

ORDINANCE NO. 41-04By: Ms. MacMurray

An Ordinance to authorize the Mayor and Auditor to enter into a contract with Schottenstein, Zox and Dunn for legal and consulting services needed to create a right-of-way Ordinance for the City of Bexley, to appropriate ~~\$25,000.00~~ from the unencumbered General Fund to fund such contract and to declare an emergency. 7,500.00

Whereas, it is critical that the City of Bexley have the ability to control its right-of-ways including the use of the right-of-way by others and restoration of the right-of-way when work is undertaken within them; and,

Whereas, this is accomplished through a right-of-way Ordinance; and,

Whereas, the cost of creating the Ordinance can be reimbursed by the fees collected by the implementation of the proposed right-of-way Ordinance. **NOW, THEREFORE,**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BEXLEY, OHIO:

Section 1. That the amount of ~~\$25,000.00~~ 7,500.00 should be and hereby is appropriated from the unencumbered General Fund for the purpose of creating a right-of-way Ordinance for the City of Bexley.

Section 2. That the Mayor and Auditor should be and hereby are authorized to enter into a contract with Schottenstein, Zox and Dunn to provide legal and consulting services needed for the creation of a right-of-way Ordinance in accordance with a proposal dated August 18, 2003, which is attached to and made a part of this Ordinance.

Section 3. That this Ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: 7-13, 2004

[Signature], 2004
Attest:

[Signature]
President of Council

Approved: 7/13, 2004

[Signature]
David H. Madison, Mayor

6.09.04 First Reading
6.22.04 Second Reading
7.13.04 Third Reading
Passed



SCHOTTENSTEIN ZOX & DUNN
a legal professional association

GREGORY J. DUNN
614/462-2339
E-MAIL: GDUNN@SZD.COM

August 18, 2003

Mr. Pat O'Donnell
City of Bexley
2242 E. Main Street
Bexley, OH 43209

RE: Proposal for the City of Bexley and Right of Way Ordinance

Dear Mr. O'Donnelli:

This is a response to your request for a proposal regarding the drafting of a right of way control ordinance for the City of Bexley. Based upon my conversations with you, you indicated that Bexley was looking for a right of way control ordinance along the same lines as Dayton's.

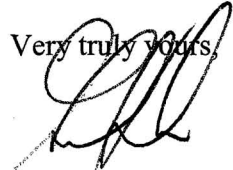
Accordingly, Schottenstein, Zox and Dunn proposes the following:

- 1) We will work with City officials and draft to your satisfaction, a right of way control ordinance similar in scope and style to Dayton's for a flat fee of Fifteen Thousand Dollars (\$15,000.00). In the event that negotiations with the utilities are required, we will provide those services for an additional Ten Thousand Dollars (\$10,000.00).
- 2) In the alternative, we would be willing to work with the City of Bexley at our usual rate, which would be Two Hundred Twenty Dollars an hour (\$220.00/hr) for Gregory Dunn and One Seventy-Five Dollars an hour (\$175.00/hr) for Chris Miller.

As you are aware, the City of Toledo and the City of Dayton cases established that Cities had the legal right to recover their legal and consulting cost associated with regulating the right of way. Therefore, our legal cost and the cost of any consultants retained by Bexley would be incorporated in the fee structure of the new right of way ordinance and recovered.

If you have any questions or would like to clarify this proposal, please give me a call at (614) 462-2339.

Very truly yours,


Gregory J. Dunn

GJD/df



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