

RESOLUTION APPROPRIATING FUNDS FOR THE SALARY OF THE SECRET SERVICE AGENT PRUSUANT TO R.C. 325.13, ASHTABULA COUNTY PROSECUTOR'S OFFICE

WHEREAS, the Board of Commissioners are in receipt of a Judgment Entry for Case No. 2023-MD-162 in Re Colleen Mary O'Toole Prosecuting Attorney, Ashtabula County Judge Thomas E. Harris, Judge David A. Schroeder and Judge Marianne Sezon, a copy of the Judgment Entry is attached hereto as Attachment A; and

WHEREAS, said Judgment Entry outlines the events which occurred as a result of the request of Prosecutor O'Toole to the Court of Common Pleas for Application of Funds/Set Salary for Secret Service Agent Pursuant to R.C. 309.07 (Case No. 2023-MD-097); and

WHEREAS, this Board of Commissioners is now in receipt of the Judgment Entry ordering the compensation of the secret service officer be fixed at the statutory minimum, \$125 (one hundred twenty-five) dollars per month, for the time actually occupied in such service; and

WHEREAS, this Board does hereby appropriate \$125 per month, for the time actually occupied in such service, for the salary of the secret service officer who will be employed by the Ashtabula County Prosecutor and as outlined in the Judgment Entry in Case No. 2023-MD-162 received on January 26, 2024 in this office; now

WHEREAS, that the Ashtabula County Board of Commissioners hereby appropriates \$125 per month, for the time actually occupied in such service, for the salary of the secret service officer requested by the Ashtabula County Prosecutor to the Ashtabula County Court of Common Pleas, as further outlined in said Judgment Entry for Case No. 2023-MD-162.

**ASHTABULA COUNTY COMMISSIONERS
CERTIFICATION PAGE**

Resolution No. 2024-76

January 30, 2024

RESOLUTION APPROPRIATING FUNDS FOR THE SALARY OF THE SECRET SERVICE AGENT PURSUANT TO R.C. 325.13, ASHTABULA COUNTY PROSECUTOR'S OFFICE

Upon the motion of J.P. Ducro IV, seconded by Kathryn L. Whittington.

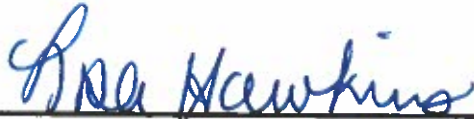
VOTE:

**Kathryn L. Whittington
J.P. Ducro IV
Casey R. Kozlowski**

**Aye
Aye
Absent**

CERTIFICATE OF CLERK

IT IS HEREBY CERTIFIED that the foregoing is a true and correct transcript of a resolution acted upon and duly passed by the Board of County Commissioners of Ashtabula County, Ohio, on the date noted above.



Lisa Hawkins, Clerk of the Board
Board of County Commissioners
Ashtabula County, Ohio

affidavit in support of her applications and the discretion *to make such applications* resides in her alone. The discretion to grant an application under R.C. 325.13 and to set a salary under R.C. 309.07 does not lie with the Prosecutor, however. That discretion lies squarely with the Panel. It is axiomatic that, if the Panel needed additional information that was not included in her application or affidavit, that she should be called to testify at joint session. Notwithstanding, determined not to testify under oath, Prosecutor O'Toole's office withdrew both applications.

On September 15, 2023, Prosecutor O'Toole submitted a second Application for Funds/Set Salary for Secret Service Agent Pursuant to R.C. 309.07 (Case No. 2023-MD-162). This is the application currently pending before the Panel. Once more, the Panel is called upon to determine, in joint session, the appropriate compensation for the appointed secret service agent. And once again, the timing of the application was unusual, since the Prosecutor's 2024 budget proposal was due in October of 2023. Indeed, Prosecutor O'Toole's 2024 budget proposal contains the same request we are asked to consider herein. Yet, Prosecutor O'Toole has not withdrawn this application.

The Board of Commissioners sought to intervene in this matter, which the Court allowed. Pursuant to R.C. 309.07, the Court set a hearing in joint session for December 21, 2023, to determine the appropriate compensation for the secret service agent.

On December 19, 2023, Prosecutor O'Toole filed suit in the Ohio Supreme Court seeking a Writ of Mandamus, Writ of Prohibition and Alternative Writ naming the Board of Commissioners of Ashtabula County and all three Judges of this Court as Respondents. Prosecutor O'Toole sought to continue the December 21, 2023 hearing, which the Court granted indefinitely. She has asserted in the Ohio Supreme Court that the Panel has no authority to hold such a hearing and no discretion to permit the Board of Commissioners to intervene in this matter.


While Prosecutor O'Toole's Complaint has been pending in the Ohio Supreme Court, the Panel has considered the application and the materials which were submitted with it. The panel finds that the materials provided are incomplete and, therefore, insufficient to support the amount of compensation requested by the Ashtabula County Prosecutor.

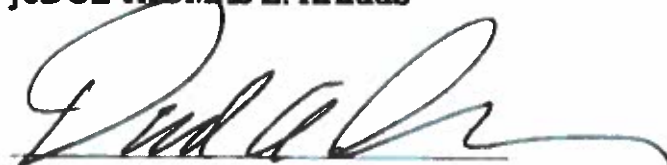
IT IS, THEREFORE, ORDERED that the compensation of the secret service officer shall be fixed at the statutory minimum, \$125 (one hundred twenty-five) dollars per month, for the time actually occupied in such service.

IT IS FURTHER ORDERED that all orders for future hearing are vacated and all other matters related to this case are moot.

This is a final appealable order.

Pursuant to Civ.R. 58(B), the Clerk of this Court is directed to serve notice of this Order and its date of entry in the journal upon: **Prosecuting Attorney Colleen M. O'Toole; Commissioner Casey R. Kozlowski; Commissioner Kathryn L. Whittington; Commissioner J.P. Ducro, IV; David Thomas, County Auditor; Bridey Matheney, Esq., Counsel for Intervenors, at Thrasher, Dinsmore & Dolan, LPA.**


JUDGE THOMAS E. HARRIS


JUDGE DAVID A. SCHROEDER


JUDGE MARIANNE SEZON

STATE OF OHIO)
)
COUNTY OF ASHTABULA)

SS: AFFIDAVIT OF KATHRYN L. WHITTINGTON

I, Kathryn L. Whittington, being first duly cautioned and sworn, depose and state as follows:

1. I am a duly elected Ashtabula County Commissioner, with my term beginning on January 3, 2021 and ending on January 2, 2025.

2. I, along with two (2) other duly elected Ashtabula County Commissioners, J.P. Ducro, IV and Casey Kozlowski, make up the Board of County Commissioners of Ashtabula County, Ohio (the “Board”). I am currently the President of the Board.

3. The Board has been named as a respondent in the matter titled *State ex rel. Colleen M. O’Toole, Prosecutor for Ashtabula County, Ohio v. The Court of Common Pleas of Ashtabula County, Ohio, et al.*, bearing case number 2023-1615, and pending in the Ohio Supreme Court (the “Complaint”).

4. On January 26, 2024, the Board received a copy of the Judgment Entry issued by the judges of the Ashtabula County Court of Common Pleas (“Order”) in the matter titled *In re: Colleen M. O’Toole, Prosecuting Attorney of Ashtabula County, Ohio*, bearing case number 2023-MD-162 and pending in the Ashtabula County Court of Common Pleas (“Application for Secret Service Officer”). A copy of the Order received by the Board is attached hereto as **Exhibit A**.

5. The Complaint stems from issues raised by the Ashtabula County Prosecuting Attorney relating to her Application for Secret Service Officer.

6. I have personal knowledge of the Complaint, the Order, and the Application for Secret Service Officer.


7. Pursuant to the Order, the judges of the Ashtabula County Court of Common Pleas found that the Ashtabula County Prosecuting Attorney's Application for Secret Service Officer was incomplete and insufficient to support her request that the compensation for such secret service officer be set at \$75,000 and ordered the compensation of such secret service officer to be fixed at the statutory minimum of \$125 per month for such time as actually occupied in such service. See Order, **Exhibit A**.

8. Based on the Order, the Board adopted Resolution No. 2024-76 on January 30, 2024 at a regular session of the Board appropriating the funds of \$125 per month for such secret service officer of the Ashtabula County Prosecuting Attorney. A certified copy of the Board's Resolution No. 2024-76 is attached hereto as **Exhibit B**.

FURTHER AFFIANT SAYETH NAUGHT.


Kathryn L. Whittington, Ashtabula County
Commissioner

SWORN TO BEFORE ME this 30th day of January, 2024.


Lisa Hawkins, Notary Public

My Commission Expires: July 14, 2025

affidavit in support of her applications and the discretion *to make such applications* resides in her alone. The discretion to grant an application under R.C. 325.13 and to set a salary under R.C. 309.07 does not lie with the Prosecutor, however. That discretion lies squarely with the Panel. It is axiomatic that, if the Panel needed additional information that was not included in her application or affidavit, that she should be called to testify at joint session. Notwithstanding, determined not to testify under oath, Prosecutor O'Toole's office withdrew both applications.

On September 15, 2023, Prosecutor O'Toole submitted a second Application for Funds/Set Salary for Secret Service Agent Pursuant to R.C. 309.07 (Case No. 2023-MD-162). This is the application currently pending before the Panel. Once more, the Panel is called upon to determine, in joint session, the appropriate compensation for the appointed secret service agent. And once again, the timing of the application was unusual, since the Prosecutor's 2024 budget proposal was due in October of 2023. Indeed, Prosecutor O'Toole's 2024 budget proposal contains the same request we are asked to consider herein. Yet, Prosecutor O'Toole has not withdrawn this application.

The Board of Commissioners sought to intervene in this matter, which the Court allowed. Pursuant to R.C. 309.07, the Court set a hearing in joint session for December 21, 2023, to determine the appropriate compensation for the secret service agent.

On December 19, 2023, Prosecutor O'Toole filed suit in the Ohio Supreme Court seeking a Writ of Mandamus, Writ of Prohibition and Alterative Writ naming the Board of Commissioners of Ashtabula County and all three Judges of this Court as Respondents. Prosecutor O'Toole sought to continue the December 21, 2023 hearing, which the Court granted indefinitely. She has asserted in the Ohio Supreme Court that the Panel has no authority to hold such a hearing and no discretion to permit the Board of Commissioners to intervene in this matter.


While Prosecutor O'Toole's Complaint has been pending in the Ohio Supreme Court, the Panel has considered the application and the materials which were submitted with it. The panel finds that the materials provided are incomplete and, therefore, insufficient to support the amount of compensation requested by the Ashtabula County Prosecutor.


IT IS, THEREFORE, ORDERED that the compensation of the secret service officer shall be fixed at the statutory minimum, \$125 (one hundred twenty-five) dollars per month, for the time actually occupied in such service.

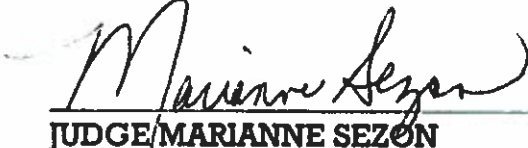
IT IS FURTHER ORDERED that all orders for future hearing are vacated and all other matters related to this case are moot.

This is a final appealable order.

Pursuant to Civ.R. 58(B), the Clerk of this Court is directed to serve notice of this Order and its date of entry in the journal upon: **Prosecuting Attorney Colleen M. O'Toole; Commissioner Casey R. Kozlowski; Commissioner Kathryn L. Whittington; Commissioner J.P. Ducro, IV; David Thomas, County Auditor; Bridey Matheney, Esq., Counsel for Intervenors, at Thrasher, Dinsmore & Dolan, LPA.**


JUDGE THOMAS E. HARRIS


JUDGE DAVID A. SCHROEDER


JUDGE MARIANNE SEZON



RESOLUTION APPROPRIATING FUNDS FOR THE SALARY OF THE SECRET SERVICE AGENT PRUSUANT TO R.C. 325.13, ASHTABULA COUNTY PROSECUTOR'S OFFICE

WHEREAS, the Board of Commissioners are in receipt of a Judgment Entry for Case No. 2023-MD-162 in Re Colleen Mary O'Toole Prosecuting Attorney, Ashtabula County Judge Thomas E. Harris, Judge David A. Schroeder and Judge Marianne Sezon, a copy of the Judgement Entry is attached hereto as Attachment A; and

WHEREAS, said Judgment Entry outlines the events which occurred as a result of the request of Prosecutor O'Toole to the Court of Common Pleas for Application of Funds/Set Salary for Secret Service Agent Pursuant to R.C. 309.07 (Case No. 2023-MD-097); and

WHEREAS, this Board of Commissioners is now in receipt of the Judgment Entry ordering the compensation of the secret service officer be fixed at the statutory minimum, \$125 (one hundred twenty-five) dollars per month, for the time actually occupied in such service; and

WHEREAS, this Board does hereby appropriate \$125 per month, for the time actually occupied in such service, for the salary of the secret service officer who will be employed by the Ashtabula County Prosecutor and as outlined in the Judgment Entry in Case No. 2023-MD-162 received on January 26, 2024 in this office; now

WHEREAS, that the Ashtabula County Board of Commissioners hereby appropriates \$125 per month, for the time actually occupied in such service, for the salary of the secret service officer requested by the Ashtabula County Prosecutor to the Ashtabula County Court of Common Pleas, as further outlined in said Judgment Entry for Case No. 2023-MD-162.

**ASHTABULA COUNTY COMMISSIONERS
CERTIFICATION PAGE**

Resolution No. 2024-76

January 30, 2024

**RESOLUTION APPROPRIATING FUNDS FOR THE SALARY OF THE SECRET
SERVICE AGENT PURSUANT TO R.C. 325.13, ASHTABULA COUNTY
PROSECUTOR'S OFFICE**

Upon the motion of J.P. Ducro IV, seconded by Kathryn L. Whittington.

VOTE:

Kathryn L. Whittington

Aye

J.P. Ducro IV

Aye

Casey R. Kozlowski

Absent

CERTIFICATE OF CLERK

IT IS HEREBY CERTIFIED that the foregoing is a true and correct transcript of a resolution acted upon and duly passed by the Board of County Commissioners of Ashtabula County, Ohio, on the date noted above.



Lisa Hawkins, Clerk of the Board
Board of County Commissioners
Ashtabula County, Ohio