

July 19, 2011

The Honorable Kevin J. Baxter
Erie County Prosecuting Attorney
247 Columbus Avenue, Suite 319
Sandusky, Ohio 44870-2636

SYLLABUS:

2011-026

1. A township fiscal officer may not receive a portion of building permit fees collected under R.C. 3781.102(E) as extra compensation.
2. A township fiscal officer has a duty to deposit building permit fees collected under R.C. 3781.102(E) into a public depository of the township, invest or deposit the fees in various investments, and keep the financial records associated with, and account for, the deposit and use of the fees.
3. A township fiscal officer who performs duties with regard to the collection and disbursement of building permit fees imposed pursuant to R.C. 3781.102(E) is not entitled to a portion of the fees as extra compensation.
4. Regardless of the type of fund in which building permit fees collected under R.C. 3781.102(E) are deposited, a board of township trustees may not disburse a portion of the fees to the township fiscal officer as extra compensation.



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OPINION NO. 2011-026

The Honorable Kevin J. Baxter
Erie County Prosecuting Attorney
247 Columbus Avenue, Suite 319
Sandusky, Ohio 44870-2636

Dear Prosecutor Baxter:

You have requested an opinion concerning the payment of additional compensation to a township fiscal officer. Specifically, you ask:¹

1. May a township fiscal officer receive a portion of building permit fees collected under R.C. 3781.102(E) as extra compensation?
2. Does a township fiscal officer perform any duties with regard to the collection and disbursement of building permit fees imposed pursuant to R.C. 3781.102(E), and, if so, does the performance of such duties entitle the township fiscal officer to a portion of the fees as extra compensation?
3. Does the type of fund in which building permit fees collected under R.C. 3781.102(E) are deposited affect the authority of a board of township trustees to disburse a portion of the fees to the township fiscal officer as extra compensation?

Authority of a Township to Collect and Use Building Permit Fees

It is well settled that a township and its activities are governed by relevant provisions of statute.² 2008 Op. Att’y Gen. No. 2008-009 at 2-94 (overruled, in part on other grounds, on the basis

¹ We have rephrased your questions for ease of discussion.

² Pursuant to R.C. Chapter 504, townships are granted authority to adopt a limited home rule government. This opinion does not consider the powers of a township that has adopted a limited home rule government since no township in Erie County has adopted such a form of government. *See generally* R.C. 504.04(A) (“[a] township that adopts a limited home rule government may ... [e]xercise all powers of local self-government within the unincorporated area of the township, ...

of statutory amendment by 2009 Op. Att’y Gen. No. 2009-054). A board of township trustees “can exercise only those powers conferred by statute, or such others as are necessarily to be implied from those granted, in order to enable [the board] to perform the duties imposed upon [the board].” *Trustees of New London Township v. Miner*, 26 Ohio St. 452, 456 (1875); *accord Hopple v. Trustees of Brown Township*, 13 Ohio St. 311, 324 (1862); 2008 Op. Att’y Gen. No. 2008-009 at 2-94. Thus, in order to address your questions it is necessary first to understand some basic principles about the collection and use of township building permit fees.

A township may be certified by the Board of Building Standards to accept and approve building plans and issue building permits.³ R.C. 3781.10(E); *see also* R.C. 505.75(C). If a township is authorized to issue building permits, R.C. 3781.102(E) authorizes the township to prescribe and collect fees for doing so:

The political subdivision associated with each municipal, township, and county building department the board of building standards certifies pursuant to [R.C. 3781.10(E)] may prescribe fees to be paid by persons, political subdivisions, or any department, agency, board, commission, or institution of the state, for the acceptance and approval of plans and specifications, and for the making of inspections, pursuant to [R.C. 3781.03 and R.C. 3791.04].

Building permit fees collected by township officials are to be deposited in the township treasury and paid into a fund.⁴ *See* R.C. 9.38; R.C. 5705.09; R.C. 5705.10; R.C. 5705.12; R.C.

except that no resolution adopted pursuant to this chapter shall encroach upon the ... privileges of elected township officers”).

³ The Board of Building Standards may grant a township the authority to accept and approve building plans and issue building permits. *See* R.C. 3781.10(E)(1) (the Board of Building Standards “shall certify ... township ... building departments and the personnel of those building departments, and persons and employees of individuals, firms, or corporations as described in division (E)(7) of this section to exercise enforcement authority, to accept and approve plans and specifications, and to make inspections, pursuant to [R.C. 3781.03, R.C. 3791.04, and R.C. 4104.43]”); R.C. 3781.10(E)(7) (“[e]nforcement authority for approval of plans and specifications and enforcement authority for inspections may be exercised, and plans and specifications may be approved and inspections may be made on behalf of a ... township ... by any of the following who the board of building standards certifies: (a) [o]fficers or employees of the ... township ...; (b) [p]ersons, or employees of persons, firms, or corporations, pursuant to a contract to furnish architectural, engineering, or other services to the ... township ...; [and] (c) [o]fficers or employees of, and persons under contract with, a ... township ... pursuant to a contract to furnish architectural, engineering, or other services”).

⁴ Funds are created in a township treasury to segregate moneys for particular purposes. *See* R.C. 5705.10(H) (“[m]oney paid into any fund shall be used only for the purposes for which such fund is established”); *see also* 1986 Op. Att’y Gen. No. 86-056 at 2-305 (“funds ... are procedural

5705.121; R.C. 5705.13; R.C. 5705.131. The General Assembly does not require township building permit fees to be paid into a special fund or used for a particular purpose. *Cf.* R.C. 503.49 (township trustees shall deposit fees from massage establishment permits and masseur and masseuse licenses “in the township general fund and first use the fees for the cost of administering and enforcing” regulations dealing with that subject). The fees thus may be paid into the general fund or a special fund created pursuant to R.C. 5705.12. *See* 1986 Op. Att’y Gen. No. 86-081; 1982 Op. Att’y Gen. No. 82-014 at 2-47; 1981 Op. Att’y Gen. No. 81-037 at 2-146; 1962 Op. Att’y Gen. No. 2955, p. 288; *see also* R.C. 5705.09 (a township is required to establish in the township treasury a general fund); R.C. 5705.10(A) (“[a]ll revenue derived ... from sources other than the general property tax, unless its use for a particular purpose is prescribed by law, shall be paid into the general fund”); R.C. 5705.10(D) (all township revenue “derived from a source other than the general property tax, for which the law does not prescribe use for a particular purpose ... shall be paid into the general fund”); R.C. 5705.12 (in addition to the funds provided for by R.C. 5705.09, R.C. 5705.121, R.C. 5705.13, and R.C. 5705.131, a township “may establish, with the approval of and in the manner prescribed by the auditor of state, such other funds as are desirable, and may provide by ordinance or resolution that money derived from specified sources other than the general property tax shall be paid directly into such funds”).

If township building permit fees are paid into the general fund, the fees may be used for any proper township purpose, which includes, among other things, general expenses of the township.⁵ *See* R.C. 5705.05 (“[t]he purpose and intent of the general levy for current expenses is to provide one general operating fund derived from taxation from which any expenditures for current expenses of any kind may be made”); R.C. 5705.10(A) (“[a]ll revenue derived from the general levy for current expense within the ten-mill limitation ... shall be paid into the general fund”); 1984 Op. Att’y Gen. No. 84-024 at 2-76 n.3 (“[m]oneys paid into the general fund which are not derived from the general levy or otherwise similarly restricted as to use may be used for any proper purpose of the

devices for keeping financial records”); 1981 Op. Att’y Gen. No. 81-035 at 2-135 (“a ‘fund’ is conceptualized as a convenient business device which ‘amounts to no more than assigning a name to a segregated portion of an agency’s monies’” (quoting 1957 Op. Att’y Gen. No. 772, p. 287, at 289)); 1937 Op. Att’y Gen. No. 1465, vol. III, p. 2447, at 2451 (“[f]unds are merely bookkeeping devices, but indispensable perhaps under our form of government”).

⁵ A township may earmark township building permit fees that are paid into the general fund for particular uses and require the fees to be deposited in an account within the general fund for those uses. *See* 2004 Op. Att’y Gen. No. 2004-017 at 2-141 (“it is appropriate for funds and accounts to be structured to enable public officials to expend public moneys in accordance with the provisions of law governing the expenditure of those moneys”); 1999 Op. Att’y Gen. No. 99-022 at 2-148 (earmarking money in the county’s general fund for particular uses); 1986 Op. Att’y Gen. No. 86-056 (discussing procedures for establishing separate accounts for moneys available for different purposes); 1969 Op. Att’y Gen. No. 69-015 at 2-22 (“[w]here general fund monies are appropriated to a specific use, it is only necessary to establish an account within the general fund for the purpose intended”).

subdivision”); 1981 Op. Att’y Gen. No. 81-035 at 2-135 (“where the use of money paid into the [county] general fund is not restricted to a specific use, the use is limited only to a proper county purpose”). *See generally* 2006 Op. Att’y Gen. No. 2006-009 at 2-78 (“[t]he term ‘general fund’ suggests that moneys in the fund may be used for general expenses of the county”). If township building permit fees are paid into a special fund created pursuant to R.C. 5705.12, the fees may “be used only for the purposes for which [the] fund is established.” R.C. 5705.10(H); *see* R.C. 5705.10(D) (“[e]xcept as otherwise provided by resolution adopted pursuant to [R.C. 3315.01], all revenue derived from a source other than the general property tax and which the law prescribes shall be used for a particular purpose, shall be paid into a special fund for such purpose”); 2011 Op. Att’y Gen. No. 2011-017, slip op. at 3 (“if the law prescribes a particular purpose for which revenue collected by county officials is to be used, R.C. 5705.10(D) requires the revenue to be paid into a special fund and used for only that purpose”); 2010 Op. Att’y Gen. No. 2010-017 at 2-107 (“the proper expenditure of special fund monies depends, in part, upon the special fund involved and the statutory or constitutional restrictions on the use of that fund”).

It is, further, firmly established that fees and other moneys deposited in a township treasury are public funds held in trust for the benefit of the public. 2008 Op. Att’y Gen. No. 2008-009 at 2-95. For this reason, fees and other moneys deposited in a township treasury “may be expended only by clear authority of law and in accordance with applicable statutory provisions.” *Id.*; *accord* 1994 Op. Att’y Gen. No. 94-003 at 2-10; *see State ex rel. Smith v. Maharry*, 97 Ohio St. 272, 119 N.E. 822 (1918) (syllabus, paragraph 1) (“[a]ll public property and public moneys ... constitute a public trust fund.... Said trust fund can be disbursed only by clear authority of law”). Any doubt as to the authority to expend fees and other moneys deposited in a township treasury must be resolved in favor of the preservation of public assets and against the grant of authority to make an expenditure. *State ex rel. A. Bentley & Sons Co. v. Pierce*, 96 Ohio St. 44, 117 N.E. 6 (1917) (syllabus, paragraph 3); *State ex rel. Locher v. Menning*, 95 Ohio St. 97, 99, 115 N.E. 571 (1916); 2008 Op. Att’y Gen. No. 2008-009 at 2-95. Therefore, township building permit fees that are deposited in a township treasury and paid into the general fund or a special fund created pursuant to R.C. 5705.12 may be expended only pursuant to clear statutory authority and in accordance with applicable statutory provisions.

Compensation of a Township Fiscal Officer

Your first question asks whether a township fiscal officer may receive a portion of building permit fees collected under R.C. 3781.102(E) as extra compensation. No statute explicitly authorizes a township to pay the township fiscal officer a portion of building permit fees collected under R.C. 3781.102(E) as extra compensation.⁶ Pursuant to R.C. 507.09(A) and (D), a township fiscal officer is

⁶ Am. Sub. H.B. 153, 129th Gen. A. (2011) (eff. June 30, 2011, with certain statutes effective on other dates) has amended R.C. 507.09(C). The amendment to R.C. 507.09(C), which becomes effective September 29, 2011, *see* Am. Sub. H.B. 153 (uncodified section 812.20), authorizes a township to pay a portion of the fixed compensation that is due the township fiscal officer under R.C. 507.09(A) and (D) from building permit fees deposited in a special fund created pursuant to R.C. 5705.12:

entitled to receive a fixed amount of compensation in accordance with a schedule based on the budget of the township in which he serves.⁷ *See* 1992 Op. Att’y Gen. No. 92-007 at 2-19.

Other statutes provide additional compensation to a township fiscal officer who assumes certain, additional responsibilities or performs particular services for the public.⁸ *See, e.g.*, R.C. 505.32 (“[f]or the services arising in each fiscal year under [R.C. 505.27-.33 (solid waste disposal districts)], the township fiscal officer shall be allowed the compensation fixed by the board of township trustees”); R.C. 515.12 (when a township provides lighting in the unincorporated territory of

A township fiscal officer may be compensated from the township general fund or from other township funds based on the proportion of time the township fiscal officer spends providing services related to each fund. A township fiscal officer must document the amount of time the township fiscal officer spends providing services related to each fund by certification specifying the percentage of time spent working on matters to be paid from the township general fund or from other township funds in such proportions as the kinds of services performed.

If township building permit fees are paid into a special fund created pursuant to R.C. 5705.12, the fees may be used to pay a portion of the fixed amount of compensation a township fiscal officer is due under R.C. 507.09(A) and (D). *See generally* 2004 Op. Att’y Gen. No. 2004-036 at 2-325 (“a board of trustees is authorized by R.C. 505.24 to pay trustees’ salaries from the general fund or other township funds ‘in such proportions as the board may specify by resolution.’ The board may therefore determine, as part of its budgeting process, to appropriate money in the EMS Fund for payment of trustees’ salaries”).

⁷ There are instances in which a township fiscal officer may receive less than the fixed amount of compensation prescribed in R.C. 507.09(A) and (D). *See, e.g.*, R.C. 507.02 (when a board of township trustees appoints a deputy fiscal officer, “[t]he board shall, by resolution, adjust and determine the compensation of the fiscal officer and deputy fiscal officer. The total compensation of both the fiscal officer and any deputy fiscal officer shall not exceed the sums fixed by [R.C. 507.09] in any one year”); R.C. 507.09(B) (“[a]ny township fiscal officer may elect to receive less than the compensation the fiscal officer is entitled to under division (A) of this section”); R.C. 507.09(C) (“[i]f the office of township fiscal officer is held by more than one person during any calendar year, each person holding the office shall receive payments for only those months, and any fractions of those months, during which the person holds the office”).

⁸ 1992 Op. Att’y Gen. No. 92-007 at 2-19 stated that “[t]he fee portion of the township clerk’s [(now township fiscal officer’s)] remuneration has been eliminated.” This statement does not mean that a township fiscal officer may never receive a portion of fees as compensation. Rather, the statement was intended to explain that R.C. 507.09(A) no longer authorizes a township fiscal officer to receive certain fees as extra compensation. *See* 1987-1988 Ohio Laws, Part I, 1639, 1654-55 (Am. S.B. 452, eff. Dec. 15, 1988) (removing language from R.C. 507.09(A) authorizing a township fiscal officer to receive certain fees as compensation from parties requiring particular services).

the township, “[t]he township fiscal officer shall receive for the fiscal officer’s services the sum of fifty cents from each lot or land owner for whom a notice is prepared and the sum of fifty cents for each annual assessment certified to the county auditor.... The compensation shall be in addition to all other compensation provided by law”); R.C. 519.16 (“[t]he township fiscal officer may be appointed secretary of the township zoning commission, secretary of the township board of zoning appeals, and zoning inspector, and the fiscal officer may receive compensation for the fiscal officer’s services in addition to other compensation allowed by law”); R.C. 5575.09 (for making a complete record of proceedings for the construction, reconstruction, resurfacing, or improvement of public roads, a township “fiscal officer shall receive ten cents for each one hundred words, and, for all other services in connection with keeping the record, the fiscal officer shall receive the reasonable compensation allowed by the board”).

No statute, however, authorizes a township fiscal officer to receive a portion of building permit fees collected under R.C. 3781.102(E) as extra compensation. In the absence of such statutory authority, a township fiscal officer may not receive a portion of building permit fees collected under R.C. 3781.102(E) as extra compensation. *See generally State ex rel. Lyne v. Kennedy*, 90 Ohio St. 75, 86, 106 N.E. 773 (1914) (“county officers shall derive no other emolument from their offices than the definite salary prescribed by law”); 2005 Op. Att’y Gen. No. 2005-016 at 2-158 n.4 (“additional compensation may not be accepted by a public officer” unless there is statutory authority to do so); 1930 Op. Att’y Gen. No. 1532, vol. I, p. 274, at 275 (“[i]t is a fundamental proposition of law that officers are entitled to only such fees or compensation as are specifically provided by law”); 1912 Op. Att’y Gen. No. 525, vol. II, p. 1394, at 1395 (“the township clerk [(now township fiscal officer)], acting as clerk of the board of health, cannot draw any additional compensation from the township treasury, but is limited to receive only the sum, or sums, which he may be entitled to as township clerk, and in no case, other than where there is legal authority to extra compensation or allowance, can he receive in excess of the maximum amount provided in [G.C. 3308] viz. : \$150.00, in any one year”).

In addition, by statutorily fixing the amount of compensation that a township fiscal officer may receive annually, *see* R.C. 507.09, the General Assembly has limited the authority of a board of township trustees to increase the township fiscal officer’s compensation by granting the township fiscal officer fringe benefits.⁹ As summarized in 2004 Op. Att’y Gen. No. 2004-048 at 2-415, it is well established “that elected public officials whose compensation is set by statute are not entitled to receive fringe benefits that are not statutorily provided or made available.” *See generally* 1989 Op. Att’y Gen. No. 89-009 at 2-38 (overruled, in part, on other grounds by 2008 Op. Att’y Gen. No. 2008-018) (“implicit in the power of a board of township trustees to fix the compensation of township officers and employees is the power to increase the amount of that compensation when, in the exercise of a reasonable discretion, the board determines that such action is appropriate or necessary, provided, however, that the exercise of that authority is not limited or otherwise restricted by complementary statutory provisions”). While certain fringe benefits are made available to a township fiscal officer

⁹ Fringe benefits are a form of compensation. 1981 Op. Att’y Gen. No. 81-052 at 2-202.

under various statutory provisions, *see, e.g.*, R.C. 505.60; R.C. 505.601; R.C. 505.602, no statutory authorization exists for a township to pay a portion of building permit fees collected under R.C. 3781.102(E) to the township fiscal officer as a fringe benefit. Accordingly, since there is no authority for a township to pay a portion of building permit fees collected under R.C. 3781.102(E) to the township fiscal officer, it follows that a township fiscal officer may not receive a portion of building permit fees collected under R.C. 3781.102(E) as extra compensation. *See State ex rel. A. Bentley & Sons Co. v. Pierce* (syllabus, paragraph 3); *State ex rel. Locher v. Menning*, 95 Ohio St. at 99; 2008 Op. Att’y Gen. No. 2008-009 at 2-95.

A Township Fiscal Officer Is Not Entitled to Additional Compensation for Performing His Statutory Duties

Your second question asks whether a township fiscal officer performs any duties with regard to the collection and disbursement of building permit fees imposed pursuant to R.C. 3781.102(E), and, if so, does the performance of such duties entitle the township fiscal officer to a portion of the fees as extra compensation. Nothing in the Revised Code requires a township fiscal officer to perform any specific duties with regard to the collection and disbursement of building permit fees imposed pursuant to R.C. 3781.102(E).¹⁰

Various statutes do, however, require a township fiscal officer to perform some duties when a township collects fees. Under R.C. 9.38, a township fiscal officer, as a public official, *see* R.C. 117.01(E), is required to deposit all public moneys, including township building permit fees, received by him into a public depository that holds the public moneys of the township. When township building permit fees are deposited into a township treasury, the township fiscal officer may invest or deposit the fees in various types of investments. *See, e.g.*, R.C. 135.14; R.C. 135.144; R.C. 135.17; R.C. 135.45. A township fiscal officer also is responsible for keeping the financial records associated with, and accounting for, the deposit and use of township building permit fees. *See, e.g.*, R.C. 507.04; R.C. 507.07; R.C. 507.11; R.C. 5705.41(D)(1). Thus, a township fiscal officer has a duty to deposit building permit fees collected under R.C. 3781.102(E) into a public depository of the township, invest or deposit the fees in various investments, and keep the financial records associated with, and account for, the deposit and use of the fees.

The performance of these duties does not entitle a township fiscal officer to a portion of building permit fees imposed pursuant to R.C. 3781.102(E) as extra compensation. As explained above, there is no authority for a township to pay a portion of building permit fees collected under R.C. 3781.102(E) to the township fiscal officer as extra compensation. Further, when a township fiscal officer takes office, he is required to perform all the duties of his office for the compensation fixed by statute. *See State ex rel. Mikus v. Roberts*, 15 Ohio St. 2d 253, 239 N.E.2d 660 (1968) (syllabus, paragraph 5) (“[a] public officer takes his office *cum onere*, and so long as he retains it he

¹⁰ A township fiscal officer may be required by local custom or practice to perform specific duties with regard to the collection and disbursement of township building permit fees imposed pursuant to R.C. 3781.102(E).

undertakes to perform its duties for the compensation fixed, whether such duties be increased or diminished during his term of office”); *Donahey v. State ex rel. Marshall*, 101 Ohio St. 473, 476, 129 N.E. 591 (1920) (“[i]t is a familiar rule that when a public officer takes office he undertakes to perform all of its duties, although some of them may be called into activity for the first time by legislation passed after he enters upon his term”); *Jones v. Comm’rs of Lucas County*, 57 Ohio St. 189, 209, 48 N.E. 882 (1897) (“where a service for the benefit of the public is required by law, and no provision for its payment is made, it must be regarded as gratuitous, and no claim for compensation can be enforced’ ... the auditor’s services in making the report for the commissioners must be deemed, if not gratuitous, at least satisfied by the salary attached to his office, and that he is not entitled to extra compensation for such services, payable out of the county treasury” (citations omitted)); 2005 Op. Att’y Gen. No. 2005-016 at 2-158 n.4 (“no statutory authority exists for the payment of additional compensation to a county commissioner who assumes the duties of county administrator—duties that are within the scope of the board’s own authority to perform. Therefore, no county commissioner may accept additional compensation for assuming the duties of county administrator”). Accordingly, a township fiscal officer who performs duties with regard to the collection and disbursement of building permit fees imposed pursuant to R.C. 3781.102(E) is not entitled to a portion of the fees as extra compensation.¹¹

The Fund in which Building Permit Fees Are Deposited Has No Effect on Whether a Township Fiscal Officer May Receive a Portion of the Fees as Extra Compensation

Your final question asks whether the type of fund in which building permit fees collected by a township under R.C. 3781.102(E) are deposited affects the authority of a board of township trustees to disburse a portion of the fees to the township fiscal officer as extra compensation. As stated previously, township building permit fees may be (1) paid into the general fund and used for any proper township purpose or (2) paid into a special fund pursuant to R.C. 5705.12 and used for the purposes for which the fund is established.

Regardless of whether township building permit fees are paid into the general fund or a special fund created pursuant to R.C. 5705.12, a board of township trustees may not disburse a portion of the

¹¹ This conclusion may avoid serious issues for the township fiscal officer under R.C. Chapter 102 and R.C. 2921.42-.43. *See, e.g.*, R.C. 2921.43(A)(1) (“[n]o public servant shall knowingly solicit or accept, and no person shall knowingly promise or give to a public servant ... (1) [a]ny compensation, other than as allowed by divisions (G), (H), and (I) of [R.C. 102.03] 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; [or] (2) [a]dditional or greater fees or costs than are allowed by law to perform the public servant’s official duties”). Pursuant to R.C. 102.08, the authority to issue advisory opinions regarding the application of the ethics and conflict of interest provisions of R.C. Chapter 102 and R.C. 2921.42-.43 is bestowed upon the Ohio Ethics Commission. Any questions about the interpretation or application of these provisions thus should be addressed to the Ohio Ethics Commission.

fees to the township fiscal officer as extra compensation unless the board has the authority to do so. *See State ex rel. A. Bentley & Sons Co. v. Pierce* (syllabus, paragraph 3); *State ex rel. Locher v. Menning*, 95 Ohio St. at 99; 2008 Op. Att’y Gen. No. 2008-009 at 2-95. We earlier concluded that a township has no authority to pay a portion of building permit fees collected under R.C. 3781.102(E) to the township fiscal officer as extra compensation. Absent such authority, the disbursement of a portion of building permit fees that are paid into the general fund to the township fiscal officer as extra compensation is not a proper township purpose. Also, in the absence of such authority, a board of township trustees is prohibited from authorizing the disbursement of a portion of building permit fees that are paid into a special fund created pursuant to R.C. 5705.12 to the township fiscal officer as extra compensation.

For these reasons, a board of a township trustees may not disburse a portion of township building fees from the general fund or a special fund created pursuant to R.C. 5705.12 to the township fiscal officer as extra compensation. Therefore, regardless of the type of fund in which building permit fees collected under R.C. 3781.102(E) are deposited, a board of township trustees may not disburse a portion of the fees to the township fiscal officer as extra compensation.

Conclusions

Based on the foregoing, it is my opinion, and you are hereby advised as follows:

1. A township fiscal officer may not receive a portion of building permit fees collected under R.C. 3781.102(E) as extra compensation.
2. A township fiscal officer has a duty to deposit building permit fees collected under R.C. 3781.102(E) into a public depository of the township, invest or deposit the fees in various investments, and keep the financial records associated with, and account for, the deposit and use of the fees.
3. A township fiscal officer who performs duties with regard to the collection and disbursement of building permit fees imposed pursuant to R.C. 3781.102(E) is not entitled to a portion of the fees as extra compensation.
4. Regardless of the type of fund in which building permit fees collected under R.C. 3781.102(E) are deposited, a board of township trustees may not disburse a portion of the fees to the township fiscal officer as extra compensation.

Very respectfully yours,

A handwritten signature in blue ink that reads "Michael Dewine". The signature is written in a cursive, flowing style.

MICHAEL DEWINE
Ohio Attorney General