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Date: September 20, 2011 2:03:51 PM EDT
To: l-boc
Cc: Lawrence Kestenbaum <kestenbauml@ewashtenaw.org>
Subject: RE: Road Commission Addressing The Board Re: Additional Tax Request

I have been asked to clarify the process to be followed by the Road Commission concerning their request to the Board of Commissioners for additional tax millage for road projects pursuant to MCLA 224.20 ("Act"). Under the Act, the Board of County Road Commissioners, through its highway engineer, completes a preliminary survey of plans, specifications and estimates of roads, bridges and culvert projects within the County. This survey must be completed before October.

Upon receiving the preliminary survey from its highway engineer, the Board of Road Commissioners determines the amount of tax they believe should be raised in the upcoming year to complete the projects listed in the preliminary survey. The Road Commission must specify and itemize the roads and parts of roads upon which the new revenue will be spent, stating the specific amount needed for each project listed in the preliminary survey.

Under the Act, the next step in the process is for the County Clerk to present the Road Commission's preliminary survey and determination of how much tax should be raised at the Board of Commissioner's annual meeting in October. Interestingly, the Act does not specifically state that the Road Commission must send its preliminary survey and tax request to the County Clerk, but given the plain language in the statute that the County Clerk must present the survey and tax request from the Road Commission to the Board of Commissioners at their October meeting, I believe it is fairly and strongly implied that the Road Commission must send its preliminary survey and tax determination request to the County Clerk, who then has the authority to present it to the Board of Commissioners.

Once the County Clerk presents the Road Commission's preliminary survey and tax determination request to the Board of Commissioners at its annual meeting in October, the Board of Commissioners has the statutory authority to take one of the following actions: (1) completely approve the Road Commission's preliminary survey and tax determination request; (2) completely reject the preliminary survey and tax determination request; or (3) approve some of the request and deny some of the request.

In the present matter, to comply with MCLA 224.20, the Road Commission must forward its preliminary survey and tax determination request to the County Clerk in sufficient time to enable the Clerk to formally present it to the Board of Commissioner's at its Ways & Means meeting on October 5th. There is nothing in the law that states that the Road Commission has the right to address the Board of Commissioners or make a presentation to the Board concerning their preliminary survey and tax request; however, the Chair of Ways & Means, who has the power to set the agenda for the Ways & Means meeting, may agree to provide the Road Commission with time during the meeting to make a formal presentation. If the Chair does not wish to provide the Road Commission with time to make such a presentation, the Road Commission could still talk to the issue during the two public comment portions of the meeting.