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February 5, 2025

Attorney General David Yost
Opinions Section
30 East Broad Street, 15th Floor
Columbus, Ohio 43215

RE: Request for Opinion

Dear Attorney General Yost:

At the request of the Mecca Township ("Township") Board of Trustees and Mecca Township Fiscal Officer Patricia Gibson, both of whom are statutory clients of my office, I am respectfully requesting your opinion as to whether an individual, who presently serves as a township fiscal officer, may also serve as the finance director of a charter municipality (City of Cortland) located in the same county (Trumbull County) as the Township. The question is based on a concern that the referenced positions may be incompatible under R.C. 511.13.

In 2018, your office determined that the positions of township trustee and village fiscal officer are incompatible when a contract exists between the township and village. See 2018 Op. Ohio Attorney General No. 2018-023 at FN 5. Further, in 2008, your office determined that "[a] trustee, officer, or employee of a township who is employed by an entity with which the township enters into a contract has an interest in the contract for purposes of R.C. 511.13, regardless of whether it can be demonstrated that the trustee, officer, or employee has a direct pecuniary or personal interest in the contract." 2008 Op. Ohio Atty. Gen. No. 2008-002 at para. 2 of syllabus.

Notwithstanding the foregoing opinions of your office, the Township and its fiscal officer have argued to my office and believe that the referenced positions are not incompatible, since there are differences in the duties and responsibilities of a township trustee versus a township fiscal officer, as well as differences in the roles of a village fiscal officer and a finance director of a charter

municipality.¹ Further, the Law Director of the City of Cortland, Patrick K. Wilson, Esq., has opined that the referenced positions are not incompatible. A copy of Mr. Wilson's written opinion is enclosed herewith for your review.

Currently, the Township has a contract for the provision of emergency medical services ("EMS") with the City of Cortland. Under the contract, a copy of which is enclosed herewith for your review, the City of Cortland provides EMS to the Township and the Township pays \$74,600.00 in 2025 for such service. Further, as set forth in the enclosed opinion request of the Township's Board of Trustees, the Township has an arrangement with the City of Cortland for the provision of mutual aid EMS, in the event of the termination of the referenced EMS contract. According to the Township's Board of Trustees, the Township's Fiscal Officer and the City of Cortland's Finance Director, who are one and the same person, had no role in the negotiation or approval of the referenced EMS contract or the mutual aid arrangement.²

On January 17, 2025, the Ohio Ethics Commission provided an opinion to Fiscal Officer Gibson, in which the Ohio Ethics Commission opines, in part, that "[u]nder R.C. 2921.42(A)(4), a city finance director is not permitted to simultaneously serve as a township fiscal officer when the city and the township have a contract for the provision of EMS services." Id. At p. 2. However, the Ohio Ethics Commission suggests that the R.C. 2921.42(C) exception to the prohibition of R.C. 2921.42(A)(4) could apply, if it is determined that the broader probation of R.C. 511.13 is not applicable. As you know, the Ohio Ethics Commission does not have authority to opine relative to R.C. 511.13. A copy of the January 17, 2025 opinion of the Ohio Ethics Commission is enclosed herewith for your review.

In rendering your opinion, I ask that you also review your office's opinion in 1993 Op. Ohio Atty. Gen. No. 93-016, in which it is declared that a township trustee may also be employed by a county engineer's office, even if the county has a contract with the trustee's township, provided that the trustee does not participate in negotiations or vote upon a contract entered into between the county and the trustee's township. Id. at para. 1 of syllabus. In the referenced opinion, R.C. 511.13 is not discussed. However, going forward, it makes sense not to construe R.C. 511.13 in a broad manner

¹I am enclosing a copy of the Township's Board of Trustees' request for an opinion of your office in which the duties/responsibilities of the Township fiscal officer and charter municipality finance director positions are explained. Further, I am enclosing the written job description for City of Cortland's finance director position.

²See p. 2 of the enclosed opinion request of the Township's Board of Trustees.

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to deem public positions incompatible on nothing more than the existence of a contract between two (2) public entities.

If you have any questions regarding this matter, please do not hesitate to contact Assistant Prosecuting Attorney Jason Toth at this office at (330) 675-2426. Further, you may contact Township Fiscal Officer Gibson at (330) 716-0754 and/or Pattijogibson@gmail.com. As always, thank you for your assistance in this matter.

Very truly yours,



Dennis Watkins
Trumbull County Prosecutor

Enclosures

Cc: Mecca Township Board of Trustees (w/encl.)
Mecca Township Fiscal Officer Patricia Gibson (w/encl.)