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Issue 19 Vol. 4



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NO June Chapter Meeting

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Presidents Letter – PLSO Cleveland

In my first president's letter a couple newsletters ago, you may recall that I mentioned we were hoping to get in a few more CPD seminars this year for those of us (myself included) who were unable to attend the state conference in Columbus this year. Well, I've been working diligently on that but seem to have hit a brick wall in my first attempt.

Back in March, in soliciting ideas for possible seminars, a few members asked for a confined space (manhole) / safety seminar. That sounded easy enough to arrange so I called the Cleveland Area OSHA office who assured me they could provide a speaker for a 2 hour seminar on confined space & construction site safety for June 13th. They'd just need a written request. The letter went out the next day (April 29th) & when I called 10 days later they found the letter. Problem was, they told me, that they couldn't approve it there, the approval had to come from the national office in Washington. What! Not to worry they said, they approve these requests pretty quickly. Well, another call, an e-mail, & 2 ½ weeks later I'm still waiting for that "quick response". I'm still hoping to hear from them by the end of May. Sorry folks, I know it's not much notice at a busy time for all of us, but pencil it in on your calendars for Thursday, June 13th, 6:00 to about 8:30 PM. We haven't reserved a place to hold it yet as we still don't have a confirmation. Keep the eraser handy.

We are planning the Student Recognition & Old Timers meeting for Tuesday, July 16th this year & inviting our two new scholarship recipients: Ryan Kramer & Brett Spangler and their families. That doesn't need approval from Washington, so mark it on your calendars. Venue to be determined, we'll notify you.

Another noteworthy item we've seen all too often this past year is the passing of one of our colleagues. John Sinatra worked at ODOT and then retired from the City of Cleveland just before I started working there in 1989. He then went on to found Lakewood Surveys & remained in business until about 3 years ago. You'll find his caps on pins throughout the city and suburbs, most frequently on the west side & in Lakewood. John was 84, keep his family in your prayers.

Stay Safe! (OSHA will confirm that statement if you write them a letter.)

Dave Bruckner, PS
2019 Chapter President

**Delegates Report
May 10, 2019
State Executive Committee Meeting**

President Silva called the meeting to order at 6:00 P.M.

Secretary Rich Fredrickson determined that there was a quorum present.

**Motion to accept the minutes for the April 2019 meeting.
Motion Passed**



**George Hofmann
Delegate**

**Josh Mehelcic Treasurer reported on the April 2019 financial report.
Report was accepted for Financial review**

**A motion was made and passed to ratify the membership vote to increase the NSPS dues (\$10.00)
The next fiscal year will show the new increase which brings the total for NSPS membership to \$50.00.**

New business: George Hofmann brought to the boards attention that First American Title has a listing on their web site for a Sr. Field Technician, after review of this, all felt that this would be an illegal practice of land surveying. The matter was forwarded to the State Board of registration. (See attached [CSN PAGE 21-23](#))

CEAO: (see attached report [BEGINNING ON CSN PAGE 7](#))

New members; No New Members

State Board: Survey Task Force divided into three categories, 1) License? Education, 2) Public Outreach, 3) Definition of surveying

NGS is still looking at phasing out the U.S. Survey foot and going to the International foot.

Historic Review: Fort Steuben, Judy Bratten (Executive Director) is stepping down and Paul Zuros has been hired to replace her. Ohio Valley Frontiers Days will be celebrated the first weekend in June (JUNE 1-2). PLSO and SHS members volunteer to staff the Surveyors Blockhouse to help promote surveying to the public.

Newsletter: Melinda looking for Chapter Contributions to the newsletter.

NSPS Governor: Bob Akins reported on Lobby Day (See Attached) [CSN PAGE 6](#)

Trig star: 7 Schools participated, 3 Chapters hosted, Final results will be available at next meeting.

Education: President Elect. Terry Wright was named committee chairman

**Delegates Report
May 10, 2019
State Executive Committee Meeting**

**Annual Conferences
2019-2021 Hilton Easton , Columbus,**

Fall Conferences

**2019 Mason Melinda is looking into offering two separate sessions for Ethics
2020 Cleveland Marriott Airport**

Workshop scheduled for May 31st, Topic Ethics and Legislative review. See web-site

Finance: George Hofmann reviewed the financials for April and found all to be in order.

Melinda Gilpin provide the chapters with membership rosters for the past three years.

Melinda gave George Hofmann a check for three years of chapter dues, so this now brings us current.

George stated that there has not been an audit of our books for the past 10 years that Melinda has been our Executive Director, and no one new if and when an audit may have been done prior to that.

George asked that an audit be made. Bob Akins and Charles Harkness both stated that it would be a good policy to have this done periodically. Melinda says that she will get quotes from three sources to have this done and will present these quotes to the executive board for consideration.

Rocky Lomano, Columbus delegate is looking for volunteers to help in a boy scout merit badge on June 28-29, 2019

President Silva adjourned the meeting

**Respectfully submitted
George A. Hofmann ,2019 Cleveland Chapter Delegate**

Dear PLSO Membership,

Askega Chapter, PLSO meeting, Monday, June 3, 2019, Ohio, 6 pm to 8 pm.

Speaker: Steve Hatfield

Two PDHs

Steve Hatfield from Geo Shack will give a presentation on the National Global Navigation Satellite System (GNSS) and the updates on Ohio VRS system. Also, the changes in the connection to the WIFI to the GPS units. After the presentation an "Open Discussion Forum" for the questions and answers.

Location 9025 Osborne Drive, Mentor, OH 44060 Land Design Consultants

Pass this on to other PLSO members! All PLSO Members are Welcome!

Pizza and bottled water will be provided.

RSVP by email for a number count, Thank You!

acting Askega President William R Loetz P. S.

The Askega Chapter is looking for a President and President elect. Chapter meeting at 5:45 pm for new officers



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NSPS SPRING MEETING



7.3

NSPS SPRING MEETING 2019
WASHINGTON, DC
APRIL 10-12, 2019

LOBBY DAY

- 40 PARTICIPANTS, 140 OFFICIALS VISITED
- ISSUES PRESENTED INCLUDED INFRASTRUCTURE AND WAS BASED ON THE 3 PAGE ATTACHMENT INCLUDED WITH THIS REPORT
- I MET WITH LEGISLATIVE STAFFERS FROM THE OFFICES OF SEN. SHERROD BROWN, SEN. ROB PORTMAN, REP. BILL JOHNSON, REP. TIM RYAN, AND REP. BOB LATTA
- PACKETS WERE DISTRIBUTED TO ALL OTHER OHIO REPRESENTATIVE OFFICES
- THE MEETING WITH REP. BOB LATTA WAS PRIMARILY TO ASK FOR SUPPORT OF THE NOMINATION OF BRENT BIRTH (PA) FOR A SEAT ON THE USDA TASK FORCE AS PROVIDED FOR IN THE RECENTLY PASSED FARM BILL
- NSPS EXECUTIVE COMMITTEE AND ITS LEGISLATIVE REPRESENTATIVES HAD A MEETING AT THE WHITE HOUSE WITH FRANCES BROOKE, ASSISTANT TO LARRY KUDLOW, DIRECTOR OF NATIONAL ECONOMIC COUNCIL FOR PRESIDENT TRUMP
- INFRASTRUCTURE MAY INCLUDE ROADS, SEA PORTS, AIRPORTS, SCHOOLS, HOSPITALS, BROAD BAN INTERNET
- THE CURRENT TRANSPORTATION BILL EXPIRES AT THE END OF SEPTEMBER, 2020. THE INFRASTRUCTURE ISSUE WILL SURELY BE A POLITICAL FOOTBALL LEADING UP TO THE 2020 NATIONAL ELECTIONS

C.E.A.O. REPORT

January 9, 2019

The Honorable James R. Flaiz
Geauga County Prosecuting Attorney
231 Main Street, Court House Annex
Chardon, Ohio 44024-1235

SYLLABUS:

2019-001

1. A county engineer who has appointed draftsmen of county tax maps pursuant to R.C. 5713.10 may not transfer to a county auditor the authority to supervise and pay the appointed draftsmen.
2. A county auditor may not appoint draftsmen of county tax maps or supervise and fix the salaries of such draftsmen.
3. The salaries of draftsmen of county tax maps may not be paid from the county's real estate assessment fund established under R.C. 325.31(A).
4. The salaries of draftsmen appointed by a county engineer pursuant to R.C. 5713.10 shall be paid out of the general county fund, biweekly from the county treasury, upon the warrant of the county auditor. The amount of the biweekly payment shall be adjusted so that the total amount paid to these draftsmen over the course of one year is equal to the amount the draftsmen would receive if the draftsmen were paid semimonthly.

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become employees of the Geauga County Auditor, subject to the auditor's supervision and control. Under the terms of the MOU, the Geauga County Board of Commissioners appropriates moneys to the Geauga County Auditor for the costs associated with providing office space to, and supervising, the draftsmen. The Geauga County Auditor pays the salaries of the draftsmen with moneys that have been paid into the county treasury to the credit of the county's real estate assessment fund pursuant to R.C. 325.31(A).

These circumstances have prompted you to ask the following questions:¹

1. May a county engineer who has appointed draftsmen of county tax maps pursuant to R.C. 5713.10 transfer to a county auditor the authority to supervise and pay the appointed draftsmen?
2. If not, may a county auditor appoint draftsmen of county tax maps and supervise and fix the salaries of the draftsmen appointed by the auditor?
3. May the salaries of draftsmen of county tax maps be paid from the county's real estate assessment fund?
4. If not, from what funds may the salaries of the draftsmen be paid?

We will address each of your questions in turn, below.

A County Engineer May Not Transfer the Authority Conferred Upon Him by R.C. 5713.09 and R.C. 5713.10

Your first question asks whether a county engineer who has appointed draftsmen of county tax maps pursuant to R.C. 5713.10 may transfer to a county auditor the authority to supervise and pay the appointed draftsmen. A county engineer is a creature of statute and therefore "possesses only such powers as may be expressly conferred upon him by statute, or as may be required by necessary implication to perform the duties so imposed." 1976 Op. Att'y Gen. No. 76-015, at 2-43; *see also* 1992 Op. Att'y Gen. No. 92-049, at 2-199; 1986 Op. Att'y Gen. No. 86-081, at 2-455; 1983 Op. Att'y Gen. No. 83-027, at 2-100. Therefore, unless a county engineer is authorized by statute to transfer the authority to supervise and pay draftsmen of county tax maps to the county auditor, the county engineer may not do so. *Cf.* 1983 Op. Att'y Gen. No. 83-027, at 2-100 ("unless there is statutory authority permitting the ... engineer to contract with private firms for the performance of particular functions, the ... engineer may not do so").

The provisions in R.C. Chapter 315 create the office of county engineer and set forth the general duties of that office. *See* R.C. 315.01 (providing that a county engineer "shall be elected quadrennially in each county... and shall hold such office for four years"); 1988 Op. Att'y Gen.

¹ We rephrased your questions for ease of organization and analysis.

No. 88-067, at 2-342 ("R.C. Chapter 315 creates the office of county engineer, and provisions within that chapter, as well as R.C. Chapter 5543 (duties of county engineer), confer specific responsibilities upon the county engineer with regard to the construction, repair, and maintenance of roads and highways within the county"); 1983 Op. Att'y Gen. No. 83-027, at 2-100 ("[a] county engineer's duties are set forth generally in R.C. Chapter 315"). The provisions of law that govern the duty of a county engineer to make, correct, and keep up to date a complete set of tax maps of the county and appoint draftsmen to assist the engineer in the performance of this duty, are set forth in R.C. 325.14(A), R.C. 5713.09, and R.C. 5713.10.

R.C. 325.14(A) provides that the county "engineer shall be the county tax map draftsman." Pursuant to R.C. 5713.09, the county engineer is "to provide for making, correcting, and keeping up to date a complete set of tax maps of the county, and shall employ the necessary number of assistants."² R.C. 5713.10 provides, in pertinent part, that "[t]he county engineer shall appoint the necessary draftsmen and fix the salary thereof, subject to the approval

² R.C. 5713.09 states that "[t]he board of county commissioners *may* designate the county engineer to provide for making, correcting, and keeping up to date a complete set of tax maps of the county." (Emphasis added.) The word "may" in R.C. 5713.09 appears to confer upon a board of county commissioners the discretion to designate the county engineer as tax map draftsman, thereby suggesting that a board of county commissioners has the authority to decide, in the alternative, not to designate the county engineer as tax map draftsman. See 1983 Op. Att'y Gen. No. 83-027, at 2-101 n.5; see generally *Dorrian v. Scioto Conservancy Dist.*, 27 Ohio St. 2d 102, 271 N.E.2d 834 (1971) (syllabus, paragraph one) ("[i]n statutory construction, the word 'may' shall be construed as permissive and the word 'shall' shall be construed as mandatory unless there appears a clear and unequivocal legislative intent that they receive a construction other than their ordinary usage").

However, R.C. 325.14(A) (formerly G.C. 7181), enacted after R.C. 5713.09 (formerly G.C. 5551), provides unequivocally that the county "engineer *shall* be the county tax map draftsman." (Emphasis added.) Prior opinions of the Attorney General have interpreted R.C. 325.14(A) "as repealing by implication that portion of R.C. 5713.09 ... which authorized the county commissioners to appoint the county engineer ... as the tax map draftsman." 1983 Op. Att'y Gen. No. 83-027, at 2-101 n.5; see also 1945 Op. Att'y Gen. No. 181, p. 152, at 154 ("[i]n 1917 Section 7181 ... was amended ... by inserting" that "[t]he county engineer shall be the county tax map draftsman." This, as will be noted, had the effect of repealing by implication that portion of Section 5551 which authorized the county commissioners to appoint the county [engineer] as tax map draftsman, since the legislature by this later enactment expressly made him such officer"). Therefore, the directive in R.C. 325.14(A) that the county "engineer shall be the county tax map draftsman" prevails over that portion of R.C. 5713.09 that purports to confer discretionary authority upon a board of county commissioners to appoint the county engineer as the tax map draftsman and indicates "that it is mandatory that the county engineer assume" the duties of tax map draftsman. 1983 Op. Att'y Gen. No. 83-027, at 2-101 n.5; see also *Dorrian*, 27 Ohio St. 2d 102 (syllabus, paragraph one).

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of the board of county commissioners." Necessarily implicit in the authority to appoint and fix the salaries of draftsmen of county tax maps, is the authority of a county engineer to supervise and pay the appointed draftsmen.

None of the foregoing statutes or any other statute in the Revised Code authorizes a county engineer to transfer his duties as county tax map draftsman, or his authority to appoint and thereby supervise necessary assistant draftsmen, to another county officer.³

"In those cases in which the proper execution of the office requires the exercise of judgment or discretion on the part of the [public] officer, the presumption is that he was chosen because he was deemed fit and competent to exercise that judgment and discretion, and, unless power to substitute another in his place has been given to him, he cannot delegate his powers or duties to another."

1962 Op. Att'y Gen. No. 3243, p. 682, at 685 (quoting 44 Ohio Jurisprudence 2d, 65, Public Officers, p. 552).

The General Assembly has deemed it prudent to confer upon a county engineer the responsibility to make, correct, and keep up to date county tax maps and to appoint any necessary draftsmen. The county engineer may not relinquish or delegate this responsibility unless specifically provided by statute or otherwise provided for in a charter adopted by the county.⁴ See 1985 Op. Att'y Gen. No. 85-039, at 2-141 ("[a] county charter" adopted pursuant to Ohio Const. art. X, § 3 "may vest in a county officer whatever powers and duties it so

³ Although no statute authorizes a county engineer to transfer his duties as tax map draftsman to another county officer, R.C. 305.15 authorizes a county engineer to request, in writing, that the board of county commissioners "employ a registered professional engineer and" necessary assistants or "enter into contracts with any person, firm, partnership, association, or corporation qualified to perform engineering services in the state" to perform work required of the county engineer. A board of county commissioners may employ such persons or enter into such contracts if the board deems it necessary "on account of the amount of work to be performed." *Id.* Work of the county engineer that may be performed by persons employed by the board of county commissioners or via contract pursuant to R.C. 305.15 includes the duties of the county engineer to make, correct, and keep up to date county tax maps. 1983 Op. Att'y Gen. No. 83-027, at 2-105 ("R.C. 305.15 states generally that it applies '[w]hen the services of an engineer are required with respect to roads, turnpikes, ditches, bridges, or any other matter' (emphasis added), thus clearly permitting the inclusion of tax mapping duties").

⁴ Ohio Const. art. X, § 3 authorizes "the people of any county to adopt a charter and thereby increase the power of their county government." 1985 Op. Att'y Gen. No. 85-039, at 2-138. "[A] charter permits a county to distribute among the different county officers the county's power" and "may vest in a county officer whatever powers and duties it so chooses." *Id.* at 2-141. Geauga County has not adopted a charter pursuant to Ohio Const. art. X, § 3.

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(Cont'd on Page 8)

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chooses"); 1970 Op. Att'y Gen. No. 70-091, at 2-158 ("[e]lected or appointed officials cannot, by contract or otherwise, divest themselves of the responsibilities and duties of their respective offices, although, where authorized, such officials may delegate to others the performance of various ministerial duties and responsibilities").

Accordingly, in response to your first question, we conclude that a county engineer who has appointed draftsmen of county tax maps pursuant to R.C. 5713.10 may not transfer to a county auditor the authority to supervise and pay the appointed draftsmen.

A County Auditor May Not Supervise, or Fix the Salaries of, Tax Map Draftsmen

Your second question asks whether a county auditor may appoint draftsmen of county tax maps and supervise and fix their salaries. A county auditor, like the county engineer, "is a creature of statute, ... and, as such, has only those powers 'as are expressly delegated to [him] by statute and such as are necessarily implied from those so delegated.'" 1987 Op. Att'y Gen. No. 87-110, at 2-729 (overruled by 1994 Op. Att'y Gen. No. 94-066 on other grounds (quoting *Schultz v. Erie Cnty. Metro. Park Dist. Bd.*, 26 Ohio Misc. 68, 69, 269 N.E.2d 72, 73 (C.P. Erie County 1971))).

In analyzing your first question, we recognized that R.C. 325.14(A), R.C. 5713.09, and R.C. 5713.10 confer upon a county engineer the responsibility to make, correct, and keep up to date county tax maps and to appoint any necessary draftsmen to assist the county engineer in the performance of this responsibility. A county auditor is not vested with the responsibility to make, correct, and keep up to date county tax maps or to appoint employees to perform such duties.

R.C. 325.17 authorizes county officers, including a county auditor, to "appoint and employ the necessary deputies, assistants, ... or other employees for their respective offices." The authority of a county auditor to appoint employees under R.C. 325.17 authorizes the county auditor to appoint employees that will assist the auditor in the performance of the auditor's statutory duties. A county auditor may not appoint an employee pursuant to R.C. 325.17 to perform functions that the auditor himself is not authorized to perform.

Accordingly, in response to your second question, we conclude that a county auditor may not appoint draftsmen of county tax maps or supervise and fix the salaries of such draftsmen.

The Salaries of Tax Map Draftsmen May Not Be Paid from the Real Estate Assessment Fund

Your third question asks whether the salaries of draftsmen of county tax maps may be paid from the county's real estate assessment fund. A county real estate assessment fund is a special fund created by statute pursuant to R.C. 325.31(A). See R.C. 5705.09(F); 1963 Op. Att'y Gen. No. 195, p. 286 at 289 ("the 'real estate assessment fund' created by [R.C. 325.31], is of the type referred to in [R.C. 5705.09(F)]"). R.C. 325.31(A) states:

On the first business day of each month, and at the end of the officer's term of office, each officer named in [R.C. 325.27] shall pay into the county treasury, to the credit of the general county fund, on the warrant of the county auditor, all fees, costs, penalties, percentages, allowances, and perquisites collected by the officer's office during the preceding month or part thereof for official services, except the fees allowed the county auditor by [R.C. 319.54(C)], *which shall be paid into the county treasury to the credit of the real estate assessment fund hereby created.* (Emphasis added.)

R.C. 319.54(C) requires a percentage of the total amount of monies collected by the county treasurer on any tax duplicate of the county to be paid into the county treasury to the credit of the real estate assessment fund, as determined by the county auditor pursuant to divisions (C)(1) and (2) of that statute.

The purposes for which monies to the credit of the real estate assessment fund may be expended are limited by R.C. 325.31(B). See 1970 Op. Att'y Gen. No. 70-091, at 2-160 ("[b]eing a special purpose fund," determining whether expenses may be paid from the real estate assessment fund "must be made by consideration of the statutory provisions relating to such fund"). Pursuant to that division, moneys to the credit of the real estate assessment fund may be expended, upon appropriation by the board of county commissioners, only for the purpose of defraying various costs incurred by the county auditor and the county board of revision in the performance of the duties delineated in R.C. 325.31(B)(1) through (6). R.C. 325.31(B) provides, in relevant part:

Moneys to the credit of the real estate assessment fund may be expended, upon appropriation by the board of county commissioners, for the purpose of defraying one or more of the following:

(1) The cost incurred by the county auditor in assessing real estate pursuant to [R.C. Chapter 5713] and manufactured and mobile homes pursuant to [R.C. Chapter 4503];

(2) At the county auditor's discretion, costs and expenses incurred by the county auditor in preparing the list of real and public utility property, in administering laws related to the taxation of real property and the levying of special assessments on real property, including administering reductions under [R.C. Chapters 319 and 323 and R.C. 4503.065], and to support assessments of real property in any administrative or judicial proceeding;

(3) At the county auditor's discretion, the expenses incurred by the county board of revision under [R.C. Chapter 5715];

(4) At the county auditor's discretion, the expenses incurred by the county auditor for geographic information systems, mapping programs, and technological advances in those or similar systems or programs;

(5) At the county auditor's discretion, expenses incurred by the county auditor in compiling the general tax list of tangible personal property and

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administering tangible personal property taxes under [R.C. Chapters 5711 and 5719];

(6) At the county auditor's discretion, costs, expenses, and fees incurred by the county auditor in the administration of estate taxes under [R.C. Chapter 5731] and the amounts incurred under [R.C. 5731.41].

The county auditor and county board of revision use county tax maps in the course of performing some of the duties listed in R.C. 325.31(B)(1)-(6). See R.C. 5713.09 ("[tax] maps shall be for the use of the county board of revision and the auditor, and shall be kept in the office of the auditor"). However, the costs and expenses associated with making, correcting, and keeping up to date the county's tax maps, including the costs and expenses related to employing draftsmen to assist in the making, correcting, and keeping up to date the tax maps, are not costs and expenses incurred by the county auditor or the county board of revision in the performance of any of the duties listed in R.C. 325.31(B)(1)-(6). Rather, such costs and expenses are the responsibility of the county engineer, whose duty it is to make, correct, and keep up to date the county's tax maps. Because R.C. 325.31(B) does not authorize moneys to the credit of the real estate assessment fund to be expended for the purpose of defraying the costs incurred by a county engineer in making, correct, and keeping up to date a complete set of tax maps of the county, the salaries of draftsmen appointed by the county engineer to assist in these duties may not properly be paid from moneys appropriated from the real estate assessment fund. See generally 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").

Accordingly, in response to your third question, we conclude that the salaries of draftsmen of county tax maps may not be paid from the county's real estate assessment fund established under R.C. 325.31(A).

A County Engineer Pays the Salaries of Tax Map Draftsmen from the County General Fund

Your fourth question asks us to determine from what fund or funds the salaries of tax map draftsmen may be paid. R.C. 5713.10 states that "[t]he county engineer shall appoint the necessary draftsmen and fix the salary thereof, subject to the approval of the board of county commissioners. *The salaries of the assistants shall be paid out of the county treasury in the same manner as the salaries of other county officers are paid.*" (Emphasis added.) Therefore, the answer to your question depends upon from which fund or funds the salaries of "other county officers" are paid.

A county auditor, county treasurer, county sheriff, county recorder, county commissioner, county prosecuting attorney, county coroner, and clerk of the court of common pleas, all receive compensation "out of the general county fund, ... as provided by [R.C. 325.03 to R.C. 325.11, and R.C. 325.15], payable in the same manner as provided for county employees in [R.C.



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The Honorable James R. Flaiz

- 8 -

325.17].” R.C. 325.01 (footnote added). R.C. 325.17 provides that the compensation of county employees

shall be paid biweekly from the county treasury, upon the warrant of the county auditor. The amount of the biweekly payment shall be adjusted so that the total amount paid out to an employee over a period of one year is equal to the amount the employee would receive if the employee were paid semimonthly.

Therefore, the salaries of the county officers listed in R.C. 325.01 are paid out of the general county fund, biweekly from the county treasury, upon the warrant of the county auditor. The amount of the biweekly payment is adjusted so that the total amount paid to these county officers over the course of one year is equal to the amount the officers would receive if the officers were paid semimonthly.

Unlike the county officers listed in R.C. 325.01, a county engineer receives “annual compensation in accordance with” the salary schedules set forth in R.C. 325.14(A). These schedules determine the salary of a county engineer according to the population of the engineer’s county. R.C. 325.14(A). R.C. 325.14(A) further provides that the salary of a county engineer

may be paid monthly out of the general county fund or out of the county’s share of the fund derived from the receipts from motor vehicle licenses, [(the auto registration distribution fund established under R.C. 4501.03)], as distributed by [R.C. 4501.04], and the county’s share of the fund derived from the motor vehicle fuel tax, [(the gasoline excise tax fund created under R.C. 5723.27(A))], as distributed by [R.C. 5735.27], as the board of county commissioners directs, upon the warrant of the county auditor.”

The question therefore becomes whether the salaries of draftsmen appointed pursuant to R.C. 5713.10 shall be paid in the same manner as the salaries of the county officers listed in R.C. 325.01, or whether the salaries of such draftsmen shall be paid in the same manner as the salary of a county engineer. For the following reasons, we conclude that the salaries of draftsmen appointed pursuant to R.C. 5713.10 shall be paid in the same manner as the salaries of the county officers listed in R.C. 325.01.

First, R.C. 5713.10 states that “[t]he salaries of the assistants shall be paid ... in the same manner as the *salaries of other county officers* are paid.” The statute’s use of the plural, “officers,” indicates that the salaries of draftsmen shall be paid in the same manner as the county officers listed in R.C. 325.01, as opposed to in the manner that a county engineer is paid. Second, Ohio Const. art. XII, § 5a prohibits moneys in the funds from which a county engineer’s salary may be paid under R.C. 325.14(A) (the auto registration distribution fund and the gasoline excise tax fund) from being expended for purposes other than those related to the regulation and operation of vehicles and fuel and the construction and repair of public highways. Ohio Const. art. XII, § 5a states as follows:

No moneys derived from fees, excises, or license taxes relating to registration, operation, or use of vehicles on public highways, or to fuels used for propelling such vehicles, shall be expended for other than costs of administering such laws, statutory refunds and adjustments provided therein, payment of highway obligations, costs for construction, reconstruction, maintenance and repair of public highways and bridges and other statutory highway purposes, expense of state enforcement of traffic laws, and expenditures authorized for hospitalization of indigent persons injured in motor vehicle accidents on the public highways.

The salaries of draftsmen appointed by a county engineer pursuant to R.C. 5713.10 are not among the types of costs and expenses identified in Ohio Const. art. XII, § 5a as being acceptable costs and expenses for which moneys from the auto registration distribution fund and the gasoline excise tax fund may be expended. See 1952 Op. Att'y Gen. No. 1171, p. 134 (syllabus) ("[b]y reason of the provision of Section 5a of Article XII of the Constitution of Ohio, no part of the salaries of assistant tax map draftsmen appointed pursuant to [R.C. 5713.09 and R.C. 5713.10 (formerly G.C. 5551 and G.C. 5552)] may be paid from the county's share of the funds distributed to the county pursuant to [R.C. 5735.27 (formerly G.C. 5541-8)] and [R.C. 4501.04 (formerly G.C. 6309-2)]"). "It is ... a well-settled principle of statutory construction that where constitutional questions are raised," a statute should be "liberally construe[d] ... to save it from constitutional infirmities." *State v. Sinito*, 43 Ohio St. 2d 98, 101, 330 N.E.2d 896 (1975). Therefore, based upon the foregoing, we construe R.C. 5713.10 as requiring the salaries of draftsmen of county tax maps to be paid in the same manner as the salaries of the county officers listed in R.C. 325.01 are paid, as opposed to in the same manner as the salary of the county engineer under R.C. 325.14(A).⁵

Accordingly, in response to your fourth question, we conclude that the salaries of draftsmen appointed by a county engineer pursuant to R.C. 5713.10 shall be paid out of the general county fund, biweekly from the county treasury, upon the warrant of the county auditor. The amount of the biweekly payment shall be adjusted so that the total amount paid to these draftsmen over the course of one year is equal to the amount the draftsmen would receive if the draftsmen were paid semimonthly.

⁵ R.C. 315.12(A) requires that "[t]wo thirds of the cost of operation of the office of county engineer, including the salaries of all of the employees ... of such office" be paid from the county's share of the auto registration distribution and gasoline excise tax funds. In 1952 Op. Att'y Gen. No. 1171, p. 134, the Attorney General relied upon Ohio Const. art. XII, § 5a to conclude that R.C. 315.12(A) does not require the salaries of draftsmen appointed by a county engineer pursuant to R.C. 5713.10 be paid from the county's share of the auto registration distribution and gasoline excise tax funds. Such a finding is consistent with our interpretation of R.C. 5713.10, which specifically provides that the salaries of draftsmen appointed by a county engineer "shall be paid out of the county treasury in the same manner as the salaries of other county officers are paid."

The Honorable James R. Flaiz

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Conclusions

In sum, it is our opinion, and you are hereby advised that:

1. A county engineer who has appointed draftsmen of county tax maps pursuant to R.C. 5713.10 may not transfer to a county auditor the authority to supervise and pay the appointed draftsmen.
2. A county auditor may not appoint draftsmen of county tax maps or supervise and fix the salaries of such draftsmen.
3. The salaries of draftsmen of county tax maps may not be paid from the county's real estate assessment fund established under R.C. 325.31(A).
4. The salaries of draftsmen appointed by a county engineer pursuant to R.C. 5713.10 shall be paid out of the general county fund, biweekly from the county treasury, upon the warrant of the county auditor. The amount of the biweekly payment shall be adjusted so that the total amount paid to these draftsmen over the course of one year is equal to the amount the draftsmen would receive if the draftsmen were paid semimonthly.

Very respectfully yours,



MICHAEL DEWINE
Ohio Attorney General



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Ranger 3

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Columbus, OH: 614.759.1000
Cincinnati, OH: 513.539.0022
Akron, OH: 330.633.4900
Charleston, WV: 304.776.1831
Bridgeport, WV: 304.933.3036



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CHAPTER REPORT

REPORT FOR: May 6, 2019 PLSO Executive Committee Meeting
Report to be submitted to PLSO office prior to Executive Committee Meeting.

REPORT DATE: 5-9-2019

CHAPTER: Cleveland

DELEGATE: George Hofmann

Meeting Information:

Date: 4-16-19 Executive Committee

Location: Neff's office

Total Attendees: 10 PLSO Members: 10 Guests: _____

Topics Discussed: Chapter Business

Meeting Highlight: Data Bank Files

Chapter Concerns: (topics to be forwarded to the Executive Committee Meeting)

First American Title - hiring of survey crews

Chapter Dues

.CPD Presentation: YES NO # Credits

Speaker Name & Affiliation: _____

PLSO Office: 150 East Wilson Bridge Road, Suite 300 Phone: 614-761-2313
Worthington, Ohio 43085 Fax: (614) 761-2317

Page 1 of 2

CPD Topic/Title: _____

Presentation Summary: _____

Future Chapter Activity:

Indicate future events of the Chapter (including dates):

Note: These may include fundraising, CPD presentations, golf outings, joint meeting, etc.

June 28th Golf Outing
OPD in June 6th or 13th (OSHA)

CPD in June 6th or 13th (OSHA)

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Member Highlight:

Opportunity to highlight the activities of a member in the Chapter:

Note: This could be for their surveying efforts, chapter activities, civic activities, etc.

FIRST AMERICAN TITLE CO. JOB POSTING;

5.2 ADDENDUM

Sr. Field Survey Technician

Job Family	Property & Land Specialists
Requisition Number	R004454
Work Location	Cleveland, OH
Secondary Location	Columbus, OH, US;
Employment Category	Full Time -- Regular

[Back to Search Results](#)

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Company Summary.

Join our team! As a global leader in providing title insurance, settlement services and risk solutions for real estate transactions, First American Title Insurance Company (NYSE: FAF) is an ideal place to build your career. We have been entrusted with helping our customers achieve and protect their dream of homeownership since 1889. First American Title's National Commercial Services division provides single-point service for simple to multi-property/multi-state national commercial real estate transactions. We believe that our people are the key to the company's continued success. Because our employees enable our future, we invest in theirs by supporting their careers and promoting their overall wellbeing. First American has created an award-winning culture and has been named to the Fortune 100 Best Companies to Work For® 2018 list for the third consecutive year and to more than 50 regional Best Places to Work lists. For more information, visit www.firstam.com.

Job Summary.

Responsible for measuring and mapping the Earth's surface. Measure distances, directions, and angles between points on, above, and below the Earth's surface. In the field, they select known survey reference points and determine the precise location of important features in the survey area using specialized equipment. Surveyors also research legal records, look for evidence of previous boundaries, and analyze data to determine the location of boundary lines

Essential Functions

- Commonly referred to as the "Party Chief" in industry terms
- Supervise and train Field Survey Technicians in all aspects of land surveying.
- Taking and delivering quality field notes that will enable the drafter and Surveyor to be able to produce an accurate survey.
- Adjust and operate surveying instruments, such as the theodolite, total station and GPS receiver, and compile notes, make sketches and enter data into computers.
- Act as the primary contact for all clients to get status, request quotes, and handle any issues that arise with any of our surveys.
- Schedule all field survey crew routes; ensure they have equipment, vehicle, job information, etc so they can perform their duties.
- Review and approve all field crew timesheets.
- Responsible to maintain BOTH databases we currently use, our INHOUSE database used by researchers, field crews, drafters and Surveyors, AND the client database used for deliver.
- Managing all aspects of the field survey departments. Also coordinate all the contract drafting for residential surveys, and coordinate with Licensed Surveyors to have jobs checked, approved, and delivered to client. This position reports to the VP of Field Operations.

Typical Education

- Job specific training and history of continued work in the same field.

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THIS ACTION HAS BEEN REFERRED TO
THE STATE EXECUTIVE BOARD FOR
FURTHER REVIEW.

EARLIER COURT CASE FINDINGS:

Case Summary

William J. Dempsey, PLSO, et al vs. Chicago Title Insurance Company

Note:

After the decision, the State Board of registration enacted Mortgage Location Survey rules and regulations that may supersede this court ruling.

Fast Facts

- Initially filed in October of 1978, final judgement in April of 1986
- Lead plaintiff was William J. Dempsey, joined by 13 other surveyors and PLSO
- Defendants were Chicago Title Insurance Company, joined by Lawyers Title Insurance Company and Terragraph Company
- Trial court initially ruled in favor of the Title Companies, but that decision was reversed by the Court of Appeals of Ohio, Eighth District.

Issues

Dempsey, et al. vs. Chicago Title Insurance Company (the lawsuit) began as a dispute as to whether a title company is able to engage in surveying services without using a licensed surveyor in Ohio. Additionally, the question of whether a professional association can bring suit against an entity for violating state rules and laws.

Background

William J. Dempsey brought suit against Chicago Title Insurance Company in 1978 over their use of "location services" within the mortgage insurance industry. Mr. Dempsey argued that the "location service" that Chicago Title was using actually constituted Surveying, and was therefore illegal under state law. Mr. Dempsey was joined in the lawsuit by 13 other surveyors and PLSO. In the course of the case, the individual surveyors were dismissed from the case, leaving PLSO as the plaintiff to represent them. Based upon the records that PLSO is in possession of, it appears the initial disposition of the case was a dismissal at the request of Chicago Title. The reasoning behind the dismissal appears to be the judge believing that PLSO (as a professional organization) lacked standing to bring a lawsuit against a company for violated state statute. PLSO appealed the ruling to the Eighth District Court of Appeals for Ohio. Upon appeal, The Attorney General for Ohio submitted an *amicus* brief in support of PLSO's right to bring suit. The court of appeals ultimately decided that PLSO does have standing to sue on behalf of members and in defense of licensure. After being sent back to the lower court for trial, the judge ruled in favor of PLSO, asserting that Chicago Title was in fact performing surveying service when making it's "location service" product. The ruling established a consent decree that prevented Chicago Title from using surveying practices in their "location service" product:

"The defendant may prepare...a product known as a "location service" which product shall **not** contain any measurements by verbal or graphic description..."

"The Defendant may also provide...a product known as a "location service" which contains measurements by verbal or graphic descriptions...if such measurements and descriptions are a) derived from a survey made for the transaction or b) undertaken by an independent, registered surveyor..."

Outcome

PLSO was successful in this litigation on multiple fronts. As the lawyers for PLSO said after final disposition, "The litigation established the right of professional surveyors and their professional associations to maintain actions for injunction against unlicensed practice." Additionally, "the litigation established that not all of the activities listed in the statutory definition of surveying need be performed by an unlicensed practitioner to establish that such unlicensed practice is illegal." In summary, the litigation established that Chicago Title was engaged in unlicensed practice through its use and offering "location services," and going forward, any location service with verbal or graphic description must be performed by a licensed surveyor.

Executive Committee Meeting Minutes – May 14, 2019 at 6:00 PM

Neff & Associates: 6405 York Road, Parma Heights, OH 44130

In attendance: Dave Bruckner, Richard Carlson, George Hofmann, Tim Feller, Mike Ackerman, and Scott Horan

Secretary's minutes:

Executive Committee meeting minutes from the April 16, 2019. Meeting minutes accepted with revisions.

Treasury:

- April 2019 treasury report submitted by Tim Feller; acceptance of report is subject to review.
- The Civil 3d for Surveyors Seminar from April 13, 2019 was successful. The seminar earned a small profit which will be added to the general fund for web site maintenance and scholarships.
- The Cleveland Chapter has been reimbursed dues owed by the State Chapter for the 2016-2017, 2017-2018 and 2018-2019 fiscal years.
- Hole sponsors and registration for the June Golf outing have been arriving.

Chapter Delegate:

- Report submitted by George Hofmann
- The NSPS dues increase has been ratified and will be added to PLSO membership fees.
- There are no new members at this time.
- In order to help strengthen the profession, a new task force is being created to report on Licensure and Education, Public Outreach, and the definition of Surveying.
- 7 schools participated in the 2019 Trig-Star competition.
- As the Financial Chairman, George Hofmann requested an audit of the State financials. The board is looking at getting 3 quotes from different sources.

Committees:

Membership Committee:

There are no new members this month.

Newsletter Committee:

No report. Newsletter deadline is May 24, 2019

Website / Records Archival Committee:

The committee is looking into updating the searchability of the web site by adding graphical searches.

Program Committee:

Next seminar is scheduled for June. Dave Bruckner has called OSHAA about giving a presentation on Confined Space Entry and Construction Safety. We are waiting for a response.

A July social meeting is planned where the Scholarship winners will be recognized. Location to be determined.

Education/ Scholarship Committee:

Student feedback from the application process asked about online submittals. This will create an issue with how to submit sealed letters of recommendations. The added format will be reviewed

Finance:

Discussed during Treasurer's report.

Respectfully submitted,

Michael Ackerman, PS

New Business:

None

Secretary Cleveland Chapter PLSO



PAR 5 - NUMBER 11 AT SPRINGVALE GOLF COURSE.

HOME OF THE 46TH ANNUAL

WILLIAM J. HAAS MEMORIAL GOLF OUTING.

LET ALL OF US WHO MAKE OUR LIVING BEHIND A TRIPOD TAKE A BREAK THIS JUNE 28TH 2019 AND ENJOY A DAY OF FUN TO RELAX WITH OUR CO-WORKERS, CLIENTS AND FRIENDS WITH A DAY OF GOLF.

YOU COULD WIN PRIZES, HAVE A FEW COLD-ONES, ENJOY A GOOD MEAL AND HELP SUPPORT THE ISSUES OF OUR TRADE BY ENTERING THE "PUTTING FOR THE P.A.C." COMPETITION.

INSIDE THIS NEWSLETTER ARE BOTH THE FOURSOME REGISTRATION FORM AND THE HOLE SPONSOR FORM. PLEASE TAKE A MINUTE AND FILL ONE OUT AND PLAN TO BE THERE FOR A GOOD TIME!

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WILLIAM J. HAAS MEMORIAL GOLF OUTING**

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Friday June 28, 2019

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_____ Yes No

_____ Yes No

_____ Yes No

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PLSO LEGISLATION UPDATE:

PLSO Legislative Update

Movement In the Legislature

Rep. Tim Schaffer, currently the Executive Director of OSPE, was recently appointed to the Senate. He will now represent the 20th Senate District.

SB166 – Operating Budget

SB166 represents the operating budget for the state of Ohio for the fiscal years 2019 and 2020. The state of Ohio's fiscal year runs from July 1 through June 30 of the following year. As of May 10, 2019, the bill fully funds the State Board of Registration for Engineers and Surveyors, with an appropriate increase in year to year funding. While the bill is supposed to be a straightforward budget document, there are often many unrelated items included in the bill. Currently, PLSO is investigating the potential impact of the Ohio Turnpike Commission making changes to their contracting practices, moving to codify their ability to use value-based selection.

Current Status: Passed by the House 85-9. Hearings still scheduled in the Senate, meaning the bill is far from complete. PLSO will monitor any amendments or changes made to the bill as it continues through the Legislature.

SB1 – Reduce Regulatory Restrictions

SB1 is the Legislature's crown jewel thus far in the session. SB1 aims, like previous legislation, to reduce state agency rules by 10 percent a year for three years, totaling a 30 percent reduction overall. Upon close reading of the bill language, it is clear that the State Board of Registration for Engineers and Surveyors is not included among the agencies that would be required to make cuts under this bill. This bill explicitly targets agencies organized under ORC 121.02, and the State Board is clearly not one of those state agencies.

Current Status: Passed by the Senate 24-8, mainly along party lines. The bill will now move to the House where it will be given hearings and opportunity for changes and amendments. While PLSO does not anticipate this legislation affecting licensed surveyors, we will continue to monitor this legislation as a precaution.

SB136 – Registered Design Professionals

SB136 is a bill recently introduced in the Senate seeking to establish a payment assurance program for registered design professionals, including architects, engineers, and surveyors. If passed, the bill would allow for surveyors and engineers who enter into a written contract for services to be allowed to secure payment assurance through the use of a lien. The lien would be limited in scope, only worth the amount of the contract and only available to the surveyor named in the contract. The PLSO Legislative committee is recommending that this bill to receive a favorable position vote, so that PLSO can publicly support this legislation.

Current Status: Introduced on 4/25/2019, has not yet received a committee assignment.

SB7/HB133 – Temporary Military Licensure

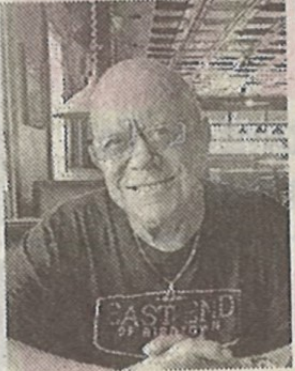
SB7 and HB133 are bills in both chambers of the legislature that deal with the temporary licensing of military individuals or their spouses upon transferring to Ohio. Both bills set a six year limit for the temporary license, and would allow anyone with a license to come to Ohio and receive a temporary PS license provided they meet the criteria (licensed in another state, proof of transfer and residence in Ohio, etc.). While this would likely rarely, if ever, involve PS licensure, PLSO still has some concerns about the bill. Chief among these concerns is the lack of a requirement for the temporary licensee to take the Ohio specific exam.

Current Status: SB7 passed in the Senate 31-0 and now resides in the House Armed Services and Veterans Affairs committee. HB133 appears to be stalled, most likely due to the passage and progression of SB7 through the legislature.

SUNDAY, MAY 26, 2019 **AZ**

SINATRA

JOHN K. SINATRA



Born October 16, 1934. Loving husband of Ann (nee Royer) (deceased); father of Kathleen Curran (Jerry), Deborah Willis (Greg), John P., Michelle Seedhouse (Tim), and Anthony brother of Richard (deceased), and Mary (deceased), Marlene Norrie (Al) (deceased), and Jimmie (Barbara); grandfather of 14; great grandfather and great - great-grand father. No service. In lieu of flower please send donations to Alzheimer's Research.

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HOLE SPONSORSHIP FORM

WELCOME TO THE 46TH ANNUAL WILLIAM J. HAAS MEMORIAL GOLF OUTING

(18 hole four-man scramble format)
(Tee off scheduled for 8:00 AM)

FRIDAY JUNE 28, 2019

- ☐ Sponsor a hole for skill prizes such as longest drive, pin shots, long putts.
- ☐ Opportunity to have your representative stationed at your hole to meet and socialize with Golfers.
- ☐ Sponsorship signage at your hole.
- ☐ Anyone can help sponsor the event by monetary or door prize donations.
- ☐ All sponsors recognized on the Sponsor Board displayed in the clubhouse.

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Company Name as it will appear in written materials:

Address: _____

City: _____ St: _____ Zip: _____

Phone: _____

Email: _____

Hole Sponsor \$ 125.00
(does not include greens fees or meals)

Representative at the sponsored hole? Yes ____ No ____

General Sponsor \$ _____ (Gets your name on the Sponsor Board)

Total Enclosed: \$ _____

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Mail to: Tom Snezek

3496 Colletta Lane

Cleveland, OH 44111

Chairman: Tom Snezek at mobile #216-385-6791

Cleveland Chapter & State 2018 Schedule

Dates, times and locations subject to change, emails will be sent out with notification of any changes

Friday, January 11 - State PLSO Executive Meeting

*Thursday - January 24 – Cleveland Chapter Annual General Meeting and installation of officers
(newsletter 1 deadline 1/31)*

February 22 PLSO State conference

Friday, March 8 – State PLSO Executive Meeting

Tuesday, March 12 – 5:30 p.m. Cleveland Chapter Executive Meeting (newsletter 2 deadline 3/20)

Friday, April 12 – State PLSO Executive Meeting

SATURDAY April 13, 7:30 a.m. Civil 3D (CE) Holiday Inn Rockside

Tuesday, April 16– 5:30 p.m. Cleveland Chapter Executive Meeting (newsletter 3 deadline 4/26)

April (TBA) – Cleveland Chapter General Meeting & CPD

Friday, May 10 – State PLSO Executive Meeting

Tuesday, May 14 – 5:30 p.m. Cleveland Chapter Executive Meeting (newsletter 4 deadline 5/22)

Friday, July 12 – State PLSO Executive Meeting

Fri. June 28, 46th Annual William Haas Memorial Golf Outing at Springvale Golf Course

July (TBA) - Clev. Chapter Education Recognition Meeting (newsletter deadline 5 7/26)

Friday, September 13 – State PLSO Executive Meeting

Tuesday, Sept. 17 – 5:30 p.m. Cleveland Chapter Executive Meeting (newsletter 6 deadline 9/27)

October 10 & 11 - PLSO State Fall Seminar Mason, Ohio

Tuesday, Oct. 15 – 5:30 p.m. Cleveland Chapter Executive Meeting (newsletter 7 deadline 10/25)

Friday, November 8 – State PLSO Executive Meeting

Tuesday, Nov. 12 – 5:30 p.m. Cleveland Chapter Executive Meeting (newsletter 8 deadline 11/22)

Tuesday, Dec. 10 (if needed) – 5:30 p.m. Cleveland Chapter Executive Meeting (newsletter deadline 12/15/17)

4th Thursday in January 2020 – Cleveland Chapter General Meeting & Installation of officers

2018 State PLSO Officers

President—Tom Silva, PS

Secretary—Richard Frederickson, PS

President –Elect—Terrence Wright, PS/PE

Treasurer—Josh Mehilcic, PS,

Imm. Past Pres.—Curtis Deibel, PS

NSPS Director—Robert L. Akins, PS,