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June 12, 2006

Patrick Thompson  
County Administrator  
County Administration Building, Suite 603  
138 East Court Street  
Cincinnati, Ohio 45202

Re: Proposed County Sales Tax Increase

Dear Mr. Thompson:

At your request, we have reviewed issues related to the proposed increase in the county sales tax. The proposed increase is intended to provide a funding mechanism for the construction of a new jail facility. You have also indicated that there will be an accompanying reduction in property taxes in the event that the sales tax is enacted. We have researched questions related to the method by which the proposed tax will be adopted, the legality of providing a reduction in the property tax levy, and the requirements of state law with respect to placing the issue on the ballot. Our findings are consistent with the advice you previously received from your staff. They are:

1. Revised Code Section 5739.021 provides that a county may enact a sales tax for the purpose of providing additional general revenues or supporting criminal and administrative justice services – or both – at a rate of not more than one percent. The tax may be levied in any multiple of one-fourth of one percent. Your staff has advised that county's available taxing authority under this section currently stands at one-half of one percent. The tax may be enacted as an emergency measure without a prior vote of the electors of the county. In the event that the Board chooses to levy the tax as an emergency measure, the resolution may be subject to a referendum as provided in Section 5739.021. The Board may choose not to enact the tax as an emergency measure and submit the question to the electors of the county. As you have indicated that it is the desire of the county administration to submit this issue to the voters prior to the collection of any tax, questions related to the election process and its timing are discussed below.
2. Revised Code Section 5705.313 provides that whenever a Board of County Commissioners adopts a resolution under 5739.021, it may also adopt a resolution reducing the rate of any property tax the county is levying for current expenses within the ten-mill limitation. The reduction may not exceed the amount of the estimated annual revenue that will be received

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through the sales tax. The reduction may be for a specified number of years. In the event that the resolution is adopted, no other taxing authority within the county may levy on any portion of the rate not levied on by the county until the expiration of the specified number of years that the reduction is in effect.

3. The last day that an issue may be presented to the Board of Elections for the November election is August 24, 2006. To place the issue on the ballot, a copy of the resolution enacting the tax must be filed with the Board of Elections prior to 4:00 pm on that day. The resolution should also contain a statement that the Board of County Commissioners is directing the Board of Elections to conduct the election. Revised Code Section 5739.021 requires that the Board of County Commissioners hold two public hearings prior to the adoption of the resolution levying the tax. The Board must give notice of the date, time, and location of these hearings by publication in a newspaper of general circulation within the county once a week on the same day of the week for two consecutive weeks. The second publication must occur not less than ten nor more than thirty days prior to the first hearing. The second hearing must be held not less than three and not more than ten days following the first.

It should be noted that August 24<sup>th</sup> is only a little more than 10 weeks away. Between now and then the Administration must develop the proposed ballot language, schedule the public hearings, and enact the resolutions to levy the tax and reduce the property tax. If it is the intent of the Board to accomplish these things in time for the November election, the process should begin immediately.

Respectfully,



James W. Harper  
Chief Assistant Prosecuting Attorney