

2016 Annual Report

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Law Director & City Prosecutor



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INDEX

	Page
I. Civil Report.....	3
A. Civil Activities.....	3
1. Council.....	3
2. Legislation Services Provided.....	3-5
3. Legal Opinions.....	5
B. Administration.....	5
1. Contact with Administration.....	5
2. Outside Counsel.....	5-6
C. Board of Education.....	6
D. Litigation.....	6
1. Civil Litigation.....	6
2. Self-Insured Claim Adjusting Report.....	6-7
E. Miscellaneous Areas of Service.....	7-9
F. Grants Received.....	10
II. Criminal Report.....	11
A. Criminal Prosecutorial Responsibilities.....	11
B. Criminal Statistics.....	11
C. Senate Bill 2/Victims' Rights Legislation.....	12
D. Family Violence Unit.....	12
E. Law Enforcement Training.....	13
F. Attorney Training.....	13
G. Township Zoning Violation.....	13
H. Budget Crisis.....	13
III. How Did We Do Meeting 2016 Goals?.....	14
IV. Goals for 2017.....	15

ANNUAL REPORT

2016

I. Civil Report

A. CIVIL ACTIVITIES

1. Council

- a. Under the Ohio Revised Code, the Law Director is the civil attorney for all City departments, City Administration, City Council, City Boards, and the Lancaster Board of Education. The Law Director's office attends all council and board meetings, as well as special meetings when requested.

2. Legislation Services provided

d. Yearly Statistics

YEAR	ORDINANCES	RESOLUTIONS
1996	57	221
1997	94	134
1998	76	146
1999	70	177
2000	42	167
2001	43	186
2002	59	146
2003	82	157
2004	85	214
2005	91	179
2006	57	180
2007	65	184
2008	64	175
2009	42	182
2010	29	159
2011	30	182
2012	33	199
2013	38	188
2014	34	149
2015	38	138
2016	36	136

- e. Ordinances/Resolutions of interest.
1. An ordinance creating LCO Chapter 705 to provide for an Outdoor Refreshment Area in downtown Lancaster to promote activity and investment in the downtown. (Ordinance 1-16 and 22-16)
 2. An ordinance to conform the boundaries of the Sheridan Drive annexations of roadway right-of-way into the City to provide for uniform safety forces response to accidents occurring on Sheridan Drive. (Ordinance 10-16 and 11-16)
 3. An ordinance to deed former Anchor Hocking Plant 2 Brownfield Clean-Up property to the Lancaster Port Authority to sell for revitalization. (Ordinance 8-16)
 4. An ordinance accepting the Section 13, Phase 3 final plat for River Valley Highlands where no homes are being constructed. (Ordinance 13-16)
 5. An ordinance to authorize a Master Equipment Lease Purchase Agreement for LFD to purchase a new medic unit. (Ordinance 5-16)
 6. An ordinance accepting the final development plan for the Primrose Memory Care Facility. (Ordinance 24-16)
 7. Local ordinances to regulate and control the cultivating, processing, and retail sale of “Medical Marijuana.” (Ordinance 25-16 and 29-16)
 8. An ordinance to clarify, update, and comply City Council rules to the requirements of the Ohio Revised Code. (Ordinance 14-16)
 9. An ordinance creating LCO Chapter 345 to regulate and control the use of Low-Speed Vehicles in the City. (Ordinance 40-16)
 10. Several ordinances to clarify and update the local Zoning Code. (Ordinances 16-16, 17-16, 28-16, and 29-16)
 11. Numerous resolutions were passed to conduct infrastructure improvement projects for sewer lining, Glassco Park Pump Station, 2016 Paving Program, sanitary sewer extension projects, and other street improvements. (Resolutions 7-16, 15-16, 21-16, 51-16, 52-16, 65-16, 66-16, and 133-16)
 12. Resolution for the Sanitation Department to purchase its first grapple truck. (Resolution 77-16)
 13. Resolution to lease former office of Law Director & City Prosecutor to the Fairfield County Juvenile Court creating an income producing city property out of the vacant space. (Resolution 80-16)
 14. Resolution creating a new Forester position in the Parks Department. (Resolution 87-16)
 15. Resolution allowing the city departments to utilize the NJPA Cooperative Purchasing Program to save money on department purchasing. (Resolution 85-16)
 16. Resolution to support development of U.S. and State bicycle routes in conjunction with the city’s own bike trail. (Resolution 123-16)

17. Resolution to lease space in City Hall for the Offices of U.S. Congressman Steve Stivers to facilitate and promote greater communication between city and federal government and providing easier access to the citizens of Lancaster to both levels of government. (Resolution 136-16)

3. **Legal Opinions**

The Law Director issues oral and written legal opinions upon request of Council or City Administrators. The Law Director encourages written opinions so that the City develops an archive for the future to assist the City on difficult issues.

B. **ADMINISTRATION**

1. **Contact with Administration**

The Law Director and his staff provided advice, assistance, and opinions to the Mayor, Service-Safety Director, Engineer, Auditor, Treasurer, and all department heads upon request. Our office also assisted the Planning Commission, Certified Building Department, Board of Zoning Appeals, Historic Lancaster Commission, Engineering, and the Lancaster City Schools on a broad range of legal issues. The Law Director meets regularly with the administration of the City to assist with continued information sharing.



2. **Outside Counsel**

a. **Bond Counsel – Squire, Patton & Boggs**

The City continues its bond counsel relationship with Allison Binkley, a senior associate at Squire, Patton & Boggs in Columbus.

b. **Labor Counsel – Fishel, Hass, Kim, Albrecht & Downey, LLP**

The Law Director partnered with outside counsel to handle the labor negotiations and labor contract disputes for the City. Our office did consult with City departments on daily labor issues, i.e. payroll, status of contracts, layoffs, benefits, and family leave.

The Law Director & Administration utilize Attorney Marc Fishel for assistance on questions and procedures involving employment and labor issues.

c. **Construction Law Counsel – Bricker & Eckler**

This firm was retained to assist with the Glassco Park Pump Station construction project this year and, in particular, attorneys Mark Evans and Jack Rosati in Bricker's construction law division. Bricker and Eckler are retained to work on all aspects of City construction law on an as needed basis.

d. **Energy Council – Bricker & Eckler**

This firm was retained to provide special energy counsel for the re-negotiation of the City's Governmental Electric Aggregation Program. Attorneys Glenn Krassen and Dave Stinson prepared bid documents, and assisted in the selection and contracting of the Program's

energy provider. The Aggregation Program allows City of Lancaster residents and small commercial businesses to join together their buying power to receive the best rate for electricity.

e. Workers Compensation Counsel – Fishel, Hass, Kim, Albrecht & Downey, LLP

Attorney Dave Riepenhoff has been retained to represent and defend the City of Lancaster in several employee appeals of the Bureau of Workers' Compensation denial of benefits.

f. Special Prosecutor – Various

Special Prosecutors were retained in several criminal cases/investigations in which the Law Director & City Prosecutor's Office had a conflict of interest that prevented us from investigating and prosecuting the case.

f. Temporary Help – Reception/Discovery

We have found that our litigated caseload has increased by at least 300 cases in the last five years, straining the administrative staff structure of the office. In response, we have contracted for a temporary worker 40 hours per week, through a temporary agency, to assist with all criminal discovery cases in the office and provide reception duties. With the continual increase of prosecution cases in our office, the increased demand for reception duties due to our relocation to the new Fairfield County Municipal Court building, and the additional demands placed on office staff, City Council has made this a full-time permanent city position for 2017.

C. BOARD OF EDUCATION

Pursuant to Section 3313.35 of the Ohio Revised Code, the Law Director represents the Board of Education of the Lancaster City School District. Due to budgetary constraints, the superintendent of Lancaster City Schools notified the Law Director in 2007 that the School System intended to begin utilizing the Law Director for legal representation. The Law Director's office has worked on a number of projects in 2016 for the superintendent, including school bus safety issues, construction issues, and use and access issues with the Lancaster School Network television station.

D. LITIGATION

1. Civil Litigation

a. Civil litigation for the City in 2016 entailed twelve (12) active cases involving community block grant mortgage foreclosures, worker's compensation claims, BZA decisions, personal injury claims, challenges to a civil service promotion list, declaratory relief actions against the City and City Council members, and allegations of Ohio Open Meetings Act violations. The Law Director's Office is actively litigating these cases internally and, in some cases, with the assistance of outside counsel. Due to the nature of civil litigation, additional details regarding these pending civil litigation cases is attorney/client privilege and/or work product privilege, but will be made available to City Council members for review.

2. Self-Insured Claims Adjusting Reports

a. The City received 7 insurance claims in 2016 involving vehicle and property damage. The Law Director's Office assumed this responsibility in 2006 in order to save the City approximately \$20,000/year. The Law Director's Office, in conjunction with the City's insurance agent, investigates and reviews these claims against the City in the context of governmental immunity provided in the Ohio Revised Code. Due to the nature of these claims, additional details

regarding their review and disposition is attorney/client privilege and/or work product privilege, but will be made available to City Council members for review.

E. MISCELLANEOUS AREAS OF SERVICE

1. General Services

a. Hours of Operation

Due to the relocation of the Law Director & City Prosecutor's Office in April to the new Fairfield County Municipal Courthouse, we had to change our office hours to conform to the building's hours of operation. Our office is now open from 7:45 a.m. to 4:15 p.m., Monday through Friday, and closed all Federal Holidays. Due to the nature of what we do these hours are often expanded by attorneys and staff to fulfill our professional duties and responsibilities (ie. jury trials, City Council and City Board meetings, etc.).

b. Down Payment Recovery

The Law Director has assisted with the coordination of the Community Development Block Grant Program and assists in recovery of down payments through foreclosures and bankruptcy procedures. In the current economic situation, foreclosures being filed have increased the caseload and work for our office.

c. Collections on Damage to City Property

Since 1998, the Law Director's Office conducted collection proceedings for the departments of the City when City property has been damaged. (i.e. fire hydrants and electrical poles) In 2016, our office obtained judgments, collected, and/or forwarded to a private collection company for more than Seven Thousand Two Hundred Eighty-Four Dollars and Forty-For Cents (\$7,284.44) in an attempt to reclaim taxpayers' money. Since 1998, we have worked to recover \$382,883.76 of which we have successfully collected \$338,686.96 to date.

d. Special Assessment of Code Enforcement Violations

One responsibility of the City's Code Enforcement Officer is to notify property owners of code violations. These violations are received by phone, email, or observed by the Code Enforcement Officer. Once the violation has been received the Code Enforcement Officer moves forward to notify the property owner of the need for abatement. If the abatement is not addressed in a reasonable amount of time, the Code Enforcement Officer will then have the abatement corrected pursuant to City ordinances. The abatement services performed by the company hired by the Code Enforcement Officer range from mowing and property maintenance, to securing a vacant business, and/or complete demolition of a structure or structures. The Code Enforcement Officer contracts with companies that correct the abatement, an invoice is forwarded to the Code Enforcement Officer who pays the invoice, and forwards a copy of the invoice to the Law Director's Office for special assessment.

The Law Director's Office receives the invoice from the Code Enforcement Officer and must keep an annual spreadsheet tracking property owner, parcel number, address, service, and cost of the assessment. The Law Director's Office then compiles all the information and files the special assessments annually with the County Auditor's Office the First Monday in September pursuant to Ohio Revised Code. The County Auditor's Office then places the assessment on the real property tax duplicate and it is billed to the property owner via real estate tax. Should a property change hands, the amount assessed, must be

paid in full to the County Auditor Office or the closing cannot take place. The County Auditor's Office then reports the receipt of the assessment and the City receives their portion by check and those funds are placed back into the General Fund.

The Law Director's Office started the real property special assessment process in 1998. In May 11, 2009, City Council passed Permanent Ordinance 9-09, approving an administrative processing fee on the real property every time abatement occurs. Total assessments since 1998 total \$304,313.96 that have been or will be reimbursed to the General Fund as referenced in the chart below. The 2014 and future assessments, at the request of the county, have been combined into one yearly total category.

Code Enforcement Special Assessments Filed					
Year	Mowing	Demolition	Secure	Clean up	Yearly Total
1998	\$ -	\$ -	\$ -	\$ 85.00	\$ 85.00
1999	\$ 240.00	\$ -	\$ -	\$ -	\$ 240.00
2000	\$ 874.00	\$ -	\$ -	\$ -	\$ 874.00
2001	\$ 1,380.00	\$ 6,940.00	\$ -	\$ -	\$ 8,320.00
2002	\$ 1,628.00	\$ 3,640.00	\$ -	\$ 281.88	\$ 5,549.88
2003	\$ 2,233.00	\$ 4,744.00	\$ -	\$ -	\$ 6,977.00
2004	\$ 2,376.30	\$ 7,400.00	\$ 9,699.00	\$ 51.00	\$ 19,526.30
2005	\$ 3,848.99	\$ -	\$ -	\$ 170.00	\$ 4,018.99
2006	\$ 2,913.20	\$ -	\$ 3,500.00	\$ 1,452.00	\$ 7,865.20
2007	\$ 3,360.60	\$ -	\$ 2,857.00	\$ 480.00	\$ 6,697.60
2008	\$ 5,392.00	\$ 9,200.00	\$ 1,135.00	\$ -	\$ 15,727.00
2009	\$ 12,761.11	\$ -	\$ -	\$ -	\$ 12,761.11
2010	\$ 27,305.00	\$ -	\$ 4,457.43	\$ -	\$ 31,762.43
2011	\$ 16,949.00	\$ -	\$ -	\$ -	\$ 16,949.00
2012	\$ 20,055.20	\$ -	\$ -	\$ -	\$ 20,055.20
2013	\$ 18,759.26	\$ -	\$ 268.41	\$ 2,700.00	\$ 21,727.67
2014	see total	see total	see total	see total	\$ 47,213.08
2015	see total	see total	see total	see total	\$ 43,800.00
2016	see total	see total	see total	see total	\$ 34,164.50

2. Additional Services

- a. Legal Work for City Schools - A new area of responsibility for the Law Director is the Lancaster City Schools. Due to budgetary restraints, the School Board has requested legal assistance as authorized by the Ohio Revised Code.
- b. Zoning and Code Enforcement Work for Additional Villages - The Law Director's office is mandated by the ORC to handle zoning and code enforcement prosecution for townships and villages in Fairfield County. This activity has increased in the last three years as more municipalities and townships adopt property maintenance and zoning codes.

F. GRANTS WRITTEN AND RECEIVED BY THE LAW DIRECTOR

PROJECT	AMOUNT	FUNDING SOURCE
Safe Routes to School I	\$ 383,000.00	SRTS Federal Money
Safe Routes to School II	\$ 345,000.00	SRTS Federal Money
Safe Routes to School I Enforcement 2013	\$ 21,840.00	SRTS Federal Money
Safe Routes to School II Enforcement 2014	\$ 24,000.00	SRTS Federal Money
Safe Routes to School Signs/Safety Equipment	\$ 62,000.00	SRTS Federal Money
Safe Routes to School I (West Sidewalks)	\$ 453,600.00	SRTS Federal Money
Safe Routes to School II (Sheridan Drive Sidewalks)	\$ 453,385.00	SRTS Federal Money
Bike Trail Phase IV	\$ 373,605.00	Clean Ohio Fund State Money
Bike Trail Phase IV	\$ 5,400.00	Columbus Foundation
Family Violence Prosecution Unit	\$ 116,349.00	JAG – ARRA Stimulus Funds
Family Violence Prosecution Unit	\$ 29,828.00	VAWA – ARRA Stimulus Funds
Bike Trail Phase IV 2013	\$ 25,000.00	PNC Foundation Grant
Bike Trail Phase IV 2013	\$ 66,500.00	Fairfield Heritage Trail
Bike Trail Phase IV 2013	\$ 19,659.50	Community Development Block Grant
Sensory Trail Connects to Bike Trail 2013/2014	\$ 10,000.00	Community Development Block Grant
VAWA 2012 (funding for 2013)	\$ 44,410.15	Federal pass through
VAWA 2013 (funding for 2014)	\$ 45,953.04	Federal pass through
VAWA 2014 (funding for 2015)	\$ 49,409.51	Federal pass through
VAWA 2015 (funding for 2016)	\$ 41,881.51	Federal pass through
VAWA 2016 (funding for 2017)	\$ 54,667.38	Federal pass through
TOTAL	\$ 2,625,488.09	

II. Criminal Report

A. CRIMINAL PROSECUTORIAL RESPONSIBILITIES

Pursuant to Ohio Revised Code 1901.34, the Law Director's office is responsible for the prosecution of misdemeanor criminal cases arising in the City of Lancaster and in the unincorporated areas of the county. In 1997, we began the process of formalizing contracts for reimbursement to the City for prosecution we do for villages in Fairfield County (i.e. Amanda, Bremen, Lithopolis, Millersport, Carroll, Sugar Grove, Rushville, West Rushville, Pleasantville, and Thurston) and the unincorporated areas of the county by negotiating one contract with the Fairfield County Commissioners. Additionally, the Law Director has negotiated prosecution contracts with the City of Pickerington and the City of Reynoldsburg due to the increased number of criminal cases being filed and prosecuted in the Fairfield County Municipal Court from those jurisdictions. Through this process, we are responsible for the prosecution of all adult misdemeanor crimes that occur in Fairfield County. This process provides uniformity of access and expectations to Fairfield County law enforcement in the investigation and prosecution of adult misdemeanor crimes.



B. CRIMINAL STATISTICS

The Courts statistics for the Law Director and City Prosecutor's Office for 2016 represent the major use of resources of this office. Approximately 80% of the budgetary funding for the Law Director's Office is directed towards criminal prosecution. Management and prosecution of the high volume of cases takes a team approach to file management and prosecution efforts. Because of the short timeline for prosecution of misdemeanor cases (30-90 days without a time waiver), cases continue regardless of the availability of the prosecutor. Our office assigns attorneys to the dockets as needed to keep cases moving forward in the courts.

Fairfield County Municipal Court Statistics						
Year	Misdemeanor	OVI	Other Traffic	Jury Trials	Trials to Court	New Court Filings
2009	2,660	601	11,828	14	2,411	19,915
2010	2,246	751	13,448	8	2,520	21,239
2011	2,809	755	12,132	9	2,662	20,417
2012	2,246	698	12,877	17	5,485	21,239
2013	2,954	711	13,672	10	3,270	21,125
2014	2,629	686	14,583	27	3,230	21,535
2015	2,743	611	14,277	14	2,884	21,119
2016	2,956	694	13,028	15	2,725	19,932



C. SENATE BILL 2/VICTIM RIGHTS LEGISLATION

1. This office has implemented the necessary notification procedures for victims of crime as mandated by the Ohio Revised Code. Victims must be notified as to hearings and case status.
 - A. A Federal grant from the Violence Against Women Act (VAWA) was obtained from 2000-2006 funding 75% of this position. This grant was defunded for 2007 due to its age. In response, the Law Director worked with the Fairfield County Municipal Court to establish the Fairfield County Family Violence Unit court cost to help fund a prosecutor for family violence/stalking cases.

The Family Violence Unit court cost was terminated December 31, 2009 through Ohio Attorney General Opinion OAG 01-2009. This resulted in a loss of monies for prosecution in the amount of over \$100,000.00 per year. The Law Director's Office received ARRA Stimulus grants as a stop gap measure for 2010. In 2011, the Law Director had to lay off the Family Violence Prosecutor based on budget constraints. For 2012, 2013, 2014, 2015 and 2016, the Law Director was successful in obtaining a 12 month grant for a Family Violence Prosecutor. This grant was successfully renewed for 2017.

2. Victims served through the Family Violence Fund Statistics

Statistics						
Family Violence Unit						
Year	DV Intakes	Stalking Intakes	Other SB2 Cases	Total Intakes/Victims Served	DV Cases Prosecuted	Stalking Cases Prosecuted
2008	233	18	523	774		
2009	206	8	583	797		
2010	197	5	491	693	246	5
2011	166	5	510	681	*	*
2012	648	3		651	300	
2013	136	5	407	548	*	*
2014	165	18	430	613	*	*
2015	174	18	441	633	*	*
2016	200	16	484	700	*	*

*These statistics are no longer broken down by the court.

D. FAMILY VIOLENCE UNIT

The Law Director developed a proposal adopted by the Fairfield County Municipal Court which funded the Family Violence Unit, utilizing court costs to ensure prosecution of domestic violence and Senate Bill 2 cases pursuant to the Fairfield County Domestic Violence Protocol. This fund generated around \$100,000.00 savings to taxpayers by ensuring that the users of Municipal Court pay toward the Victims of Crime in Fairfield County, by hiring a prosecutor and victim services coordinator. However, Ohio Attorney General Opinion OAG 01-2009 prevented continuation of this fund after December 31, 2009. We will continue to operate with a 12 month Violence Against Women Act (VAWA) grant for 2016. This is a much needed prosecution position within the office that we cannot afford to lose.



E. LAW ENFORCEMENT TRAINING

The Law Director & City Prosecutor's Office provides free training to law enforcement in the County. In 2016, the office conducted the following law enforcement trainings:

1. Four new officer trainings on the Domestic Violence Protocol including determination of primary aggressor, protection orders, probable cause to arrest, Ohio preferred arrest policy, and civil immunities at no cost to taxpayers.
2. One roll call training with Lancaster Police Department regarding criminal caselaw updates.
3. One roll call training with Fairfield County Sheriff's Office regarding criminal caselaw updates.
4. We provided our criminal caselaw update training to every law enforcement agency in Fairfield County by PowerPoint training module to be utilized at their convenience to avoid the cost of overtime pay for training.

F. ATTORNEY TRAINING

1. Due to budget constraints and a lack of funding for paid trainings, the Law Director, Assistant Law Director, Senior Attorney, and Assistant Prosecutors all attend the free CLE trainings provided by the Fairfield County Bar Association which helps maintain our CLE requirements prescribed by the Ohio Supreme Court.
2. Assistant Law Director & City Prosecutor, Kyle Witt, attended specialized training on the prosecution of child sex crimes.
3. Senior Attorney, Stephanie Hall, attended two separate trainings on Labor and Employment topics.

G. TOWNSHIP ZONING VIOLATIONS

An area this office has seen greatly expanded is the filing of criminal violations of township zoning codes. As the townships grow, zoning enforcement has become an increasingly necessary concern. Since the office prosecutes all misdemeanor violations in the unincorporated areas of Fairfield County, this includes township zoning issues. The County Prosecutor's Office handles all other legal needs of the townships.

H. BUDGET CRISIS

The greatest challenge to the Law Director and City Prosecutor's Office in 2016 was meeting the increased demands of criminal and civil caseloads. We received a Violence Against Women Act (VAWA) grant to fund the Family Violence Prosecutor for 12 months. While grant opportunities are needed and helpful, our absolute reliance on them to maintain attorney staffing levels does not create stability for our prosecution efforts that continue to escalate due to the opiate crisis affecting our county and the tremendous work of Fairfield County law enforcement in keeping our community safe.

III. How Did We Do Meeting Our 2016 Goals?

A. RENEGOTIATE COUNTY PROSECUTION CONTRACT

We have renewed the contract for 2017.

B. MAINTAIN FAMILY VIOLENCE UNIT

We received a VAWA grant to continue funding the Family Violence Prosecutor.

C. UPDATE FIRE IMPACT FEE

Due to workload, we were unable to commence this project.

D. UPDATE CONTRACTOR REGISTRATION

Due to workload, we were unable to commence this project.

E. ANNEXATION OF CRITICAL RIGHT-OF-WAY

We completed the Sheridan Drive right-of-way annexations in 2015 which eliminates public safety forces confusion when responding to calls for assistance on Sheridan Drive. The final step is boundary conformance of the annexations was nearly finished in 2016, but a little work remains for 2017.

F. COMPLETE INDEXING OF ALL LAW DIRECTOR'S FILES

We completed this goal.

G. PURSUANT TO THE UNITED STATES SUPREME COURT HOFFMAN DECISION, PROVIDE PROBABLE CASE CRIMINAL AFFIDAVITS TO ASSIST COUNTY LAW ENFORCEMENT AGENCIES.

We completed this goal.

IV. Goals for 2017

- A. MAINTAIN FAMILY VIOLENCE UNIT**
- B. COMPLETE THE ANNEXATION OF RIGHT-OF-WAY PROCESS**
- C. UPDATE FIRE IMPACT FEE**
- D. UPDATE CONTRACTOR REGISTRATION**
- E. EXPAND TRAINING TO LAW ENFORCEMENT AGENCIES**
- F. WORK WITH HARCUM HOUSE TO CREATE A SEXUAL ASSAULT RESPONSE TEAM (SART)**
- G. ESTABLISH A SET OF BY-LAWS FOR THE LANCASTER CIVIL SERVICE COMMISSION**
- H. UPDATE TECHNICAL CODES**
- I. WORK WITH LAW COMMITTEE AND CITY COUNCIL TO IDENTIFY AND UPDATE LANCASTER CODIFIED ORDINANCES THAT ARE OUTDATED**