

Does your township need a civil service commission? Is there interest among residents and business owners to establish a downtown development authority?

No matter what size township you serve, the number of boards and commissions you have can be dictated by the features of the community.

The following article summarizes some of the boards, commissions and authorities a Michigan township is permitted and required to establish under law. While some are very familiar, there are a number of boards and commissions beyond the township board that you may be interested in establishing.

Township Boards & Commissions: An Overview



by Jennifer Hrynik,
MTA Communications Coordinator



Planning Commission and Zoning Board

Most townships have planning commissions, others have zoning boards and some even have both. The Township Planning Act and Township Zoning Act allow for both. However, there are some advantages to disbanding the zoning board and transferring its functions to the township planning commission.

A zoning board has no authority to establish a township master plan. It is restricted to simply enforcing the township's zoning ordinances. Also, state law does not permit the zoning board to include a township board member; a planning commission, however, must include a township board member—as long as it isn't the supervisor.

Public Act 168 of 1959, the Township Planning Act (MCL 125.321, *et seq*) and the City, Village and Municipal Planning Act, Public Act 285 of 1931 (MCL 125.31, *et seq*) both authorize townships to appoint a planning commission. Most township planning commissions are created under the Township Planning Act (TPA), which allows the township board to create a planning commission by resolution. The Township Zoning Act, Public Act 184 of 1943, authorizes the township board to transfer all of the powers, duties and responsibilities of the township zoning board to the planning commission.

The planning commission must consist of five to nine members and include one township board member other than the supervisor. Attorney General Opinion No. 6834 of 1995 states that town-

ship supervisors may not serve on the planning commission because they are in a position to appoint and to remove members, creating a potential conflict under certain circumstances.

The remaining planning commission members must represent primary interests of the community, such as agriculture, recreation, education, public health, government, commerce, transportation and industry. The members are appointed by the township supervisor with township board approval. Once the appointments are made, township board members, including the supervisor, should not be involved in or attempt to influence the decisions of the planning commission. The same holds true for the township's zoning board of appeals.

In Opinion No. 6837 of 1995, the attorney general ruled that a township planning commission member may not be a member of a county planning commission. But in Opinion No. 6863 issued later that year, the attorney general ruled that the position of county planning commissioner is not incompatible with



membership on a township board in a township that has not adopted a township zoning ordinance.

The zoning administrator, employed by the township board, cannot serve on the planning commission—or zoning board and zoning board of appeals—because he or she also enforces the zoning ordinances, reviews applications for rezoning, special uses and site plans, makes recommendations to the zoning board, and assists with zoning questions.

While the TPA states that all members of the commission must be qualified township electors and property owners, an attorney general letter opinion from 1973 states that property ownership can't be used as a criteria for sitting on a township planning commission.

A chairperson, vice chairperson and secretary must be elected by commission members.

The TPA permits and mandates the planning commission to make and adopt a basic plan for the community, review and approve public improvements, act as a zoning board—a function separate from the work of the zoning board of appeals—and review plats or other matters relating to land development.

The planning commission must prepare and submit a detailed budget to the township board for approval. Planning commission expenditures must be within the amounts appropriated by the township board (MCL 125.324(4)).

Zoning Board of Appeals

Township boards are required to appoint a zoning board of appeals (ZBA) to act on all questions that arise in administering the zoning ordinance, including reviewing decisions made by the official or body charged with enforcing the ordinance.

If the township population is 5,000 or more, the minimum membership for the ZBA is five. The membership minimum is three for townships with populations less than 5,000. The number of members may be more than the minimum and should be specified in the township zoning ordinance.

The ZBA must include a township zoning board or planning commission member. The remaining members must be township residents who are registered voters and who reside outside of incorporated cities and villages, and represent the population distribution and various interests present in the township. One member may be a member of the township-

continued on page 12 ▶

board, but an elected township official cannot serve as chairperson of the ZBA. Employees or contractors of the township board may not serve on the ZBA.

Two alternate members for the same term may be appointed and serve for regular members who are unable to attend two or more consecutive meetings or for a period of more than 30 consecutive days. The alternate may also serve if a regular member has a conflict of interest and abstains from voting.

Board of Review

Under the General Property Tax Act, every community must have a board of review for the purpose of examining and reviewing the assessment of real property in the community.

A township board of review must consist of three persons but can be expanded to six or nine persons at any time, if the township board chooses to do so. A

board of review with six or nine members must be divided into committees of three for the purpose of hearing and deciding appeals. The full board of review shall first meet in a general session to review the tax roll. If the board is divided into subcommittees, each committee will make decisions only on protests presented to it. Two members of a subcommittee constitute a quorum.

The Tax Act requires the township supervisor to act as secretary to the board and keep a record of its proceedings and all changes made in the township assessment roll (MCLs 41.61 and 211.33). If the supervisor can't attend a board of review meeting, the deputy supervisor or another board of review member must perform this duty. If necessary, the township board can assign a clerical employee to assist, but the board of review must still select a secretary to ensure the accuracy of the clerical employee's work.

including public facilities. It is designed to halt property value deterioration and to increase property tax valuation in its business district. A township with a population of 5,000 or less may, by ordinance, require its planning commission to serve as the DDA board.

The DDA's activities can be financed through donations, taxation if authorized by the township and the residents, revenues from a development, and tax increment financing—pledging taxes of other authorized taxing units upon the increasing value of the improvements made by the authority.

The board consists of eight to 12 members. The township supervisor is required to be a DDA board member and appoints the remaining members with the township board's approval. The township supervisor does not serve as chair of the board. A public officer or public employee may be a member (MCL 15.183).

| | | |
|--|--|--|
| ENGINEERING | | Civil Environmental Structural Mechanical Electrical |
| ENGINEERING & TECHNOLOGY | | |
|  CAPITAL CONSULTANTS™ LANSING • GAYLORD • GRAND RAPIDS | | |
| INFORMATION TECHNOLOGY | | Geographic Information Systems (GIS) Data/Voice Networking Desktop Solutions |
| Lansing (517) 371.1200 Gaylord (517) 732.8131 Grand Rapids (616) 791.1016 info@cceng.com | | WEB Strategy Design Infrastructure |
| Visit our new web site at: www.cceng.com | | |

Downtown Development Authority

Any township that has an area of industrial or business development and growth could utilize a downtown development authority (DDA).

The township board, after holding a public hearing, may adopt an ordinance creating a DDA (MCL 125.1651). The authority is established to make plans for the development of an area of the township; that can include buying land to improve restore, maintain and operate,



Park Commission

A request signed by not less than 8% of the registered voters of the township is necessary to establish a park commission. The township board must then approve a five to nine-member commission, in odd numbers only, to serve until the next township election, when they will be elected for four-year terms each.

The park commission has the authority to acquire, maintain, manage and control township parks and places of recreation, including beaches, and may condemn land for such purposes in accordance with the condemnation laws of the state. In the name of the township,

the commission may accept gifts, grants and devise of land suitable for parks and places of recreation, and gifts and bequests of money for the acquisition and improvement of land for these purposes.

The township board may authorize the park commission to also act as a recreation board.

If a township does not have an elected park commission, the township board may act as a park board with authority to acquire by gift or purchase any real estate for a free public park, resort, beach or other place of recreation.

Library Board

In townships where voters have approved up to two mills for a free township public library, the township board is authorized to appoint a library board of six members until the next township election, at which time a permanent six-member library board is elected to four-year terms under a non-partisan ballot.

The library board elects a president and other officers as necessary from its members. The board adopts library bylaws, rules and regulations, and has exclusive control of library funds, expenditures and any library building construction, supervision and maintenance. It also may appoint and remove a librarian and assistants as well as determine their compensation.

Under MCL 397.183, as amended by Public Act 114 in 1994, two or more municipalities, including school districts, can establish a district library as a

separate authority, with taxing authority of up to four mills if approved by the electors of the district. The library district may also be supported by contributions from municipalities and school districts.

Construction Board of Appeals

Townships are required to create a construction board of appeals if the township board has elected to enforce the State Construction Code or a part of its local building code which has not been pre-empted by the State Construction Code.

The board must consist of no less than three and no more than seven members. Unless otherwise determined by township ordinance, the members of the construction board of appeals are appointed by the township supervisor to two-year terms. A member must be qualified to serve through experience or training in the building trades (MCL 125.1514).

Any appeals from the enforcing agency of the building code are heard by the board. An indexed record of its decisions is open for public inspection. The township board may grant additional powers and duties to the construction board of appeals that are consistent with the State Construction Code Act.

Civil Service Commission

A civil service commission is only necessary in townships with populations of 60,000 or more. Approved by voters, it is charged with developing a system of township employment and advancement under the guidelines set forth in the law. The commission must also choose a personnel director and determine his or her compensation.

The township board appoints three township electors as members of the civil service commission. They must provide an employment merit system and determine examinations for positions, passing grades and all other matters necessary to carry out the provisions of the Civil Service Act for police officers and firefighters.



Economic Development Corporation

Establishing economic development corporations (EDC) was a popular practice in the 1980s but they are not as common today. However, townships, like counties, cities and villages, may create an EDC.

EDCs encourage industrial and commercial development within the municipality through their ability to purchase, construct, improve and maintain commercial and industrial projects and to borrow money for the use and ultimate purchase of such facilities by private enterprise.

Historical Commission and Historic District Commission

The township board can create a historical commission by ordinance and raise and appropriate money for any activity or project that advances the township's historical interests.

An historic district commission would

continued on page 14 ▶

MUNICIPAL LAW

Secrest, Wardle, Lynch, Hampton, Truex and Morley
Attorneys at Law

Serving as General and Special Counsel
to Cities, Townships, Villages and Counties

- Land Use and Zoning
- Trial and Appellate Litigation
- Cable and Telecommunications
- Drain Litigation
- Michigan Tax Tribunal Litigation
- Ordinance Preparation and Enforcement
- Planning Matters
- Underground Construction
- Contract Preparation and Review
- Condemnation

William P. Hampton • Gerald A. Fisher • John M. Donohue

30903 Northwestern Hwy., Farmington Hills, MI 48334
(248) 851-9500 Fax: (248) 851-2158 www.secrestwardle.com

Also offices in Grand Rapids, Lansing, Mount Clemens

BS&A SOFTWARE

EQUALIZER SOFTWARE SYSTEMS

DEVELOPERS OF EQUALIZER SOFTWARE
APPLICATIONS FOR MICHIGAN GOVERNMENT

- ASSESSING SYSTEM
- COUNTY EQUALIZATION SYSTEM
- LOCAL TAX SYSTEM
- SPECIAL ASSESSMENT SYSTEM
- COUNTY TAX SYSTEM
- COUNTY DELINQUENT TAX SYSTEM
- DELINQUENT PERSONAL PROPERTY SYSTEM
- PERMIT SYSTEM
- DOG LICENSE SYSTEM
- PRD WEB APPLICATION

Equalizer Software Systems are designed with flexibility to operate in both large networked offices and small single user environments. All of the software systems provide a PC based, 32-bit Windows solution at a fraction of the cost of mainframe systems. Our "Open-Data" philosophy makes it easy to communicate between Equalizer products and other applications.

Please contact us for a free demonstration version of any of our software systems.

BS&A SOFTWARE
5668 OKEMOS RD
EAST LANSING, MI 48823

517.339.5514
517.339.6242 Fax

www.bsasoftware.com



be needed to study and control designated historic districts within the township for the purpose of safeguarding the heritage of the township, stabilizing property values, fostering civic beauty, and strengthening the local economy and the pleasure and welfare of township citizens (MCL 399.201, *et seq.*).

In townships with populations of 5,000 or more, the historic district commission must have between seven and nine members. If the township population is less than 5,000, the commission is comprised of five to seven members. They are appointed by the township supervisor unless the ordinance provides for a different method. A majority of the members must have a clearly demonstrated interest or knowledge of historic preservation.

Fire or Police Administrative Board

If the township has an organized police or fire department or both,



the township board can create an administrative board for both departments.

The board consists of five members, each appointed to six-year terms. Members of the police and fire departments may not serve on the administrative board.

MCL 41.811 allows the township boards of two or more contiguous townships to create a joint police or fire administrative board consisting of two members from each participating governmental unit.

Other Authorities...

A township may join neighboring municipalities to form a variety of authorities—or form one on its own—which have more power than appointed or elected boards and commissions.

Authorities are governed by appointed boards and are created via articles of incorporation, which must spell out the incorporating members of the authority, its name, the purpose for which it was created and the manner in which its officers are selected.

Here's a look at three authorities that may exist in a township:

Building Authority—

Appointed by the township board the building authority may acquire and maintain a building or buildings, automobile parking lots or structures, recreational facilities, stadiums, and any other properties and facilities used for legitimate public purposes (MCLs 123.951-123.965). As a corporate body, the building authority can be sued. It can also enter into contracts to acquire property and lease it to the township for a period of up to 50 years.

Township board members may not serve on the authority board.

Airport Authority—Two or more townships may form an airport authority to acquire and maintain one or more airport landings and navigational and building facilities, either within or outside their limits.

Airport authorities have more flexible structures and are established within the enabling resolution. It may not tax more than one voter-approved mill.



Water, Sewer or Solid Waste Authority—

MCLs 124.128-124.294 allow townships to join other municipalities to form an authority that can acquire and operate a sewage disposal, water supply or solid waste disposal system.

The authority may enter into contracts with its incorporating municipalities for a water, sewage or solid waste system and the payment of costs. It may issue bonds to construct the system. The participating municipalities may obtain funds to fulfill their obligation to the authority through voted ad valorem taxes, special assessments, collection of rates and charges to users, connection charges, sales tax diversion money, or other funds in the general fund available for these purposes.

Options Abound

Regardless of the size of your township, it's important to know which boards and commissions are allowable by law and may serve the community well. Township officials may consider discussing options on forming authorities with neighboring municipalities. Evaluate your township's assets and determine what would work best for you. ■

Some information for this article was compiled from the following MTA publications: Authorities & Responsibilities of Michigan Township Officials, The Township Guide to Planning & Zoning, and Supervisor's Guide to Township Government. To purchase a copy of any MTA publication, contact MTA Education Aide Gloria Huhn at (517) 321-6467.

**Compatible or Not Compatible?
An Examination of Incompatibility of Offices**

With the numerous boards and commissions townships have, an opportunity for incompatibility of offices often arises. The Michigan Legislature passed the Incompatible Public Offices Act, Public Act 566 of 1978 (MCL 15.181, *et seq*) to prescribe standards of conduct for public officials and prohibit holding incompatible offices.

Uncertain if two offices are incompatible? Ask yourself these questions:

- Is one public office subordinate to the other?
- Does one public office supervise the other?
- Does performance of a duty in one public office result in a breach of duty?

If the answer to any of these questions is "yes," an incompatibility exists.

By examining statutes, legal opinions and Attorney General opinions, the following chart outlines common township positions, and whether or not an incompatibility exists. This is not an exhaustive list and is offered for guidance only. When in doubt, contact township legal counsel.

| Supervisor and... | Compatible? | Trustee and... | Compatible? |
|---------------------------------|--------------------|---|--------------------|
| Assessor | Yes | Assessor | Yes |
| County solid waste board member | Yes | Fire fighter | Yes |
| Deputy fire chief | Yes | Planning commission member | Yes |
| County assessor | No | Zoning administrator | Yes |
| County sheriff | No | Road commissioner | No |
| Drain commissioner | No | Zoning board | No |
| Fire chief | No | Village council member | No |
| Manager | No | School board member | Depends* |
| Planning commission member | No | Other offices | Compatible? |
| Road commissioner | No | Assessor and township official's deputy | Yes |
| Undersheriff | No | Assessor and school board member | Yes |
| Zoning board member | No | Deputy clerk and county commissioner | Yes |
| School board | Depends* | Planning commission and school board | Yes |
| Clerk and... | Compatible? | Board of review and school board | No |
| Assessor | Yes | Deputy supervisor and planning commission | No |
| Fire fighter | Yes | Planning commission and zoning administrator | No |
| Planning commission member | Yes | Township employee and zoning board of appeals | No |
| Village treasurer | Yes | Zoning board and fire fighter | No |
| Zoning administrator | Yes | | |
| Zoning board member | No | | |
| School board member | Depends* | | |
| Treasurer and... | Compatible? | | |
| Assessor | Yes | | |
| Fire fighter | Yes | | |
| Planning commission member | Yes | | |
| Village clerk | Yes | | |
| Zoning administrator | Yes | | |
| Road commissioner | No | | |
| Zoning board member | No | | |
| School board member | Depends* | | |

*Depends on contract relationship of school and township; contact legal counsel for more information.