



# Office of the Prosecuting Attorney Medina County, Ohio

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**DEAN HOLMAN**  
Prosecuting Attorney

January 29, 2007

Medina County Commissioners  
144 North Broadway Street, Room 201  
Medina, Ohio 44256

**Re: *Section 5739.026(A)(4) Sales Tax***

Dear Commissioners:

Please be advised that we have at this time completed our research on the legality of the Boards proposed adoption of a limited sales tax under Section 5739.026(A)(4) and accompanying resolution severely, if not totally, restricting the discretion of the CIB board created to administer the funds generated by such sales tax if approved.

While we have found no authority directly on point, we have found analogous law which would support the proposition that the broad scope of Section 5739.026(A)(4) could be limited with voter approval.

That being said we did find an Attorney General opinion dealing specifically with this issue, in which the Attorney General specifically withheld a determination of the propriety of such a restriction.

As a result our concern with proceeding with a limited Sales Tax has not been diminished despite the finding of a legal basis to support such action. Our concern deals with the financial impact of debt incurred by a school district in reliance on the Levy, if the levy thereafter is found improper and uncollectible.

As a result it would be our recommendation that you withhold action and have this office request a formal opinion from the Attorney General.

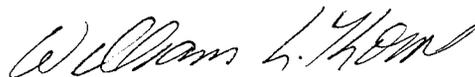
As to the second part of your proposed action, limiting the authority of the CIB, we see no legal basis at all for such action.

However, as previously advised, we do believe the CIB itself could adopt operating guidelines consistent with your desires. We further believe that such guidelines can be recommended by the Board of Commissioners to the CIB, as well as by each appointing authority to its appointments. Moreover, you have veto power, over all grants.

We have modified the proposed Resolutions to initiate the Sales Tax and create the CIB consistent with this opinion, in the event you chose to proceed without an Attorney General's opinion.

Very truly yours,

DEAN HOLMAN,  
Medina County Prosecutor

A handwritten signature in black ink, appearing to read "William L. Thorne". The signature is written in a cursive style with a large, prominent "W" and "L".

WILLIAM L. THORNE,  
Assistant Prosecutor