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# NEWS FROM THE CIVIL DIVISION

## Summit County Take Me Home Program

We have a free safety program for Summit County residents with cognitive disabilities or senior citizens with dementia or Alzheimer’s. Take Me Home is a database for individuals who have trouble communicating vital information, such as their name and address, in an emergency situation. The program registers children and adults in a secured database that is only accessible to law enforcement. The database contains a photo, identifying characteristics, medications and allergies, and the names of family or guardians who can take responsibility for the person.



If the registered person is lost, then found by police and cannot communicate who they are or where they live, the database can be searched. Alternatively, if someone is reported missing, a photo can be dispatched to all Summit County law enforcement seeking their assistance. We are fortunate that every Summit County Police Department is a partner in this endeavor and has undergone training to learn more about the database and how to best help those who are registered.

The Take Me Home database currently has approximately 1,500 Summit County residents registered. My office coordinates with Summit County schools, senior centers, adult care facilities, and the Summit County Board of Developmental Disabilities to reach those who can benefit from this program.

If you know of someone who would benefit from being registered in the Take Me Home database, you can learn more by visiting our website at [www.co.summit.oh.us/prosecutor/TakeMeHome](http://www.co.summit.oh.us/prosecutor/TakeMeHome) or contacting Leslie Knoblauch, the Take Me Home coordinator, at (330) 643-8741.

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## **HOUSE BILL 202 OR THE END OF DROP (DEFERRED RETIREMENT OPTION PLAN) AND/OR "DOUBLE DIPPING"**

House Bill 202 was introduced in April. Hopefully, it will not be on the same fast track as Senate Bill 5. This bill when passed immediately puts an end to the DROP program and effectively ends "double dipping" for public employees. The bill states in pertinent part that any retiree in any of the following Ohio retirement systems, PERS, STRS, SERS, Police and Fire pension fund, that has an annual earnable salary from public employment in excess of \$14,160 shall forfeit one dollar of retirement benefit for each two dollars of earnable salary above that limitation. No election to participate in the DROP plan may be made after the effective date of this bill. Elected officials are excluded from this limitation and can continue to "double dip". You can run for public office after retiring and House Bill 202 will not affect you – elected officials are not deemed public employees for purposes of the legislation.

This legislation will affect many prosecutors' offices who hire retired police officers for serving subpoenas, conducting investigations, and doing much needed work for the further administration of justice. Many of our police chiefs who have served well are recruited upon retirement to continue to serve with their wealth of institutional knowledge. Many other retirees will be affected by this legislation.

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## **PUBLIC RECORDS REQUESTS**

We often get opinion requests from county agencies not sure if a document in their possession is a public record. A public records request not timely fulfilled can result in unnecessary litigation and costs paid, including attorney fees. The definition of a public record can change depending on who has requested the item or how the item is used. Following are two public records opinions we gave to the Sheriff and Board of Elections. Should you have any questions about information or documents requested, we are happy to assist.

Opinion No. 2011-038

Re: Jail calls become public records when used in a court proceeding as an exhibit or the decision is made to discard the recording as an investigative work product.

Syllabus: Any audio recording once requested that no longer retains value as an investigative work product, will be deemed a public record obtainable through our office and released upon request.

Opinion No. 2011-042

Re: Public Record Requests for Health Insurance Information

Syllabus: To determine whether or not information relating to an employee's health insurance is subject to Ohio's Public Records Act, the Board of Elections ("BOE") must first determine whether or not the information contained in the forms is a "public record" and whether or not the information is "personal" in nature.

- (1) If the information is a public record, but constitutes "personal information," the BOE must apply a balancing test to determine if dissemination of this information would constitute an invasion of privacy.
- (2) If the information is both a non-record and not personal in nature, the BOE may disseminate the information, but is not required to do so.
- (3) If the BOE determines that the information requested is not a "public record" and contains "personal information," the BOE may not disseminate the information.

## COLLECTIVE BARGAINING

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Collective Bargaining is a hot topic in Ohio. Senate Bill 5 was amended and passed the Senate in late March. The House further reviewed this bill and passed it, sending it to the Governor for signature in early April. Organizers are already lining up with petitions to get a referendum on the next ballot to repeal this legislation. Some of the key points of the legislation include but are not limited to the following.

Management rights are increased.

Strikes are illegal for all public employees. Fines and loss of pay and/or job termination are penalties for anyone who strikes. Picketing or other concerted refusals to work are also prohibited.

Sick leave benefits are non-negotiable.

Wages and hours are the bargaining subjects. One item excluded from bargaining is health care benefits or plans.

Merit, not seniority, will determine salary. Layoffs do not necessarily follow longevity when a reduction in force is necessary. Performance or efficiency of service will determine promotion or layoff status.

Leave balances are capped at three years and accruals that exceed that are forfeited.

Holidays and three personal days remain, but these benefit limitations cannot be increased by contract.

Fiscal emergencies would permit a modification of any future collective bargaining agreement with respect to salaries and benefits currently in force.

County Council passed the following Resolutions as a result of this legislation.

2011-112 - A Resolution in support of the Ohio Labor Movement to come together in solidarity to defend against attacks to unions and promote progressive working family policies.

2011-095 - A Resolution authorizing the Executive to execute a collective bargaining agreement between the Summit County Sheriff's Supervisors' Association, the Sheriff and the Executive, for the period 1/1/11 through 12/31/13.

2011-052 - A Resolution confirming an award by the Board of Control of a purchase order with Levinson's for deputies uniform allowance, per bargaining agreement, as Best Practical Source, in an amount not to exceed \$96,000.00.

2010-566 - A Resolution authorizing the County Executive to execute a collective bargaining agreement between the Fraternal Order of Police, County Sheriff and County Executive, for the period 1/1/11 through 12/31/13.

2010-415 - A Resolution authorizing the County Executive to execute a collective bargaining agreement between Ohio Council 8 and Local 1229 of the American Federation of State, County and Municipal Employees, AFL-CIO, and the County Fiscal Officer's Auditor's Division, for the period 9/1/10 through 8/31/13.

## POLITICAL ACTIVITY

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In addition to collective bargaining rights, some employees would like to engage in political activity, or their employer would like them to be active in partisan politics or at least re-election campaigns. What exactly can an employee do besides casting a vote? County Council adopted pertinent legislation that resulted in ambiguities. An opinion was requested, but without specificity it was not possible to say what is allowed or prohibited. **The Human Resource Committee met at the end of March and will make recommendations to County Council.** From such recommendations, a list of permitted and/or prohibited activities will be set forth and adopted by Council.

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## INTERNET CAFES AND SWEEPSTAKES BUSINESSES

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Gaming businesses have popped up in Summit County, especially in Springfield Township. In May of 2010, County Council enacted legislation to take effect in June to regulate gaming establishments - commonly known as internet cafes - in response to citizen complaints.

Although the games look like video slot machines, they claim to be sweepstakes programs, much like the promotions offered by various businesses. Phone or internet time is purchased. With the lure of winnings, many people frequent these establishments and spend significant sums of money. Based on several criminal investigations of these establishments, it was learned that significant cash profits are generated. After public hearings on this issue, Summit County Council passed Codified Ordinance Chapter 755.

These Ordinances address, among other things, the independent testing and certification of games, hours of operation, annual and per-machine fees, insurance, and reporting requirements. Various operators immediately sought a temporary restraining order and an injunction to halt implementation of the regulations. They claimed that the Ordinances were unconstitutional on due process and equal protection grounds, among other theories. Judge Tom Parker issued a temporary restraining order until the case could be argued. The case went to trial in October, 2010. The Court upheld the annual license fee, information reporting, inspections of games and establishments, limit of square footage for each machine, and the location of these enterprises. The only issue that plaintiffs were successful litigating related to insurance requirements, which the court found unconstitutional on equal protection grounds. The plaintiffs appealed the decision to the 9<sup>th</sup> District Court of Appeals.

Council passed some revisions in Ordinances 2011 – 072 amending Chapter 755, which took effect in February, 2011. Following those revisions, 11 establishments have been licensed, and five have been denied licenses for various reasons. All of the plaintiffs in the 2010 litigation obtained licenses to operate.

Within the past month, Ohio Attorney General DeWine and various state legislators have indicated a desire for state-level regulation of these gaming businesses. They have recognized that unregulated operation of these businesses puts consumers at risk and that the visual appearance of these operations is misleading. Proposed state legislation may contain many of the same requirements as Summit County's ordinances. The new Casino Control Commission may provide oversight and licensing, but details are not yet available. House Bill 195 was introduced this month. Thus, we anticipate changes in the gambling laws. Also, there will be changes in the operation of the many "Sweepstakes" and "Internet Cafes." We will continue to keep you informed as this legislation unfolds and the Commission develops licensing requirements.

## NEORSD UPDATE

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Many of our northern Summit County communities are following the current litigation taking place between the Northeast Ohio Regional Sewer District (“NEORSD”) and its member communities. The case brings to the forefront many issues that affect us all deeply in Summit County and may have a broad impact on how storm water is managed by Summit County communities in the future. With much flooding in the news, these issues become increasingly more important.

Development throughout the United States has put a strain on communities’ water systems and has caused numerous so-called “overflow” events. An “overflow” event generally occurs when there is an influx of water in a system that exceeds the capacity of the system’s treatment or containment capabilities. Untreated sewage can be deposited in water systems and have a profound effect on biodiversity within a community’s watershed. The United States Environmental Protection Agency currently works with communities to ensure that the impact of future development on a storm water system is taken into consideration and accounted for. Throughout approximately the last 20 years, there has been a push for communities to cooperate to develop regional storm water plans.

On February 7, 2011, NEORSD filed a motion for partial summary judgment. The thrust of NEORSD’s motion revolved around whether they have authority pursuant to R.C. § 6119 to impose a regional storm water plan upon its member communities. On March 15, 2011, Judge Thomas J. Pokorny of the Cuyahoga County Court of Common Pleas heard oral arguments from both opponents and proponents of NEORSD’s storm water management code. The Summit County Prosecutor’s Office, on behalf of our member communities, filed specific objections to NEORSD’s motion, focusing on NEORSD’s inability to regulate Summit County as an independent charter county and to impose regulations upon communities of Summit County that are not members of NEORSD. On April 21, **Judge Polorny granted our motion for summary judgment, dismissing seven of the eleven communities.** No longer in the litigation are Bath Township, Boston Heights, Hudson, Northfield Center Township, Richfield Township, Twinsburg and Twinsburg Township. For the four remaining communities, Northfield Village, City of Macedonia, Richfield Village, and Sagamore Hills Township, we will continue to work on resolving the issues for your communities. We are entering into discussions with NEORSD to mediate a solution prior to the scheduled trial on July 18, 2011.

To date, the costs of this litigation has been minimal with no costs for legal representation. We are doing our best to continue representation. At this juncture, we see no conflicts of interest or other impediments in representation.

Summit County is taking a proactive role to ensure our communities are not unduly burdened by regulations promulgated by public bodies that our communities have not consented to work with for storm water management. We believe that Summit County should have a seat at the policy table and that Summit County is in the best position to understand the economic and environmental impact of storm water within its borders. Regardless of the outcome on the remaining issues, the Summit County Prosecutor’s Office wants to assure residents of Summit County that we are fighting our hardest to protect their environmental and financial interests. Our Engineer and Executive worked on, and County Council passed, the following legislation:

2010-532 - A Resolution requesting and encouraging the Northeast Ohio Regional Sewer District (“NEORSD”) to cease further acts toward the implementation of its proposed sewer rate increase until such time as NEORSD has discussed the impact of its proposal with all affected communities, including the County of Summit, and received information and feedback from those communities on the impact of the proposal.

2010-479 - A Resolution of support for the Northeast Ohio Four County Regional Planning and Development Organization’s (“NEFCO”) 2011 Comprehensive Economic Development Strategy (“CEDS”) Annual Performance Report.

2010-478 A Resolution confirming an award by the Board of Control of a professional service contract with Lorain County Community College for research and planning assistance for storm water facilitation, in an amount not to exceed \$46,090.00.

## MEET OUR NEWEST CIVIL PROSECUTOR

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Lesley A. Walter is our newest addition to the Civil Division. She was admitted to the Illinois Bar in 1999. After practicing several years, she was admitted in New York by exam and moved to Ireland in late 2002. She became a Member of the Law Society of Ireland in 2004 and worked as a locum solicitor in 2004 and 2005 for the Irish Legal Aid Board. She has studied Irish law, receiving an LL.M. in 2003, and taught a variety of Irish law courses while she lived in Cork and Dublin. She just took and passed Ohio Bar Exam in February 2011.

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## COUNTY COUNCIL MEETINGS

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In addition to formal weekly meetings of County Council on Monday evenings, you might want to know that County Council now meets informally and welcomes discussion about issues in your district. We issued the following opinion with respect to their meetings:

Opinion No. 11-028

RE: Informal Meetings of Summit County Council Members

Syllabus: Summit County Council may have informal meetings at Akron Family Restaurant on the third Saturday of every month provided that either a majority of the board is not present or no public business relating to Summit County Council is discussed.

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## COURTHOUSE AND JURY DUTY

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If you find yourself in the courthouse for jury service or as a witness you might want to try Hattie's Café. Located in the basement of the courthouse they serve fine cuisine depending on your palate. Much was written about the prior service that occupied that space, but that is all in the past and we should live in the present and enjoy what they have to offer. Thursdays you will find sushi on the lunch menu. So the courthouse is not just a place to grab a sandwich. This resolution should keep the service going for years and for that we are grateful.

2010-507 - A Resolution authorizing the County Executive to execute a lease with Hattie's Café, LLC, subject to the approval of the Board of Control, for approximately 1,075 square feet of space in the County of Summit Courthouse, located at 209 South High Street, Akron, Ohio 44308, in Council District 4, for the purpose of a food service operation, including breakfast, lunch and catered food items, for a five-year term, from 1/1/11 or an earlier commencement date mutually agreed to by the parties, through 12/31/15, for rent of \$1.00 per year.

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