune from criminal prosecutions, civil suits, or actions for removal from his office or position of employment for a violation of Chapter 102. or section 2921.42 or 2921.43 of the Revised Code based on facts and circumstances covered by the opinion, if the opinion states there is no violation of Chapter 102. or section 2921.42 or 2921.43 of the Revised Code. The commission shall provide a continuing program of education and information concerning the provisions of Chapter 102. and sections 2921.42 and 2921.43 of the Revised Code and other provisions of law pertaining to ethics, conflicts of interest, and financial disclosure. [Am. Sub. H.B. 285, effective 03-02-94.]

Section 102.08*

* See also preceding version of this section and explanation below.

(A) The Ohio ethics commission, the board of commissioners on grievances and discipline of the supreme court, and the joint legislative ethics committee may recommend legislation relating to ethics, conflicts of interest, and financial disclosure, and render advisory opinions with regard to questions concerning these matters for persons for whom it is the appropriate ethics commission.

(B) When the Ohio ethics commission or the board of commissioners on grievances and discipline of the supreme court renders an advisory opinion relating to a special set of circumstances involving ethics, conflict of interest, or financial disclosure under Chapter 102., section 2921.42, or section 2921.43 of the Revised Code, the person to whom the opinion was directed or who was similarly situated may reasonably rely upon such opinion and shall be immune from criminal prosecutions, civil suits, or actions for removal from his office or position of employment for a violation of Chapter 102., section 2921.42, or section 2921.43 of the Revised Code based on facts and circumstances covered by the opinion, if the opinion states there is no violation of Chapter 102., section 2921.42, or section 2921.43 of the Revised Code.

(C) When the joint legislative ethics committee renders an advisory opinion that has been publicly sought and that relates to a special set of circumstances involving ethics, conflicts of interest, or financial disclosure under Chapter 102. or section 2921.42 or 2921.43 of the Revised Code, the person to whom the opinion was directed or who was similarly situated may reasonable rely upon such opinion and shall be immune from criminal prosecutions, civil suits, or actions for removal from his office or position of employment for a violation of Chapter 102. or section 2921.42 or 2921.43 of the Revised Code based on the facts and circumstances covered by the opinion, if the opinion states that there is no violation of Chapter 102. or section 2921.42 or 2921.43 of the Revised Code. When the joint legislative ethics committee renders an advisory opinion that has been publicly sought, the advisory opinion is a public record available under section 149.43 of the Revised Code.

(D) When the joint legislative ethics committee renders a written opinion that has been privately sought and that relates to a special set of circumstances involving ethics, conflicts of interest, or financial disclosure under Chapter 102. or section 2921.42 or 2921.43 of the Revised Code, the written opinion does not have the legal effect of an advisory opinion issued under division (C) of this section. When the joint legislative ethics committee renders a written opinion that has been privately sought, the written opinion is not a public record available under section 149.43 of the Revised Code. The proceedings of the legislative ethics committee relating to a written opinion that has been privately sought shall be closed to the public and records relating to these proceedings are not public records available under section 149.43 of the Revised Code.

The person to whom a written opinion is issued under this division may request the committee to issue the written opinion as an advisory opinion. Upon receiving such a request and with the approval of a majority of the members of the committee, the committee may issue the written opinion as an advisory opinion. If the committee issues the written opinion as an advisory opinion, the advisory opinion has the same legal effect as an advisory opinion issued under division (C) of this section and is a public record available under section 149.43 of the Revised Code.

(E) The joint legislative ethics committee shall issue an advisory opinion under division (C) of this section or a written opinion under division (D) of this section, whether it is publicly or privately sought, only at a meeting of the committee and only with the approval of a majority of the members of the committee.

(F) The appropriate ethics commission shall provide a continuing program of education and information concerning the provisions of Chapter 102. and sections 2921.42 and 2921.43 of the Revised Code and other provisions of law pertaining to ethics, conflicts of interest, and financial disclosure. [Am. Sub. H.B. 492, effective 05-12-94.]

* R.C. 102.08 was amended by Am. Sub. H.B. 285 (eff. 03-02-94) and Am. Sub. H.B. 492 (eff. 05-12-94). Harmonization pursuant to R.C. 1.52 is in question. Both versions are presented here.

Section 102.09

(A) The secretary of state and the county board of elections shall furnish, to each candidate for elective office who is required to file a financial disclosure statement by section 102.02 of the Revised Code, a financial disclosure form, and shall notify the appropriate ethics

commission, within fifteen days of the name of the candidate, and of the subsequent withdrawal, disqualification, or death of the candidate. The candidate shall acknowledge receipt of the financial disclosure form in writing.

(B) The secretary of state and the county board of elections shall furnish to each person who is appointed to fill a vacancy for an unexpired term in an elective office, and who is required to file a financial disclosure statement by section 102.02 of the Revised Code, a financial disclosure form, and shall notify the appropriate ethics commission within fifteen days of being notified by the appointing authority, of the name and position of the public official and the date of appointment. The person shall acknowledge receipt of the financial disclosure form in writing.

(C) The public agency or appointing authority that employs, appoints, or promotes any public official or employee who, as a result of such employment, appointment, or promotion, is required to file a financial disclosure statement by section 102.02 of the Revised Code, shall, within fifteen days of the employment, appointment, or promotion, furnish the public official or employee with a financial disclosure form, and shall notify the appropriate ethics commission of the name and position of the public official or employee and the date of employment, appointment, or promotion. The public official or employee shall acknowledge receipt of the financial disclosure form in writing.

(D) Within fifteen days after any public official or employee begins the performance of official duties, the public agency with which the official or employee serves or the appointing authority shall furnish the official or employee a copy of Chapter 102. and section 2921.42 of the Revised Code, and may furnish such other materials as the appropriate ethics commission prepares for distribution. The official or employee shall acknowledge their receipt in writing. The requirements of this division do not apply at the time of reappointment or reelection.

Section 102.99

(A) Whoever violates division (C) of section 102.02, or division (C) of section 102.031, of the Revised Code is guilty of a misdemeanor of the fourth degree.

(B) Whoever violates division (D) of section 102.02 or section 102.021, 102.03, 102.04, or 102.07 of the Revised Code is guilty of a misdemeanor of the first degree.

CHAPTER 2921.

Section 2921.01 As used in sections 2921.01 to 2921.45 of the Revised Code:

(A) "Public official" means any elected or appointed officer, or employee, or agent of the state or any political subdivision, whether in a temporary or permanent capacity, and includes, but is not limited to, legislators, judges, and law enforcement officers.

(B) "Public servant" means any of the following:

(1) Any public official;

(2) Any person performing ad hoc a governmental function, including, but not limited to, a juror, member of a temporary commission, master, arbitrator, advisor, or consultant;

(3) A person who is a candidate for public office, whether or not the person is elected or appointed to the office for which the person is a candidate. A person is a candidate for purposes of this division if the person has been nominated according to law for election or appointment to public office, or if the person has filed a petition or petitions as required by law to have the person's name placed on the ballot in a primary, general, or special election, or if the person campaigns as a write-in candidate in any primary, general, or special election.

(C) "Party official" means any person who holds an elective or appointive post in a political party in the United States or this state, by virtue of which the person directs, conducts, or participates in directing or conducting party affairs at any level of responsibility.

(D) "Official proceeding" means any proceeding before a legislative, judicial, administrative, or other governmental agency or official authorized to take evidence under oath and includes any proceeding before a referee, hearing examiner, commissioner, notary, or other person taking testimony or a deposition in connection with an official proceeding.

(E) "Detention" means arrest; confinement in any vehicle subsequent to an arrest; confinement in any public or private facility for custody of persons charged with or convicted of crime in this state or another state or under the laws of the United States or alleged or found to be a delinquent child or unruly child in this state or another state or under the laws of the United States; hospitalization, institutionalization, or confinement in any public or private facility that is ordered pursuant to or under the authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code; confinement in any vehicle for transportation to or from any facility of any of those natures; detention for extradition or deportation; except as provided in this division, supervision by any employee of any facility of any of those natures that is incidental to hospitalization, institutionalization, or confinement in the facility but that occurs outside the facility; supervision by an employee of the department of rehabilitation and correction of a person on any type of release from a state correctional institution; or confinement in any vehicle, airplane, or place while being returned from outside of this state by a private person or entity, pursuant to a contract entered into under division (E) of section 311.29 of the Revised Code or division (B) of section 5149.03 of the Revised Code. For a person confined in a county jail who participates in a county jail industry program pursuant to section 5147.30 of the Revised Code, "detention" includes time spent at an assigned work site and going to and from the work site.

(F) "Detention facility" means any public or private place used for the confinement of a person charged with or convicted of any crime in this state or another state or under the laws of the United States or alleged or found to be a delinquent child or unruly child in this state or another state or under the laws of the United States.

(G) "Valuable thing or valuable benefit" includes, but is not limited to, a contribution. This inclusion does not indicate or imply that a contribution was not included in those terms before September 17, 1986.

(H) "Campaign committee," "contribution," "political action committee," "legislative

campaign fund," "political party," and "political contributing entity" have the same meanings as in section 3517.01 of the Revised Code.

(I) "Provider agreement" and "medical assistance program" have the same meanings as in section 2913.40 of the Revised Code.

Section 2921.42

(A) No public official shall knowingly do any of the following:

(1) Authorize, or employ the authority or influence of the public official's office to secure authorization of any public contract in which the public official, a member of the public official's family, or any of the public official's business associates has an interest;

(2) Authorize, or employ the authority or influence of the public official's office to secure the investment of public funds in any share, bond, mortgage, or other security, with respect to which the public official, a member of the public official's family, or any of the public official's business associates either has an interest, is an underwriter, or receives any brokerage, origination, or servicing fees;

(3) During the public official's term of office or within one year thereafter, occupy any position of profit in the prosecution of a public contract authorized by the public official or by a legislative body, commission, or board of which the public official was a member at the time of authorization, unless the contract was let by competitive bidding to the lowest and best bidder;

(4) Have an interest in the profits or benefits of a public contract entered into by or for the use of the political subdivision or governmental agency or instrumentality with which the public official is connected;

(5) Have an interest in the profits or benefits of a public contract that is not let by competitive bidding if required by law and that involves more than one hundred fifty dollars.

(B) In the absence of bribery or a purpose to defraud, a public official, member of the public official's family, or any of the public official's business associates shall not be considered as having an interest in a public contract or the investment of public funds, if all of the following apply:

(1) The interest of that person is limited to owning or controlling shares of the corporation, or being a creditor of the corporation or other organization, that is the contractor on the public contract involved, or that is the issuer of the security in which public funds are invested;

(2) The shares owned or controlled by that person do not exceed five per cent of the outstanding shares of the corporation, and the amount due that person as creditor does not exceed five per cent of the total indebtedness of the corporation or other organization;

(3) That person, prior to the time the public contract is entered into, files with the political subdivision or governmental agency or instrumentality involved, an affidavit giving his

exact status in connection with the corporation or other organization.

(C) This section does not apply to a public contract in which a public official, member of his family, or one of the public official's business associates has an interest, when all of the following apply:

(1) The subject of the public contract is necessary supplies or services for the political subdivision or governmental agency or instrumentality involved;

(2) The supplies or services are unobtainable elsewhere for the same or lower cost, or are being furnished to the political subdivision or governmental agency or instrumentality as part of a continuing course of dealing established prior to the public official's becoming associated with the political subdivision or governmental agency or instrumentality involved;

(3) The treatment accorded the political subdivision or governmental agency or instrumentality is either preferential to or the same as that accorded other customers or clients in similar transactions;

(4) The entire transaction is conducted at arm's length, with full knowledge by the political subdivision or governmental agency or instrumentality involved, of the interest of the public official, member of the public official's family, or business associate, and the public official takes no part in the deliberations or decision of the political subdivision or governmental agency or instrumentality with respect to the public contract.

(D) Division (A)(4) of this section does not prohibit participation by a public employee in any housing program funded by public moneys if the public employee otherwise qualifies for the program and does not use the authority or influence of the public official's office or employment to secure benefits from the program and if the moneys are to be used on the primary residence of the public employee. Such participation does not constitute an unlawful interest in a public contract in violation of this section.

(E) Whoever violates this section is guilty of having an unlawful interest in a public contract. Violation of division (A)(1) or (2) of this section is a felony of the fourth degree. Violation of division (A)(3), (4), or (5) of this section is a misdemeanor of the first degree.

(F) It is not a violation of this section for a prosecuting attorney to appoint assistants and employees in accordance with sections 309.06 and 2921.421 of the Revised Code, for a chief legal officer of a municipal corporation or an official designated as prosecutor in a municipal corporation to appoint assistants and employees in accordance with sections 733.621 and 2921.421 of the Revised Code, or for a township law director appointed under section 504.15 of the Revised Code to appoint assistants and employees in accordance with sections 504.151 and 2921.421 of the Revised Code.

(G) This section does not apply to a public contract in which a township trustee in a township with a population of five thousand or less in its unincorporated area, a member of the township trustee's family, or one of the township trustee's business associates has an interest, if all of the following apply:

(1) The subject of the public contract is necessary supplies or services for the township and the amount of the contract is less than five thousand dollars per year.

(2) The supplies or services are being furnished to the township as part of a continuing course of dealing established before the township trustee held that office with the township;

(3) The treatment accorded the township is either preferential to or the same as that accorded other customers or clients in similar transactions;

(4) The entire transaction is conducted with full knowledge by the township of the interest of the township trustee, member of the township trustee's family, or his business associate.

(H) Any public contract in which a public official, a member of the public official's family, or any of the public official's business associates has an interest in violation of this section is void and unenforceable. Any contract securing the investment of public funds in which a public official, a member of the public official's family, or any of the public official's business associates has an interest, is an underwriter, or receives any brokerage, origination, or servicing fees and that was entered into in violation of this section is void and unenforceable.

(I) As used in this section:

(1) "Public contract" means any of the following:

(a) The purchase or acquisition, or a contract for the purchase or acquisition, of property or services by or for the use of the state, any of its political subdivisions, or any agency or instrumentality of either, including the employment of an individual by the state, any of its political subdivisions, or any agency or instrumentality of either;

(b) A contract for the design, construction, alteration, repair, or maintenance of any public property.

(2) "Chief legal officer" has the same meaning as in section 733.621 of the Revised Code.

Sec. 2921.421

(A) As used in this section:

(1) "Chief legal officer" has the same meaning as in section 733.621 of the Revised Code.

(2) "Political subdivision" means a county, a municipal corporation, or a township that adopts a limited home rule government under Chapter 504. of the Revised Code.

(B) A prosecuting attorney may appoint assistants and employees, except a member of the family of the prosecuting attorney, in accordance with division (B) of section 309.06 of the Revised Code, a chief legal officer of a municipal corporation or an official designated as prosecutor in a municipal corporation may appoint assistants and employees, except a member of the family of the chief legal officer or official designated as prosecutor, in accordance with section 733.621 of the Revised Code, and a township law director appointed under section 504.15 of the Revised Code may appoint assistants and employees, except a member of the family of the township law director, in accordance with section 504.151 of the Revised Code, if all of the following apply:

(1) The services to be furnished by the appointee or employee are necessary services for the political subdivision or are authorized by the legislative authority, governing board, or other contracting authority of the political subdivision.

(2) The treatment accorded the political subdivision is either preferential to or the same as that accorded other clients or customers of the appointee or employee in similar transactions, or the legislative authority, governing board, or other contracting authority of the political subdivision, in its sole discretion, determines that the compensation and other terms of appointment or employment of the appointee or employee are fair and reasonable to the political subdivision.

(3) The appointment or employment is made after prior written disclosure to the legislative authority, governing board, or other contracting authority of the political subdivision of the business relationship between the prosecuting attorney, the chief legal officer or official designated as prosecutor in a municipal corporation, or the township law director and the appointee or employee thereof. In the case of a municipal corporation, the disclosure may be made or evidenced in an ordinance, resolution, or other document that does either or both of the following:

(a) Authorizes the furnishing of services as required under division (B)(1) of this section;

(b) Determines that the compensation and other terms of appointment or employment of the appointee or employee are fair and reasonable to the political subdivision as required under division (B)(2) of this section.

(4) The prosecuting attorney, the elected chief legal officer, or the township law director does not receive any distributive share or other portion, in whole or in part, of the earnings of the business associate, partner, or employee paid by the political subdivision to the business associate, partner, or employee for services rendered for the political subdivision.

(C) It is not a violation of this section or of section 102.03 or 2921.42 of the Revised Code for the legislative authority, the governing board, or other contracting authority of a political subdivision to engage the services of any firm that practices the profession of law upon the terms approved by the legislative authority, the governing board, or the contracting authority, or to designate any partner, officer, or employee of that firm as a nonelected public official or employee of the political subdivision, whether the public office or position of employment is created by statute, charter, ordinance, resolution, or other legislative or administrative action.

Section 2921.43

(A) No public servant shall knowingly solicit or accept and no person shall knowingly promise or give to a public servant either of the following:

(1) Any compensation, other than as allowed by divisions (G), (H), and (I) of section 102.03 of the Revised Code or other provisions of law, to perform the public servant's official duties, to perform any other act or service in the public servant's public capacity, for the general performance of the duties of the public servant's public office or public employment, or as a supplement to the public servant's public compensation;

(2) Additional or greater fees or costs than are allowed by law to perform the public servant's official duties.

(B) No public servant for the public servant's own personal or business use and no person for the person's own personal or business use or for the personal or business use of a public servant or party official, shall solicit or accept anything of value in consideration of either of the following:

(1) Appointing or securing, maintaining, or renewing the appointment of any person to any public office, employment, or agency;

(2) Preferring, or maintaining the status of, any public employee with respect to compensation, duties, placement, location, promotion, or other material aspects of employment.

(C) No person for the benefit of a political party, campaign committee, legislative campaign fund, political action committee, or political contributing entity shall coerce any contribution in consideration of either of the following:

(1) Appointing or securing, maintaining, or renewing the appointment of any person to any public office, employment, or agency;

(2) Preferring, or maintaining the status of, any public employee with respect to compensation, duties, placement, location, promotion, or other material aspects of employment.

(D) Whoever violates this section is guilty of soliciting improper compensation, a misdemeanor of the first degree.

(E) A public servant who is convicted of a violation of this section is disqualified from holding any public office, employment, or position of trust in this state for a period of seven years from the date of conviction.

(F) Divisions (A), (B), and (C) of this section do not prohibit a person from making voluntary contributions to a political party, campaign committee, legislative campaign fund, or political action committee, or prohibit a political party, campaign committee, legislative campaign fund, political action committee, or political contributing entity from accepting voluntary contributions.

FOR MORE INFORMATION, OR ADDITIONAL MATERIALS ON THE OHIO ETHICS LAW, PLEASE CONTACT:

**OHIO ETHICS COMMISSION
8 East Long Street
10th Floor
Columbus, Ohio 43215-2940
Phone: (614) 466-7090**

Fax: (614) 466-8368
www.ethics.ohio.gov

Last Revision 09/29/07



City of Jackson, Ohio

City Auditor's Monthly Report

For the Month of March, 2008

James L. Humphreys, City Auditor

City of Jackson
March 2008 Interest Recap

FUND #	FUND NAME	MONTH	YEAR TO DATE
110	GENERAL	\$68,425.85	\$221,372.29
221	CEMETERY	\$1,527.89	\$7,225.32
222	STREET & ALLEY	\$102.74	\$277.94
224	PERMISSIVE TAX	\$11.81	\$28.29
401	BROADWAY ST WATER LINE	\$0.00	\$0.00
405	ELECTRIC CONSTRUCTION	\$3,636.94	\$13,026.89
416	ELECTRIC IMPROVEMENT	\$87.68	\$314.03
701	WATER	\$0.00	\$0.00
731	ELECTRIC	\$3,613.47	\$7,226.94
732	ELECTRIC REPLACEMENT & IMPROV	\$1,499.65	\$5,371.47
760	RECREATION	\$914.60	\$7,183.84
813	E JONES INVESTMENT	\$397.77	\$1,408.17
814	LILLIAN JONES MUSEUM TRUST	\$1,871.69	\$6,357.62
TOTALS		\$82,090.09	\$269,792.80

Statement of Cash Pos w/MTD

AS OF: 04/01/2008

YEAR: 2008

STARTING ACCOUNT:

ENDING ACCOUNT: Z

FUND NO.	FUND DESCRIPTION	BEGINNING BALANCE	[-----RECEIPTS-----]		[-----DISBURSMENTS---]		UNEXPENDED BALANCE	OUTSTANDING ENCUMBRANCE	ENDING BALANCE
			M-T-D	Y-T-D	M-T-D	Y-T-D			
703	WATER UTILITY DEPOS	59452.86	1825.00	7825.00	1475.00	4980.00	62297.86	350.00	61947.86
704	WATER SURPLUS	204.72	0.00	0.00	0.00	0.00	204.72	0.00	204.72
705	WATER STORAGE TANK	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
706	WATER TOWER REHABIL	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
707	WATER-UTILITY OFFIC	27786.50	200000.00	200000.00	18807.11	47366.34	180420.16	39985.55	140434.61
708	WATER-DISTRIBUTION	196334.08	330025.00	330195.00	30930.25	73649.30	452879.78	15928.14	436951.64
711	SEWER FUND	2430270.21	211619.88	723159.12	642945.41	1326128.66	1827300.67	873138.96	954161.71
712	SEWER IMPROVEMENT	1573.84	0.00	0.00	0.00	0.00	1573.84	0.00	1573.84
713	SEWER SURPLUS	237.13	0.00	0.00	0.00	0.00	237.13	0.00	237.13
714	SEWER UTILITY DEPOS	54946.58	1675.00	7125.00	1144.87	4284.87	57786.71	350.00	57436.71
715	SEWER EQUIP REPLACE	100000.00	0.00	0.00	0.00	0.00	100000.00	0.00	100000.00
716	SEWER-UTILITY OFFIC	22463.52	70000.00	70000.00	7784.70	20977.56	71485.96	7786.51	63699.45
717	SEWER-COLLECTION DR	21308.14	420841.43	420841.43	37569.88	90699.38	351450.27	16092.81	335357.46
721	GARBAGE FUND	128238.55	44877.50	137579.97	77102.26	157360.50	108458.02	43929.35	64528.67
722	GARBAGE IMPROVEMENT	41727.45	12000.00	12000.00	0.00	0.00	53727.45	0.00	53727.45
723	GARBAGE UTILITY DEP	17602.94	650.00	2560.00	892.13	2123.13	18039.81	112.00	17927.81
724	GARBAGE-UTILITY OFF	10529.82	20000.00	20000.00	1505.95	4353.68	26176.14	4418.69	21757.45
731	ELECTRIC REVENUE	4123042.05	1181475.15	2780916.57	1039833.55	3280910.41	3623048.21	2560150.57	1062897.64
732	ELECTRIC REPLACEMEN	634684.55	1499.65	5371.47	0.00	0.00	640056.02	0.00	640056.02
733	ELECTRIC UTILITY DE	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
734	ELECTRIC UTILITY RE	806934.52	0.00	0.00	0.00	0.00	806934.52	0.00	806934.52
735	RAILROAD FUND	37479.95	4387.00	44820.80	0.00	0.00	82300.75	0.00	82300.75
736	ELECTRIC-UTILITY OF	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
737	RAILROAD REHABILITA	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
740	STORM WATER UTILITY	480833.44	0.00	376041.56	0.00	500000.00	356875.00	856875.00	500000.00-
750	MUNICIPAL SWIMMING	14309.25	25000.00	25000.00	1790.97	4201.84	35107.41	2372.50	32734.91
751	POOL NATURES WORKS	3597.27	0.00	0.00	0.00	0.00	3597.27	0.00	3597.27
760	JACKSON CITY RECREA	178154.43	45294.60	55613.84	140779.27	147594.95	86173.32	34755.98	51417.34
761	RECREATION RESERVE	263026.95	135536.31	135536.31	0.00	0.00	398563.26	0.00	398563.26
801	STREET EXCAVATION F	12350.00	1000.00	2000.00	1000.00	1000.00	13350.00	0.00	13350.00
802	FIRE LOSS FUND	2355.08	0.00	0.00	0.00	0.00	2355.08	0.00	2355.08
810	CEMETERY ENDOWMENT	359074.58	350.00	1250.00	0.00	0.00	360324.58	0.00	360324.58
812	CDBG INVESTMENT FUN	1933.20	0.00	0.00	0.00	0.00	1933.20	0.00	1933.20
813	E JONES INVESTMENT	123466.01	397.77	1408.17	0.00	0.00	124874.18	0.00	124874.18
814	LILLIAN JONES MUSEU	437324.67	1871.69	6357.62	0.00	0.00	443682.29	0.00	443682.29
815	UNCLAIMED MONEYS FU	10119.43	0.00	14433.79	0.00	0.00	24553.22	0.00	24553.22
820	VISITORS CENTER	45847.75	3510.16	11098.42	11380.00	11380.00	45566.17	0.00	45566.17
	TOTAL:	21674038.76	3421269.72	8934140.16	3485022.66	10444263.64	20163915.28	6266190.40	13897724.88

* End of Report: City of Jackson *

EXHIBIT A

Municipal Pool

957.01 RATES AND RENTALS.

Admission rates and rentals for the Municipal Pool for the 2008 season shall be as follows:

(a) General admission:

Open swim – regular admission	\$ 2.00
Open swim – Jackson City Schools student pass	\$ 1.00

(b) Season tickets:

(1) Individual passes:

a. Regular season pass	\$ 35.00
b. Jackson City Schools student	\$ 15.00

(2) Family passes:

a. Up to three members in same household	\$ 50.00
b. Same household, fourth and fifth members	\$ 15.00 each
c. Same household, each additional member	\$ 10.00 each

(c) Pool Party (City to provide concession and lifeguard):

(1) Two hours or less	\$ 75.00
(2) Three hours	\$ 100.00
(3) Four hours:	\$ 125.00
(4) If a group exceeds more than 50 persons, there shall be an additional charge of \$ 25.00.	

957.02 HOURS.

The Municipal Swimming Pool shall be open during the swimming season at hours as set by the Director of Public Service/Safety. Unless otherwise ordered, the Municipal Swimming Pool shall close at 10:00 p.m.