

Michigan Township Focus

AUGUST 2016

OFFICIAL PUBLICATION OF THE MICHIGAN TOWNSHIPS ASSOCIATION

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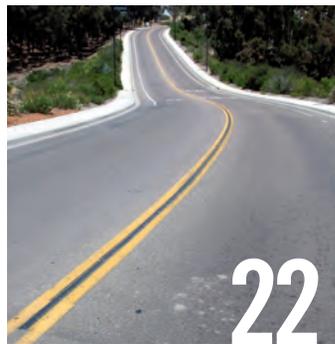


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22 Right treatment for the right road at the right time

Townships contribute millions of dollars each year to maintain roads in their borders. As local decision-makers in their communities, township officials should be familiar with what treatment options are available for roadways—and what can work best for their individual situation.

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More than 100 township officials gathered in Michigan’s Upper Peninsula for two days of education and networking at MTA’s 2016 *UP North Summit*.

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Don't forget rural, underserved and growth areas when debating infrastructure needs

Gov. Rick Snyder's 21st Century Infrastructure Commission has been charged with identifying "long-term strategies to help ensure Michigan's infrastructure remains safe and efficient." Individuals from business, government, nonprofit and philanthropic organizations with particular interest or expertise in infrastructure have been appointed to the commission, which is charged with developing comprehensive short-term and long-term plans for transportation, water and sewer, wastewater treatment and drainage, energy, communication, and any other infrastructure components



identified by the commission. It will also assess and prioritize current infrastructure needs throughout the state, both at the state and local level, including recommendations for better long-term planning, management and financing options for the next 30 to 50 years.

While the governor's executive order doesn't make explicit the exact impetus for a commission to take a deep look at infrastructure needs at this point in time, it is reasonable to speculate that the Flint water debacle might have played a role, along with widely held opinions that Flint's problems are but the tip of the iceberg of impending calamities resulting from long-term inattention to older infrastructure.

Comprehensive attention to replacing Michigan's aging infrastructure and financing new infrastructure to meet contemporary needs is long overdue. In spite of recent modest increases in road funding, highways, local roads and aging bridges will continue to be underfunded. The massive blackout in 2003 should have been a wake-up call as to the vulnerabilities of an archaic electrical transmission system. And the commission will also likely contend with the conundrum of shrinking communities with oversized, aging water and sewer systems and too few customers to generate sufficient user fees at affordable rates and to operate efficiently.

Infrastructure-intensive metropolitan areas will undoubtedly warrant the commission's intense study, and it wouldn't be surprising if the long-term price tag to state and local government and the private sector will be in the hundreds of billions of dollars. But whatever the number, the MTA Board of Directors does not want sticker shock to

deter action, including addressing the infrastructure needs of rural Michigan and growing communities that don't often garner much media attention.

The commission should note that in developing countries, broadband deployment has paid huge dividends in economic growth. Yet many Michigan rural residences and businesses have no high-speed Internet connectivity, and even suburban communities have substantial underserved areas. Thriving agriculture is essential for Michigan's prosperity, and it too increasingly requires high-speed broadband access. High-speed broadband is no longer an entertainment luxury but is essential for global economic competitiveness and high education attainment by Michigan's rural school children.

Creating good-paying jobs for all of Michigan remains an important state goal, but it will not happen in rural Michigan without local governments having access to capital to build transportation, fire protection and water infrastructure needed for advanced manufacturing, technology, agriculture processing facilities and tourist destinations. Aging septic systems that threaten water sources should be as much of a state policy concern as failing sewer systems, and financial assistance will need to be part of the solution for economically disadvantaged rural and urban communities lacking financial resources to self-fund new sewer systems.

Recent studies have concluded that Michigan residents and businesses pay more for energy than is the case in many other states, and that is particularly true in rural areas where cheaper natural gas is unavailable. While the Pure Michigan campaign touts Michigan's rural vistas and recreation areas, a recent study placed Michigan in the bottom five states for road trip destinations. Our crumbling and dangerous rural roads, high lodging costs and lack of rural amenities aren't going to generate a positive visitor buzz.

Improving the quality of life for communities left behind in the global economy, protecting treasured natural resources and creating prosperity opportunities for all of Michigan should be the infrastructure commission's legacy. Its report is due in November .

RIGHT TO VOTE

Are your township's polling places ADA-compliant?

Under the Americans with Disabilities Act (ADA), townships must ensure that people with disabilities have a full and equal opportunity to vote. ADA provisions apply to all aspects of voting—including polling places. The U.S. Department of Justice (DOJ), Civil Rights Division has compiled a checklist to help all local units ensure their polling places are ADA-compliant.

The 25-page document includes information about key areas of a facility that must be accessible to voters with mobility or vision disabilities, options for low-cost temporary measures for removing barriers, and a survey to guide election officials in evaluating the accessibility of facilities used or being considered for use as polling places. The checklist is available at

www.ada.gov/votingck.htm.

According to the DOJ, while many public entities report that their polling places are accessible, the Government Accountability Office estimates that only 27 percent of polling places were accessible to people with disabilities in the 2008 elections. This means that nearly three-quarters of the polling places used in 2008 had architectural barriers that made it difficult or even impossible for people with disabilities to enter their polling place and vote side by side with their neighbors.

“Voting at one’s polling place allows voters the chance to interact with neighbors and candidates who talk with voters outside the polling place, and to ask questions of or receive assistance from trained poll workers inside the polling place,” the document noted. “Simply put, voting in person at a local polling place is the quintessential American voting experience.”

A link to the ADA checklist, along with additional resources and information, is available on MTA’s “Americans with Disabilities Act” and “Elections Administration” Web pages on the members-only portion of MTA’s website, www.michigantownships.org. After logging in to the website, access via the “Index of Topics” under the “Answer Center” tab.



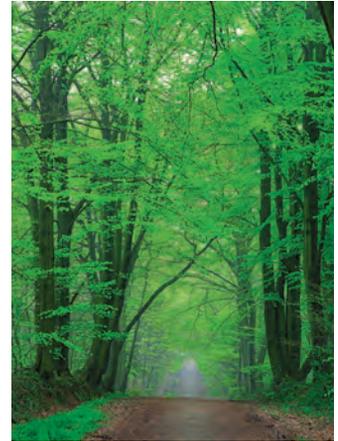
STAYING GREEN

Adopt-a-Forest program aims to clean up public lands

The Adopt-a-Forest program is looking for volunteer townships and organizations to participate in a statewide cleanup of public lands. There are currently 634 known illegal dumpsites on state and federal land across the state. Is one—or more—located in your township?

The Michigan Department of Natural Resources (DNR) is also looking for volunteers to scout sites in their area and report back if the sites are still there—or if they have been cleaned up, but not reported, and were therefore never removed from the list. For sites that remain and need to be cleaned up, the DNR has disposal funding on a pre-approved basis for communities and groups that are interested in cleaning up these sites.

Learn more about the Adopt-a-Forest program, and access a searchable database of dumpsites, at www.cleanforests.org/.



WORKPLACE SAFETY

OSHA penalties for employers increase

Penalties assessed against employers—including townships—for Occupational Safety and Health Administration (OSHA) workplace health and safety violations increased, for all penalties proposed or assessed after Aug. 1, 2016.

Under the federal Bipartisan Budget Act of 2015, federal agencies, including OSHA, must adjust their civil money penalties based on inflation. A “Serious” OSHA citation or violation, which had a maximum penalty of \$7,000, increased to \$12,500. The maximum penalty for a “Willful” violation increased from \$70,000 to \$125,000.

State plan programs—like Michigan OSHA—must be “at least as effective as” the federal OSHA program. Townships can consult the state’s OSHA Consultation & Training Division, within the state Department of Licensing and Regulatory Affairs, at (517) 284-7720.



LOCAL UPDATES FROM ACROSS MICHIGAN

Township happenings

A metal and fiberglass statue of a tree was recently placed at the Children’s Garden at the Bedford Branch Library in **Bedford Township** (Monroe Co.). The tree is in honor of children and young adults who lived in the township and have passed away. Engraved leaves will be placed on the tree in their memory.

Chesterfield Charter Township (Macomb Co.) is working its way to becoming a certified monarch butterfly sanctuary by a nationally run program, Monarch Watch. The township’s beautification committee has planned to install three butterfly waystations that will include milkweed, a crucial food for monarch caterpillars. With monarch butterflies declining in population, the committee is working to combat the problem and is also encouraging residents to plant their own butterfly sanctuaries.

Residents of **Imlay Township** (Lapeer Co.) have spent the summer season enjoying the township’s splash pad, which first opened late last summer. The splash pad is located in the township’s 13-acre park, behind the township hall, where families can enjoy the water and have a picnic.

Email YOUR Township Happenings to jenn@michigantownships.org. Add MTA to your newsletter mailing list! Mail to MTA, Attn. Jenn Fiedler, PO Box 80078, Lansing, MI 48908-0078, or email to jenn@michigantownships.org.

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A master's degree in community development, public administration, business administration or related field preferred. A bachelor's degree plus five years of direct experience in public or business administration is required.

Five to eight years of related or progressively more responsible administrative experience in local government or business involving budget preparation, technical report writing, personnel administration, contract negotiations, finance, planning, public speaking, and policy development is required. These qualifications are guidelines only. Other combinations of education and experience, skills and abilities may be considered.

More information and a complete job description can be found at www.comstockmi.gov. EOE.

Want to place a classified in Township Focus or on www.michigantownships.org? Visit www.michigantownships.org/classifieds.asp for more information, email ashley@michigantownships.org, or call (517) 321-6467.



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ITC would like to thank you for supporting the delivery of safe and reliable power in your communities!

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NON-EMERGENCIES—(877) 482-4829

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- Theft or damage to ITC property
- Trespassing issues

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mta events | August

- 2 *Hot Topics in Planning & Zoning* workshop, Lawrence
- 10 *Hot Topics in Planning & Zoning* workshop, Frankenmuth
- 17 *Hot Topics in Planning & Zoning* workshop, Grayling
- 30 *Hot Topics in Planning & Zoning* workshop, White Cloud

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AUGUST

1 Electors qualified to obtain an absentee voter ballot for the Aug. 2 primary may vote in person in the clerk's office until 4 p.m. (MCL 168.761)

By 2 Petitions to place county and local questions on the Nov. 8 general election ballot filed with county and local clerks. If governing law sets an earlier petition filing deadline, earlier deadline must be observed. (MCL 168.646a)

2 Primary election. Emergency absentee voting for the Aug. 2 primary until 4 p.m. (MCL 168.759b)

3 Boards of county canvassers meet to canvass the Aug. 2 primary by 1 p.m. (MCL 168.821)

15 Township reports to Department of Treasury the millage rate levied or to be levied that year for a millage described in section 5(g) or (w) used to calculate an appropriation under section 17(1)(a) or a distribution under section 17(3)(a)(i). See MCL

123.1353(4) for calculation for the 2016 report.

By 16 Ballot wording of county and local proposals to be presented at the Nov. 8 general election certified to county and local clerks; local clerks receiving ballot wording forward to county clerk within two days. (MCL 168.646a)

Boards of county canvassers complete canvass of the Aug. 2 primary election; county clerks forward results to Secretary of State within 24 hours. (MCLs 168.581, 168.822 and 168.828)

By 22 Board of State Canvassers meets to canvass the Aug. 2 primary. (MCL 168.581)

SEPTEMBER

By 1 Post-primary campaign statements due. Books closed Aug. 22.

9 Final date townships can establish, move or abolish a polling place for the Nov. 8 general election. (MCL 168.662)

14 Summer taxes due. (MCL 211.107)

Interest of 1 percent per month will accrue if the payment is late for the State Education Tax and county taxes that are part of the summer tax collection. (MCLs 211.905b(9) and 211.44a(6))

15 Last day of deferral period for summer property tax levies, if the deferral is for qualified taxpayers. (MCL 211.51(7))

By 24 Delivery of military and overseas absentee voter ballots for the Nov. 8 general election must begin by this date. All requests received since Nov. 4, 2015, must be honored. (MCL 168.759a)

County clerks deliver absentee voter ballots for the Nov. 8 general election to local clerks. (MCL 168.714)

29 through Oct. 18. Precinct inspectors for the Nov. 8 general election appointed by township election commissions. (MCL 168.674)

30 Township clerk delivers to supervisor and county clerk a certified copy of all statements, certificates, and records of vote directing monies to be raised by taxation of property. (MCL 211.36(1)).

Financial officer of each township computes tax rates in accordance with MCLs 211.34d and 211.34 and governing body certifies that rates comply with Section 31, Article 9, of 1963 Constitution and MCL 211.24e, Truth in Taxation, on STC Form L-4029 on or before Sept. 30.

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The state Department of Treasury recently issued “Numbered Letter 2016-1, Deficit Elimination Plans,” to clarify when a deficit recovery plan is necessary and how such a plan is filed with the department. Can you provide some additional guidance?

The letter was necessary because the Governmental Accounting Standards Board (GASB) Statement 54 segmented a government’s equity in governmental funds—those other than proprietary or fiduciary—into several categories:

- **Nonspendable.** This classification is intended to include amounts that cannot be spent because they are either: 1) not in spendable form, or 2) legally or contractually required to be maintained intact.
- **Restricted.** Funds are reported as restricted when constraints placed on the use of those resources are either: 1) externally imposed by creditors, grantors, contributors, or laws or regulations of other governments, or 2) imposed by law.
- **Committed.** These funds include amounts that can be used only for the specific purposes determined by a formal action of the township board.
- **Assigned.** These amounts are constrained by a township’s intent to be used for specific purposes and are neither restricted nor committed.
- **Unassigned.** This designation is reserved for the residual classification for the general fund.

Previously, fund balance was divided between “reserved” and “unreserved,” with the designated category as a subset of unreserved fund balance. The definition of “deficit conditions” outlined in Numbered Letter 2016-1 is very similar to other numbered letters issued by Treasury.

According to the letter, the state will consider a negative balance in the unrestricted fund balance (total fund balance, minus the non-spendable fund balance, minus the restricted fund balance) to be a deficit for purposes of compliance with Public Act 2 of 1968. Deficits incurred by local units of government must be “cured” by filing a formal deficit elimination plan with Treasury within 90 days of the end of the fiscal year. This plan must be approved by the local legislative body—i.e., the township board.

The state will consider “proprietary operations” (such as water and sewer enterprise fund) and “component units” (such as downtown development and brownfield redevelopment authorities) to be in a deficit if two tests are failed:

1. Does the fund or organization have a negative balance in the unrestricted net assets OR total net assets (total fund equity)?
2. Does the fund or organization have a “current ratio” greater than 1.0 (calculated by dividing current assets by current liabilities)?

There are additional examples and calculations contained in the numbered letter, but we suggest you contact your CPA (auditor) to determine application of these tests.

Numbered Letter 2016-1 outlines specific mandatory steps to file the plan with the state:

- Plan to eliminate the deficit, along with “certification” by the local unit, should be filed within 24 hours of the filing of the annual audit. *Note:* Although MCL 141.921 calls for plans to be filed with Treasury within 90 days of the ensuing fiscal year, it appears that Treasury expects the report to be filed within 24 hours of filing of the audit with Treasury, which could be within six months of year-end.
- Treasury will no longer accept plans filed in person or via U.S. mail for audits filed after July 11, 2016. The plan, along with certified resolutions (a copy of the resolution approving the deficit elimination plan, which is “certified” by the clerk), must be uploaded electronically using the department’s online portal.
- General fund deficits will require much more detailed plans than other funds.
- Multiple-year deficit recovery plans cannot exceed five years (generally), and may be subject to annual approvals and modifications if necessary.

Failure to adhere to these guidelines may result in withholding of revenue sharing due to the township and other measures. Please consult your township attorney and auditor to assist you in determining the necessary course of actions for your township.

Information provided in *Financial Forum* should not be considered legal advice, and readers are encouraged to contact their township auditor and/or attorney for advice specific to their situation.

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Does a township clerk or secretary of a township public body have to allow a citizen to review or request a copy of meeting notes or recordings?

Yes—if the notes or recording exists at the time a Freedom of Information Act (FOIA) request is made, the township must furnish the record. Meeting notes or a recording prepared to assist in transcribing the minutes are both considered a writing prepared in the performance of an official function. (Attorney General Opinion 5500 of 1979)

Meeting notes or recordings may be destroyed the day after the minutes are approved, unless a FOIA request has been received before they are destroyed. If they are not destroyed—or destroyed completely—meeting notes or recordings are subject to public disclosure as long as they exist. For this reason, MTA recommends that recordings be completely erased or destroyed, and not simply recorded over at subsequent meetings. As long as a part of the recording exists, the township is responsible for providing it if it is the subject of a FOIA request.

An audience member who makes notes or recordings of meetings of a township public body is not required to provide a copy of those notes or recordings. They are also not required to get permission to make recordings or to identify when they are making a recording.



What is the difference between a ‘committee’ and a ‘commission’?

Sometimes committees are confused with statutory boards or commissions, particularly if they are long-standing committees that pre-date current board members and staff or if they have ambiguous names, such as “planning and zoning committee” or “parks and recreation board.” In my personal opinion, I do not recommend calling a committee anything other than a committee, because it creates confusion. It’s important to determine if the body is statutory or a committee, because that will establish the extent—or the limit—of that body’s authority.

A statutory board or commission is a public body provided for by law, with the law designating the authority, composition and functions for that body.

Committees are not mandated or authorized by specific statutes. A township board may choose to establish committees to collect information, make recommendations and participate in township programs. But committees have no authority of their own. They can do only what the board

has authorized them to do. Or as I explain it, committees are like imaginary friends! They exist only as long as you believe in them—or the board wants them.



What can a committee be used for?

Committees may deal with internal administration tasks, such as developing a personnel policy or making recommendations for township park management. They may also be formed to gather information or resources for other township bodies, such as a committee created to conduct a survey of township residents or to gather information on how other townships finance fire protection.

Committees can offer interested and active citizens a way to support township programs and services. Some townships have established permanent beautification, cemetery or recreation committees. Other townships use temporary committees or panels that are directed to study an issue or project and report their findings to the township board, such as a road needs committee established for one year and charged with developing a five-year road improvement plan.

Before a committee is established, the township board should consult state laws and the township’s attorney to ensure that the proposed committee does not assume powers or duties assigned to statutorily established or authorized boards or commissions, such as an officials compensation commission or planning commission.



How does a township board create a committee?

Once a township board decides to create a committee, it should determine the committee’s name, purpose or goals statement, the number of persons to be appointed and the length of the term they will serve, and a timeline to report findings or recommendations, if applicable. The board should direct who will appoint members to the committee. Committee members may be appointed by the township board or individual officials, such as the supervisor, clerk, treasurer or superintendent, as the board designates. The board may wish to leave administrative decisions, such as who will chair the committee, to the committee.

A township board can create a committee by simple board motion or a resolution. The board is not required to file a record of establishing a committee, other than what is recorded in the township board minutes. For public information, and to encourage additional citizen participation, the board may wish to list committees and meeting dates in the township newsletter or website.

The board should consider the following:

- Determine the number of members and composition of the committee
- Establish how often the committee should meet
- Determine compensation, if any, for committee members
- Establish the scope or limit of the committee's purpose (What kind of recommendations may they make to the board? When will they be done?)
- Direct the committee to comply with the Open Meetings Act (OMA) and Freedom of Information Act
- Review how the committee's recommendations will be provided to the board—final decisions are made by the board, not the committee
- Consider not authorizing a committee to make any expenditures. If they are authorized by the township board to make expenditures, require that any and all expenditures be approved by the township board (checks and payments may be issued only through the standard township board approval process)
- Establish a “sunset” date or dissolve the committee when the project is completed or when the committee is no longer needed

Discuss the following questions:

1) Will compensation or expense reimbursements be given?

There is no requirement that compensation or expense reimbursements be given to advisory committee members, but a township board can determine a per diem payment or reimbursement for meetings and place a limit on the number of meetings held in a given period.

2) Are committees required to comply with the Open Meetings and Freedom of Information Acts?

Purely advisory committees are not subject to the Open Meetings Act, but a township board may require them to comply with the OMA.

Under certain circumstances, even a committee may be required by law to comply with the OMA, so a township board should consult with its attorney for a determination of whether a specific committee would be required to comply. Because the courts—and the public—may view any committee established by the township as a public body, I suggest that, while not automatically required by law, a township board consider requiring township committees to comply with the OMA.

Committee records are public records of the township, subject to the FOIA unless they fall under an exception in the FOIA.

3) Will committee members take an oath of office?

Committees are not required by law to take the oath of office. The township board may choose to require that committee members take the oath. Taking the oath emphasizes that the position is a public one and provides a

record of the date and expiration of the appointment. Each signed oath must be filed with the township clerk.

4) Will a township board member serve on the committee?

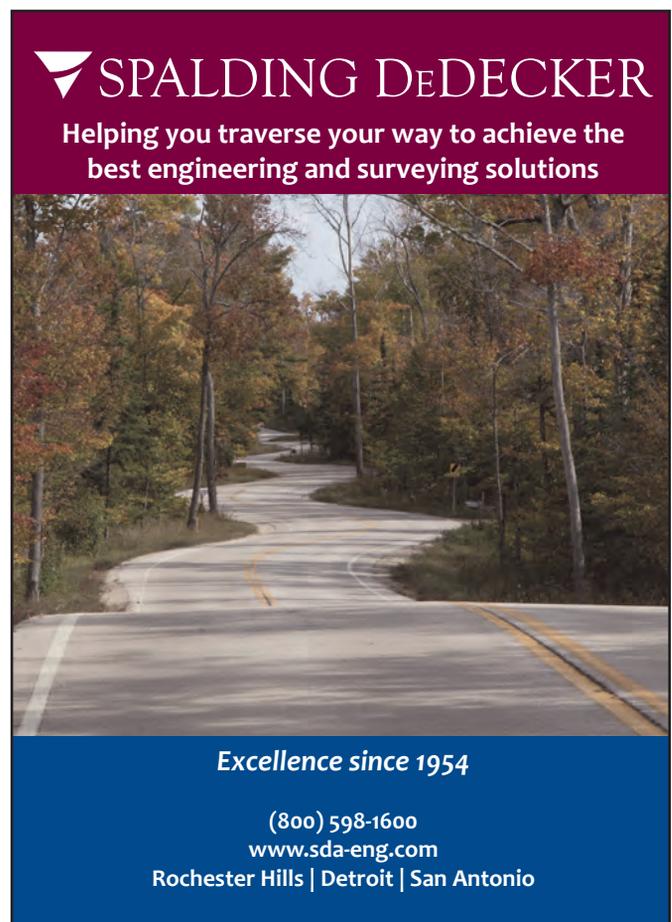
Township board members may serve on committees, as long as a quorum of the board is not meeting. Often one or two board members serve on a committee to maintain contact with and act as a liaison to the township board. This is an excellent way to utilize the skills of township trustees.

Note that the Charter Township Act states that the supervisor (or superintendent) is a member of all committees of the township board. (MCL 42.10(h))

5) Will the committee have bylaws?

It's a good idea to incorporate the board's decisions as bylaws for the committee. This can help ensure that the committee is actually working toward the purpose established by the board, and that it will not unintentionally violate state or federal statutes. If the committee develops its own bylaws, the township board should review and approve them.

Hello, MTA ... ? provides general information on typical questions asked by township officials. Readers are encouraged to contact an attorney when specific legal guidance is needed. Member township officials and personnel may contact MTA Member Information Services with questions or requests from 8 a.m. to 5 p.m., weekdays, at (517) 321-6467 or fax (517) 321-8908.



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Reporting requirement eliminated on farmland development

A new law eliminates a reporting requirement for townships and changes requirements for farmers applying for a farmland development rights agreement.

Public Act 265 of 2016, sponsored by Rep. Dan Lauwers (R-Brockway Twp.), was recently signed by Gov. Rick Snyder and takes effect Sept. 26. Under the law, townships and counties no longer must notify the governing body of a city or village when land within three miles of a city or one mile of a village applies for a farmland development rights agreement. The law also eliminates the \$25 fee that was previously charged by the state land use agency to collect and process each change of ownership or subdivision.

Applicants would also be responsible for having the agreement recorded by the register of deeds and have the instrument recorded. Previously, these jobs were handled by the Department of Agriculture and Rural Development.

Appropriation allows first responders to submit claims to state

First responders who develop cancer on the job will soon be able to submit claims for reimbursement to the state.

Once Public Act 248 of 2016, sponsored by Rep. Al Pscholka (R-Lincoln Chtr. Twp.), takes effect on Sept. 22, it will transfer \$3 million from the Forest Development Fund to the First Responder Presumed Coverage Fund. Created in 2014, this fund was meant to provide worker's compensation benefits to firefighters with illnesses that are presumed to have been caused by workplace hazards.

The Department of Licensing and Regulatory Affairs will accept and process qualified claims once the money transfer is complete.

Reach out to senators on 'dark stores' bill

Efforts are ongoing in the fight to restore fairness in Michigan's property tax system. With an overwhelming, bipartisan majority of the House voting in support of House Bill 5578, sponsored by Rep. David Maturen (R-Brady Twp.), the challenge now moves to the Senate. HB 5578 would close the "dark store" loophole by requiring the Michigan Tax Tribunal to consider all nationally accepted valuation approaches to determine a property's "highest and best use."

Your advocacy is still critical as the bill moves to the state Senate for consideration. Please take every opportunity this summer to talk directly with your state senator about the importance of this legislation and urge them to support HB 5578 and its swift consideration in the Senate. Talking points and additional information are available on www.michigantownships.org, under "Advocacy" and "MTA On the Issues."

Legislative lowdown

Here's a quick look at bills that MTA is following as they move through the legislative process. For updated information, look to *Township Insights* and *Township Voice*, MTA's weekly and monthly newsletters sent to all MTA member officials.

SB 6: Expands disabled veterans property tax exemption to residential and agricultural real property. *MTA opposes.*

SBs 39-40: Amends state Department of Natural Resources land acquisition and public access requirements. *MTA supports.*

SB 239: Prohibits local dog ordinances based on breed. *MTA opposes.*

SB 570: Provides property tax exemption for sportsmen's clubs. *MTA opposes.*

SBs 579, 619-624: Allows public libraries be excluded from tax captures. *MTA opposes.*

SBs 630-631: Preempts local judgment levy and requires judgment bonds to be approved by voters. *MTA opposes.*

SB 732: Allows real and personal property tax exemption for property used for Masonic purposes. *MTA opposes.*

SB 955 and HB 4567: Exempts property owned or leased by public schools from local zoning. *MTA opposes.*

HB 4004: Requires charter township board approval before an annexation question can be placed on the ballot. *MTA supports.*

HB 4209: Provides for state and local regulation of five types of medical marijuana facilities. *MTA monitoring.*

HB 4645: Exempts property transfers between a limited liability company and a closely related party from the taxable value "pop-up." *MTA opposes.*

HB 4795: Prescribes penalties for local officials regarding local enactment or enforcement of gun control measures that are preempted by the state. *MTA opposes.*

HB 5016: Requires local units to reimburse Internet service providers for cost of relocating their underground facilities when the local unit requested the relocation. *MTA opposes.*

HB 5041: Allows for property improvements and additions for nonconforming property (spot zoning). *MTA opposes.*

HB 5077: Extends required mailing notice for assessment notices to taxpayers from 14 days to 30 days prior to the board of review. *MTA opposes.*

HB 5169: Changes disabled veterans property tax exemption to state income tax credit. *MTA supports.*

HB 5219: Amends PA 269 of 2015 regarding rules for communication on local ballot proposals by local officials. *MTA opposes.*

HBs 5238-5245: Creates new requirements for local units of government when contracting for architectural, engineering and land surveying services. *MTA opposes.*

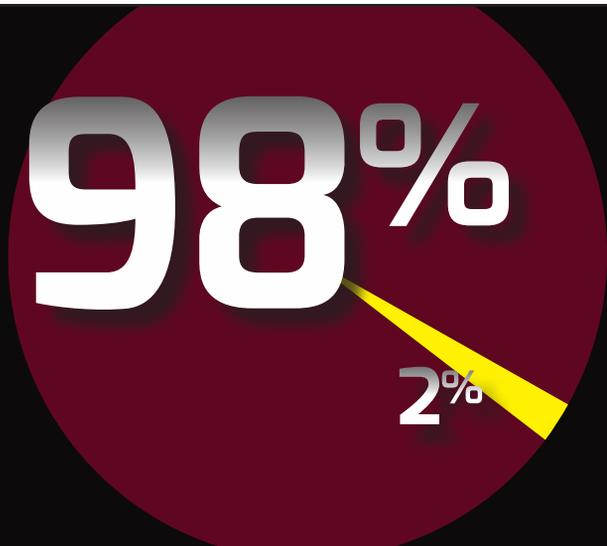
HBs 5490- 5491: Redirects fines collected for violations involving commercial vehicles to county road commission from local unit. *MTA opposes.*

HB 5493: Allows a township or village to set by resolution compensation for community center board members. *MTA supports.*

HBs 5490-5492: Diverts the distribution of civil fines from commercial vehicle citations, including serious safety defects, size, weight, and load penalties, from local jurisdiction to county road commission. *MTA opposes.*

HB 5578: Codifies procedures for the Michigan Tax Tribunal to apply specific criteria in assessment; intended to address the "Dark Stores" valuation loophole that has been utilized for the past several years by "Big Box" retailers and has resulted in disparate valuations and lost revenue to local governments. *MTA supports.*

Not receiving Insights and Voice in your email? Be sure to check your spam or junk mail filter. You can also add @michigantownships.org, @in.constantcontact.com and @in.confirmedcc.com to your "safe sender" list to ensure you are receiving these important emails from MTA. Still having trouble? Call (517) 321-6467 or email michelle@michigantownships.org.



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Land conservancies

Partners **for place**

For an island community located in the Detroit River, public access to the water is surprisingly limited in **Grosse Ile Township** (Wayne Co.). So when an eyesore property came under township control, the township enlisted the help of a local land conservancy and other community members to restore the property and create Waterfront Park, providing much-desired access to the water and the township's first public beach.

The Grosse Ile Nature and Land Conservancy (GINLC) organized volunteers to steward the area and re-vegetate a portion of the new park after an old building was removed and a bank re-graded. They installed a bicycle rack and split rail fencing. The conservancy also acquired and added a viewing scope to offer Waterfront Park visitors a chance to watch birds and other wildlife inhabiting the river and nearby Stony Island.

Waterfront Park is now one of the most visited recreational facilities in the township and has become an important community asset. As township Manager **Dale Reaume** recounts many of the other contributions GINLC makes to help township residents access, enjoy and learn about nature, he is quick to add, "We have a limited staff and budget, and we rely on community groups. The Nature and Land Conservancy definitely is a benefit to the community—as a group, they are fantastic."

Working to protect place

Like Grosse Ile, townships across the state benefit from partnerships with land conservancies as more and more discover that a sense of place truly matters to prosperity in Michigan. And the value of place can depend very much on the diversity, beauty and benefits of natural resources.

Land conservancies, sometimes known as land trusts, are community, regional or statewide nonprofits dedicated to the permanent protection and stewardship of natural, scenic and working farms and forests. Combining considerable expertise in real estate and land management with other diverse skills, they may be best known for acquiring land and conservation easements for protection of private lands.

But as innovators, advocates and collaborators on projects big and small, conservancies can—and do—directly help townships build vibrant communities, support local economies, and create attractive places to live, work and play.



“Pilgrim Haven certainly opens up recreational grounds for the community and it’s a gem in the township due to the lake bluff and lake frontage. It’s not a typical beach park and provides the best of all worlds, a chance to enjoy the woods, plants and animals with access to Lake Michigan.”

—**Ross Stein**, Supervisor,
South Haven Charter Township
(Van Buren Co.)

Ways of helping: Acquiring land

As one tool used for protection, conservancies acquire lands through bequest, donation or purchase, which are held in fee and provide public and community building benefits such as community open space, wildlife habitat, scenic beauty, water quality protection, and public access for quiet recreation. These nature preserves or sanctuaries are managed and protected with private dollars, and often cadres of dedicated volunteers recruited, trained and supervised by the conservancies. Approximately 96,000 acres are held as preserves or sanctuaries in Michigan.

The lands have a quiet, but powerful impact on community and quality of life, part of the mosaic of valued green space—a local destination to watch birds and wildlife; a scenic corridor on popular bike, walking or river trails; access to park-like space where none would otherwise exist; green infrastructure to protect local streams and waterways; a hub for regional recreation, or even a major tourist destination.

“The fruits of Livingston Land Conservancy’s labor benefit our community,” said **James Wickman**, manager for **Hartland Township** (Livingston Co.). “We appreciate the growth of our community but we also have respect for rural and natural qualities. The conservancy holds a couple of nature preserves that are visible, appreciated and offer a public benefit. We are happy to be their partner.”

In **Cherry Grove Township** (Wexford Co.), the township owns two boat launches and one cemetery—but no parks. So Supervisor **Ron Vaughan** is particularly supportive of plans for the 40-acre Carl T. Johnson Model Forest Preserve, a property owned by the Cadillac Area Land Conservancy (CALC). A



Grand Traverse Regional Land Conservancy helped Forest Home Township (Antrim Co.), Antrim County and the Village of Bellaire acquire 345 acres of property in order to consolidate fragmented holdings into a contiguous, nearly 800-acre publicly owned block. Glacial Hills Pathway and Natural Area boasts a combined trail system suited for hiking, biking, cross country skiing, hunting and wildlife viewing—and is now considered a major mountain bike destination in the Midwest.

model demonstration site for sustainable forestry practices, the long-term goal is to provide public access with walking paths in a park-like setting.

“It will be a great addition to our township as we don’t have any land that the township owns to provide outdoor recreation,” enthused Vaughan. “The property’s central location on a main county road will make it easily accessible for people looking for more of a local park experience.”

Township support includes newsletter articles and meeting space so CALC can keep the community updated about the preserve and promote volunteer opportunities to help maintain trails and access.

“When I retire, I just may be one of those volunteers,” laughed Vaughan. “It’s the kind of work I love to do.”

Other examples of conservancy-owned land that contribute to placemaking abound, some taking on regional or even state level importance. When the Southwest Michigan Land Conservancy (SWMLC) received a bequest of Pilgrim Haven, a former summer camp on Lake Michigan in **South Haven Charter Township** (Van Buren Co.) and one of the last undeveloped coastal properties in the region, they invited the community to have a say in the future use, design and management of the site.

The resulting vision and master plan calls for restoring and maintaining the property as a low-intensity natural area that promotes the protection and enhancement of significant natural features. But the plan also includes defined public access to the beach and infrastructure necessary to support regional recreational and open space activities—including connections to a regional trail network.

To realize the vision, a remarkable partnership exists between SWMLC and the multi-government South Haven Area Recreation Authority (SHARA), which includes South Haven Charter Township. Although the property is in SWMLC’s ownership and they have final say on any improvements, the plan is for SHARA to assume some management and maintenance of the preserve, while SWMLC maintains responsibility for improving the natural area. All partners benefit. The City of South Haven provides expertise in park management that the land conservancy does not have and SHARA can apply for government grants not available to the land conservancy alone. The property, located in the township, provides a different recreational opportunity that benefits the whole community.

“Pilgrim Haven certainly opens up recreational grounds for the community and it’s a gem in the township due to the lake bluff and lake frontage,” said Supervisor **Ross Stein**. “It’s not a typical beach park and provides the best of all worlds, a chance to enjoy the woods, plants and animals with access to Lake Michigan.”

The partners were also successful in securing a Michigan Natural Resources Trust Fund grant—SWMLC raised the required match dollars—part of a first phase to enhance public access and create barrier-free access to the beach for this highly visible placemaking project.

And as an example of statewide significance, the 508-acre Estivant Pines Wilderness Nature Sanctuary, located in **Grant Township** (Keweenaw Co.), is both a tourist destination and placemaking draw to Copper Harbor and the surrounding area. Released from logging by the Michigan Nature Association 43 years ago, the land conservancy owns the property and manages public access to this last stand of virgin white pine in the Upper Peninsula, which attracts visitors from all over the Midwest, even earning a 4.5 star TripAdvisor rating.

Conservation easements

Land conservancies are perhaps best known for another protection tool—helping individuals and families permanently protect conservation, agricultural or forestry values of private property with conservation easements. Approximately 112,000 acres in Michigan are protected with conservation easements by land conservancies. Inherent in all easements is a public interest benefit, which can support communities in different—and sometimes unexpected—ways.

“We were really pleased to support Six Rivers Land Conservancy’s efforts to help landowners understand their conservation options, including conservation easements,” observed **Lori Stewart**, deputy supervisor of **Richmond Township** (Macomb Co.). The township participated in a workshop held by Six Rivers earlier this year to provide education to landowners about their conservation options, including easements.

“We are a farming community and thought it important for landowners to see what possibilities are out there for preserving farmland for future generations instead of selling for development,” said Stewart. “They don’t often know where to start, so it was great to have Six Rivers offer their services to help farmers.”

In some cases, land conservancies hold easements on publicly owned lands for reasons attributable to their mission and commitment to protect those lands in perpetuity.

“From the start of our open space planning in 2000, the Land Conservancy of West Michigan has been a really valuable and creative partner, in part because of their expertise and willingness to hold conservation easements,” explained **Jim Ferro, Ada Township** (Kent Co.) director of planning, who is also a former board member of the land conservancy. “With their help, we now have over 1,000 acres of public land, an important part of making Ada Township a great place to live and work.”

Ferro points to just one example in his community located just east of Grand Rapids. Local residents raised the funds for the township to acquire and hold a parcel of natural land—an important piece that helps implement the township’s open space plan. But in exchange for securing the property, contributors wanted assurance that future township leaders would not develop the property decades down the road. So the township asked the land conservancy to be a project partner and hold a conservation easement on the township property—the added permanent protection insurance donors needed to make the township acquisition a reality.

There are other ways that conservation easements may help townships. When funding sources are available, the purchase of a conservation easement by a land conservancy may be part of the financing package needed for a township to complete an acquisition of land. In other words, the purchase of the development rights of the property can make the underlying fee land more affordable.

Community or government assists

Land conservancies most frequently help townships—as well as other municipalities and even the state—through a broad array of actions described as community or government assists. And that assistance comes in all scopes and scales, drawing on considerable land conservancy expertise ranging from real estate to fundraising to property management.

Securing or providing resources to acquire public parkland and open space is by far the most common form of assistance and can include landowner negotiations, grant writing help

to funding sources such as the Michigan Natural Resources Trust Fund, fundraising campaigns for grant match dollars or actual acquisition, recruiting partners or volunteers, and otherwise helping promote acquisition projects within the community. If a seller needs to move quickly, conservancies can step in and also hold land for a township until funding is secured. Conservancies have helped transfer to local or state government or assisted in the government acquisition (both state and local municipalities) of about 383,600 acres in the state.

Other assistance may include on-the-ground management support for publicly held land or community projects—developing property management plans, trail building, securing funds or donating other park amenities to enhance visitor access and enjoyment as in Grosse Ile Township, educational tours or hikes led by conservancy staff or docents trained by the conservancy, project management or administration, and property restoration and ongoing stewardship.

For decades, the tallest waterfall in Michigan—and the Midwest—has been off limits to the public. Access to Douglass Houghton Falls, located on private property in **Calumet Charter Township** (Houghton Co.) on the Keweenaw Peninsula, was cut off by the landowner due to the crumbling nature of steep cliff walls and numerous accidents that occurred there. But at the urging of the township and others, the Michigan Department of Natural Resources applied for a Michigan Natural Resources Trust Fund grant to purchase the land, and the funds were appropriated just this year. Part of the deal requires a joint management plan for operation of the scenic public site between the township, Houghton County and the Houghton-Keweenaw Recreation Authority. Also at the table will be the Keweenaw Land Trust. When asked why the land conservancy, township Supervisor **Paul Lehto** simply stated, “They have expertise.”

Sometimes assistance is “all of the above” with destination-worthy results that can boost local economies and leverage Michigan’s considerable outdoor recreation industry, which generates \$18.7 billion in consumer spending, \$5.5 billion in wages and salaries, and \$1.4 billion in state and local tax revenue, according to the Outdoor



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When an eyesore property came under township control, Grosse Ile Township (Wayne Co.) enlisted the help of a local land conservancy and other community members to restore the property and create Waterfront Park, providing much-desired access to the water and the township's first public beach.

Industry Association. Grand Traverse Regional Land Conservancy helped **Forest Home Township** (Antrim Co.), Antrim County and the Village of Bellaire acquire 345 acres of property in order to consolidate fragmented holdings into a contiguous, nearly 800-acre publicly owned block. Although owned by three separate units of government, Glacial Hills Pathway and Natural Area boasts a combined trail system suited for hiking, biking, cross-country skiing, hunting and wildlife viewing. GTRLC designed the trail system and oversaw a substantial volunteer effort to construct the trails. With help from the International Mountain Bike Association's Trail Care Crew, Glacial Hills is now considered a major mountain bike destination in the Midwest.

"It's the finest example of philanthropy and government working together as you'll find at our level of service," asserted **Terry Smith**, Forest Home Township supervisor. "We could not do this ourselves and need outside expertise. Without the regional land conservancy, we wouldn't have had the expertise to make the needed grant applications or to make our dream for the property and its trail come true. We both wanted something out of this project and so created a great partnership."

Besides making Glacial Hills land available for the public when it could not access it before, tremendous natural values are protected, not the least of which is the contribution to safeguarding the water quality of the Chain of Lakes (Torch Lake, Clam Lake, Lake Bellaire and Intermediate Lake)

and the headwaters of Grass Creek. Twelve different habitat types support more than 20 species of trees, over 100 species of flowers, and over 100 species of birds.

But what makes this project stand out are the project's community partners and their shared vision to integrate Glacial Hills with other recreational assets to create an overall identity and economic foundation for the Bellaire area after the loss of small industries in the region—a great example of how protected land can be used for community building, tourism and talent attraction.

Embracing this vision are Bellaire's leading businesses, including Short's Brewing Company and Shanty Creek Resort and Spa, as well as newer enterprises serving biking and other outdoor enthusiasts. Joe Short, Short's Brewing Company CEO, explained, "Bellaire is extremely fortunate to have Glacial Hills in our community. Not only is the trail system amazing, but it's a huge asset for Bellaire, the township and Antrim County. The trail has become an economic driver for our small town—it's great for all businesses. I'm especially thankful for all the partners and volunteers who keep the trail in great shape—we're truly very, very lucky to have Glacial Hills right in our backyard."

Anecdotal evidence exists to suggest Glacial Hills is having a positive economic impact for the township, village and county. But to determine if that is indeed the case, a study is underway, conducted by Avenue ISR, a research firm based in Traverse City, under contract to GTRLC. According to Woody Smith, the Avenue ISR's principal, the study will investigate whether Glacial Hills is drawing more people from outside the region, its effect on local housing values, and long-term benefits that include talent attraction. Data collection will be completed in December and findings issued soon after. GTRLC is undertaking the study on behalf of the partners, made possible with a gift from Short's Brewing Company.

Clark Township (Mackinac Co.), located on the northern shore of Lake Huron in the Upper Peninsula, also embraces tourism as a vital economic and placemaking driver in their community as explored in the article, "What's Your Story? Developing a Sense of Place for Your Township" in the July 2016 issue of *Township Focus*. The township includes the Les Cheneaux Islands, as well as the communities of Hessell and Cedarville. With a rich history of attracting outdoor enthusiasts and equally rich natural lands of ecological importance, the township wants to capitalize on their natural assets. That's one reason why Clark Township Supervisor **Gary Reid** turned to a natural partner, the Little Traverse Conservancy, a regional nonprofit, to be part of a collaborative effort to enhance and promote ecotourism in the region.

"Little Traverse Conservancy is a terrific partner, beginning with their help some years ago to secure land for

a township swimming beach,” explained Reid. “Now, as a member of our community stakeholder group, they bring considerable resources to the table in our efforts to enhance the prosperity of the area. To have the conservancy sit down and share in efforts is just wonderful.”

Reid cites contributions such as the conservancy’s leadership and coordinating role in launching the township’s annual Aldo Leopold Festival, help with establishing the recently dedicated North Huron Birding Trail, and even utilization of the conservancy’s publications for marketing.

“They have been proactive in community involvement,” Reid continued. “They listen to our needs and made their nature preserves available and more accessible with trail systems as we encourage and develop tourism in a responsible way.”

Find a partner

The examples above illustrate some incredible partnerships—and there are more. Michigan has nearly 30 very active land conservancies that work in all corners of the state. All are independent nonprofits, governed by a board of directors, and vary in terms of both organizational size and geographic service area. Some are all-volunteer. Many have professional staff, from one to three individuals to a few with more than 15. Geographic service areas range from a couple of townships, to entire counties, to multiple counties, and even statewide.

Could a land conservancy help your township’s next placemaking park or open space project? To find out, reaching out to the land conservancy that serves your jurisdiction is a first good step—find them at directory. heartofthelakes.org

The missions and capacity of individual land conservancies can vary as does their criteria for the kinds of lands they protect, where those lands are located, the partnerships they engage in and the size of the projects they undertake. Not all conservancies may be able to help in every instance. But all of them are united by their nonprofit commitment to work in the public interest, more than reason enough for townships to seek them out as potential collaborators on projects large and small.



Authored by **Heart of the Lakes**, Bay City

Founded in 2004, Heart of the Lakes is the collective voice for Michigan’s land conservancies and their friends. Heart of the Lakes efforts help conserve forests, farmland, coastline and other extraordinary places for the benefit of generations to come. For additional information, visit www.heartofthelakes.org.

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August workshop addresses the 'hot' zoning issues in your area

Join MTA this month for a how-to guide and real-life practical experiences at the summer's hottest workshop series, *Hot Topics in Planning & Zoning*. This program identifies emerging issues and is a must for planning commissioners, township board members and zoning administrators.

The content in this popular evening workshop always hits home with attendees. This year's theme is, "working within your limits." Discover what townships can do about hot-button issues in your area.

- Review what your township can (and can't!) do with its zoning ordinance to address medical marijuana.
- Learn how the Religious Land Use and Institutionalized Persons Act impacts local zoning decisions regarding religious uses.
- Examine zoning preemptions that affect wind turbines, gravel mining, farm operations and wireless towers (including DAS antennas).
- Identify when zoning regulation is limited by the exclusionary rule.
- Understand how special uses and variances may best be used to shape your township's present and future land uses.

Registration and dinner begin at 4 p.m. Class is held from 5 to 8:30 p.m. Dates and locations are:

Aug. 2: Van Buren ISD Conference Center, Lawrence

Aug. 10: Bavarian Inn Lodge, Frankenmuth

Aug. 17: Ramada Inn Conference Center, Grayling

Aug. 30: The Shack Country Inn, White Cloud

Registration materials were mailed in June. Download a registration form or register online on MTA's website, www.michigantownships.org.

Regional meetings bring knowledge, networking

MTA is traveling across the state this fall for our *MTA On The Road* regional meeting series. Don't miss this opportunity to connect with fellow township officials, hear about issues impacting townships, and visit with MTA staff and vendors all in one day, at one location, near you!

Get the inside scoop on the challenges facing townships, including legislative changes on the horizon, and walk away armed with strategies to make your board more responsive. Breakout sessions dig into financial literacy, oversight and internal control pitfalls to help you be a great steward of taxpayers' money. You won't want to miss the first-ever live version of your favorite monthly column "Hello, MTA...?" addressing our most frequently asked questions and misconceptions.

Dates and locations are:

Sept. 27: Bavarian Inn Lodge, Frankenmuth

Sept. 28: Comfort Inn Conference Center, Chelsea

Sept. 29: Fetzer Center at WMU, Kalamazoo

Sept. 30: Eagle Eye Conference Center, Lansing

Oct. 5: Magnusson Franklin Inn, Houghton

Oct. 6: Holiday Inn, Marquette

Oct. 7: Little Bear East Arena, Saint Ignace

Oct. 17: Otsego Resort, Gaylord

Oct. 18: Sanctuary Inn, Alpena

Oct. 19: Quality Inn Forwards Conference Center, West Branch

Oct. 25: Holiday Inn, Big Rapids

Oct. 26: Crystal Center at Crystal Mountain, Thompsonville

Registration fees include continental breakfast, lunch and a mini expo. Registration materials were mailed in July. Download the agenda, detailed descriptions and a registration form or register online at www.michigantownships.org.



Save the date!

EMS workshop coming this fall

MTA can help you gain a better understanding of the myriad of hot issues facing your emergency responders. Join us **Oct. 21** at the **Bavarian Inn Lodge in Frankenmuth** for a full-day event that examines *Emerging Issues in Emergency Services*. Registration materials coming soon!

upcoming MTA workshop

REGISTRATION INFORMATION

Learn strategies for serving and engaging your community

Relevant to the entire township board ... no matter what your level of experience.

MTA can help your township identify what's most important to the residents you serve, a critical component in defining your township's future. Learn strategies for improving transparency and enhancing credibility. Join MTA and governance expert Sue Radwan, owner of Leading Edge Mentoring, in **Frankenmuth** at the **Bavarian Inn Lodge** on **Sept. 8** for one (or both!) of the sessions described below:



Creating a Vision for Your Township (B-103; 4 credits) 9 a.m. to 12:15 p.m. (Includes continental breakfast)

Identifying core community values and expectations is a critical element in serving your community. Discover techniques for evaluating your township's programs and services, and explore the need for innovation and change. By examining both adversity and opportunities, you can identify how to balance short-term issues with a long-term vision. Rekindle your township's mission by examining your community's past, present and future.



Linking with the Community (B-106; 4 credits) 1 to 4:15 p.m. (Includes lunch)

Enhancing credibility in the public eye begins with your township board. Examine ways of being more open and transparent to the community—a valuable exercise to increase trust at the local level. Explore ways of determining what your constituents want and how to keep them informed about your township's activities. Includes a discussion on cultivating emerging leaders in your community.

These courses are part of MTA's Township Governance Academy, an exciting, innovative credentialing program exclusively for township officials and local leaders in Michigan. You do NOT have to be enrolled in the Academy to attend.



Cancellations & Substitutions: Written cancellation requests received at the MTA office by Aug. 25 will receive a full refund. No refunds will be issued thereafter. You may substitute another individual from your township for your registration at any time without incurring a charge; please notify MTA of the change.

Registration Form

Township _____ County _____

Daytime Telephone _____ Email Address _____

Name & Title _____ Full Program Vision Linking

Registration Rate _____ Discounted Rate _____

After Aug. 25 By Aug. 25

FULL PROGRAM: Both sessions! \$218/attendee \$178/attendee

Creating a Vision (B-103) \$109/attendee \$89/attendee

Linking with Community (B-106) \$109/attendee \$89/attendee

Register by Aug. 25 and save up to \$40!

of Sessions _____ Registration Fee _____ Total _____

_____ x _____ = _____

*Rates apply to MTA members. Non-members, call for rates.

NOTE: Payment must accompany form in order to be processed.	
<input type="checkbox"/> Check enclosed (payable to MTA)	
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Send your completed registration form with payment to MTA, P.O. Box 80078, Lansing, MI 48908-0078; fax: (517) 321-8908. Or register online at www.michigantownships.org. Questions? Call (517) 321-6467.



Right treatment for the right road at the right time

While Michigan townships do not have any statutory obligation over road construction, we all know that townships contribute millions of dollars annually to maintain and repair roadways within their borders. As local decision-makers in their communities, township officials should be familiar with what treatment options are available for roadways—and what can work best for their individual situation.

Let's start by saying that there is no "silver bullet" out there in the market place. Every treatment has its place when used at the right time in the life of a pavement. Yes, pavements have a life. Just like our bodies need upkeep to stay healthy, pavements need upkeep to provide an acceptable level of service to the traveling public.

Early on

First, let's look at the early life of a pavement—the first three to four years. What can be done to help maintain the service life of the pavement? Early in its life, pavement will "gray out" or lose its new black appearance. This is a function of oxidation; the light oils in the asphalt binder are being lost from the mix. This oxidation is accelerated by the weather conditions, sun, wind, rain, snow and ice.

What is the fix for this? There are several types of products on the market today. They range from agricultural-based materials to those that are highly modified asphalt-based. But which one of these products to use? Officials may wish to talk with their colleagues in other communities to learn their experiences, for an honest opinion on how the product worked. Ultimately, you are looking for a product that will return some of the light oils to the pavement. This will keep the surface tight and help slow down the raveling (loss of fine aggregate in the surface) and surface cracking of the pavement.

These types of treatment tend to extend the service life of a pavement three to five years. And, as another benefit, the cost per square yard applied is very low compared to other type of treatments.

The next phase

Next, let's address a pavement that is a little older—five to eight years. When looking at pavements in this range, oftentimes, an earlier treatment has not been applied—resulting in raveling, surface cracking and possibly other types of minor distress. These pavements need a more substantial treatment to help seal the pavement and cracks to slow the aging of the pavement.

These fixes include crack sealing—sealing each individual crack with a rubber or asphalt material to prevent water from penetrating into the pavement—as well as an overall pavement sealer. This could be a chip seal, slurry seal or micro surfacing.

For roadways, be careful of sealers designed for driveways and parking lots. It is also of utmost importance not to use a material that can cause loss of friction—which can become a hazard for the traveling public.

These types of treatments can extend the pavement life by six to nine years. While these treatments are more expensive than earlier treatments, they are still less costly than a new asphalt overlay, and can be used multiple times over the life of that pavement.

Older pavements

What to do for older pavements? Those that followed the recommendations earlier in this article will likely find their pavements in a good condition. In those instances, simple surface treatment will continue to keep the pavement at a high level of service. But what about roadways with severe distresses—such as potholes and severe cracking? This is where the monies spent earlier in a pavement's life to keep it in a good condition start to pay dividends.

There are a number of treatments for pavements in severely distressed conditions. Areas of pavement failure will need full-depth repairs—including removal and replacement of existing pavement and some base materials, and compacting each layer to get proper density—a time-consuming and expensive fix.

After patching, “mill and fill”—grinding asphalt with a milling machine, removing the debris, and installing new asphalt—may be needed because the asphalt surface has reached its useful service life. This again is an expensive operation, weighing heavy on a township's budget.

These treatments are just quick fixes and do not address all issues that may exist with older pavement. How many times in your area have you seen a road that has been milled and paved, only to see the cracking return within a few years? This is because milling does not remove all the cracks, leaving deep cracks in the entire thickness of the pavement. One way to significantly slow cracking from returning to a new asphalt overlay is to apply an interlayer, which can be applied to the milled surface or an existing surface for projects that are just overlaying a roadway. The interlayer absorbs the movement of the underlying cracks in the existing pavement.

Another way to remove to all severe distresses in a pavement is through pavement recycling. These processes either address a portion of the existing pavement or the

entire thickness. The recycling uses the existing materials in the pavement and adds a binder to provide a new crack-free layer. After the recycling is completed, some type of wearing course—such as chip seal, cape seal, cold mix overlay or hot mix overlay—must be applied.

Sometimes, old processes become new again; this is true of cold mix paving or motor paving. This is a process in which aggregate and asphalt emulsion or other products are blended without the use of hot mix plant and paved. These materials tend to be about two-thirds the cost of hot mix asphalt and are a little more flexible over the life of the pavement. The surface of any cold mix pavement needs to be sealed within two years of laying the material. These overlays can be a chip seal or slurry seal.

Keep good pavements in good condition

Pavements can be among a community's biggest investments. The proper investment can keep good pavements in good condition. Preventive maintenance slows the rate of pavement deterioration, delaying the need for pavement rehabilitation by several years. This, coupled with the lower cost of preventive maintenance treatments, can result in cost savings for your township.

The payback on these investments comes over a period of time. You may not see immediate results, but over time your pavement conditions will improve, your expenditures on pavement rehabilitations will decrease and the traveling public will be pleased with the results. This takes a commitment from those who are the decision-makers and their support is a very important in making this work.



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MTA heads UP North

Revamped *UP North Summit* draws raves

Hula, anyone? While attendees may not have donned grass skirts or swayed in the Lake Michigan breezes, officials at MTA's *UP North Summit* were able to enjoy a fun and entertaining evening luau at the Island Resort & Conference Center in Harris, near Escanaba.

More than 100 township officials took part in the fourth biennial event, which provided targeted education and networking for northern Michigan township officials. But it wasn't just those from the Upper Peninsula who took part in the two-day event. Local leaders from all corners of the state attended the *Summit*, to learn, share and enjoy some U.P. hospitality.

The smaller event, laid-back atmosphere and ample opportunity to network with officials in northern Michigan drew rave reviews from attendees.

"As supervisor, I feel that an important part of my job responsibilities is to educate myself as much as possible so as to be able to better serve those who elected me to this position," said **Judy Trudell, Maple Ridge Township** (Delta Co.) supervisor. "Besides attending the classes, the chance to visit, share and gather insight from fellow board

members from around the U.P. and beyond is invaluable. It was also great to put a face to the MTA staff voice on the phone. I value the services that MTA offers very highly. I don't know where I would be today without their assistance over the last five and a half years."

An education-packed event

Preceding the *Summit* was "Fundamentals of Assessment and Taxation," a half-day course that is part of MTA's Township Governance Academy. The following morning, MTA Executive Director Larry Merrill opened the *Summit* at the general session, which addressed key issues that township officials face in the year ahead—and even a little Upper Peninsula history lesson! Attendees then visited with vendors who were part of the "Northern Market" mini-expo and later, took advantage of breakout concurrent educational

sessions, covering topics ranging from working with the state Department of Natural Resources to tribal revenue sharing.

The day rounded out an “open mic” general session, “Ask the Experts,” where Merrill, MTA Member Information Services Director Michael Selden, MTA Staff Attorney Catherine Mullhaupt, and attorneys from Fahey Schultz Burzych Rhodes, PLC and Foster, Swift, Collins & Smith, PC, fielded far-ranging questions on all aspects of township governance from attendees. Day One concluded with an opportunity to discuss the day’s topics over an island luau dinner—complete with lawn games, great camaraderie and delicious fare at the resort’s nearby “Gathering Grounds.”

The final day began with a “Roads Explained” general session, offering attendees insights and information (in plain language) into rebuilding and maintaining road infrastructure. Attendees noted that the issue is “very important for townships,” and that the workshop provided “great information” for officials. Several concurrent breakout educational sessions followed, covering parliamentary procedure, setting township policy, meetings missteps, hot topics in zoning and land use, elections and bidding requirements.

The sentiments of **Mariah Derke, West Branch Township** (Dickinson Co.) trustee, summed up many officials’ thoughts on the event.

“I attended the event to learn more and get advice from others who have had similar goals with their townships,” Derke said. “I had a great time getting to network with others from other townships. I also learned a lot in a fun, relaxed way. I will definitely be at the next Summit!”

For more information on upcoming MTA educational offerings, visit the Training page at www.michigantownships.org or call the MTA Knowledge Center at (517) 321-6467.

A look at MTA’s 2016 UP North Summit



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Reserve officer is a 'police officer' for purposes of 'resisting and obstructing' statute

People v. Feeley, ___ Mich. ___, June 29, 2016—The Michigan Supreme Court reversed the Court of Appeals in *People v. Feeley*, 312 Mich. App. 320, to conclude that a reserve police officer is a “police officer” for the purposes of MCL 750.81d, the statute prohibiting an individual from resisting or obstructing the persons specified in the statute. The Court of Appeals opinion had been reported in the “Legal Review” column in the June *Township Focus*.

City's billboard ban upheld

International Outdoor Inc. v. City of Livonia, Michigan Court of Appeals, Unpublished, Docket No. 325243, June 14, 2016, (Motion filed for publication June 30, 2016)—In this MTA Legal Defense Fund case, the Michigan Court of Appeals upheld the City of Livonia's zoning ordinance banning new billboards.

The city's zoning ordinance had prohibited off-premises billboards since 1952, and all non-conforming (“grandfathered”) billboards had been removed by 1986, although the city's ordinance still allows for the continued use of non-conforming billboards. *International Outdoor, Inc.*, applied to install a new billboard within the city, but the application, and a subsequent request for a variance, were denied.

In upholding the city's ban, the Court of Appeals relied on precedent in *Adams Outdoor Advertising, Inc. v City of Holland*, 234 Mich. App. 681 (1999), *aff'd* 463 Mich. 675 (2001), holding that *Central Advertising Co. v City of Ann Arbor*, 391 Mich. 533 (1974) is no longer good law, to find that the ordinance was not exclusionary zoning under Michigan “common law,” because the ordinance specifically allowed pre-existing billboards to be maintained and repaired. The

Court also held that the ordinance was not unconstitutional, because “its ban on new billboards specifically is related to both aesthetic and traffic safety concerns, which are reasonable governmental interests rationally related to a total ban on new, off-premises billboards.”

The Court then addressed MCL 125.3207, the provision of the Michigan Zoning Enabling Act that states: “A zoning ordinance or zoning decision shall not have the effect of totally prohibiting the establishment of a land use within a local unit of government in the presence of a demonstrated need for that land use within either that local unit of government or the surrounding area within the state, unless a location within the local unit of government does not exist where the use may be appropriately located or the use is unlawful.”

The Court held that *International Outdoor* had failed to demonstrate that there is a public need for billboards within the city: “We have previously explained, however, that a ‘desire’ for a specific land use is not the same as a ‘demonstrated need’ for that use.”

An unpublished opinion is precedent only for the parties to the lawsuit. The city has filed a motion for publication, supported by MTA, the Michigan Municipal League, Public Corporation Law Section of the State Bar, and Scenic Michigan, which would give the opinion precedential value for other billboard cases if approved.

Municipal authority to be liberally construed

Associated Builders and Contractors v. City of Lansing, ___ Mich. ___, May 17, 2016—The Michigan Supreme Court upheld the City of Lansing's authority to adopt an ordinance requiring contractors working on city construction contracts to pay employees a prevailing wage.

In upholding the ordinance, the Court overturned *Attorney General ex rel Lennane v Detroit*, 225 Mich. 631

(1923), which predated the 1963 Michigan Constitution, and which separated subjects of regulation into areas of “state” concern, versus “municipal concerns” specifically enumerated and designated in the constitution and statutes.

In doing so, the Supreme Court answered the question, “Do municipalities have all powers relating to local concerns that are not expressly denied, or can they wield only those powers expressly and explicitly granted?” with a strong affirmation that “these powers over ‘municipal concerns, property and government’ are to be ‘liberally construed’ ” in the several provisions in the 1963 Constitution regarding municipal authority, including Article 7, § 34:

“The provisions of this constitution and law concerning counties, townships, cities and villages shall be liberally construed in their favor. Powers granted to counties and townships by this constitution and by law shall include those fairly implied and not prohibited by this constitution.”

FOIA distinguishes between ‘granting’ and ‘fulfilling’ request

Cramer (f/k/a Bitterman) v. Village of Oakley, ___ Mich. App. ___, June 23, 2016—Brandi Cramer submitted a Freedom of Information Act (FOIA) request to the Village of Oakley, and the village responded by “sending letters granting plaintiff’s requests and producing the requested documents a short time later,” but not within the first five business days.

The Court of Appeals ruled that the village did not violate the FOIA when it granted the request but did not deliver the records within the first five business days, because the FOIA distinguishes between “granting” and “fulfilling” a request.

The Court held that, “MCL 15.235(2) does not mandate that a FOIA recipient, upon granting a FOIA request, deliver the requested documents within the time period specified for responding to the FOIA request. ... MCL 15.234(8) now expressly provides that a public body’s ‘response’ under MCL 15.235 ‘shall also contain a best efforts estimate by the public body regarding the time frame it will take the public body to comply with the law in providing the public records to the requestor.’ ”

The Court concluded, “Finally, we note that plaintiff and the trial court have suggested that unless the ‘grant’ of a FOIA request is interpreted to require its immediate

fulfillment, a public body could grant a request yet never actually fulfill it. However, our holding does not afford a public body carte blanche not to produce responsive documents. As we have stated in the past, courts will look past a public body’s label of its response to a FOIA request. Thus, nothing precludes a plaintiff, if faced with an inordinate delay in the production of requested documents, from filing suit on the ground that a public body’s actions in response to a FOIA request effectively constitute a denial in whole or part, notwithstanding that body’s labelling of a response as a ‘grant’ of the request. See MCL 15.240(1) (b). Indeed, the FOIA allows a trial court to award punitive damages for arbitrary and capricious ‘refusal or delay in disclosing’ public records. MCL 15.240(7). And, as stated above, the public body is required to provide a good-faith time estimate, MCL 15.234(8), and a public body’s failure to meet an estimate (although it is non-binding) may in some circumstances tend to show that a public body’s response was effectively a denial notwithstanding its choice of labels.”

It is not clear from the opinion whether the village charged a fee for Cramer’s request or took a 10-business day extension. The statutory provision quoted by the Court regarding an estimated time frame for a response is from a section of the FOIA that is specific to when a fee is imposed.

Townships should consult with their local legal counsel for specific guidance as to whether a response will be timely and whether a time estimate must be provided for every FOIA request in which the records are not provided within the first five business days.

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townships in the spotlight



Kenockee Township

Kenockee Township (St. Clair Co.), a rural farming community with a population of nearly 2,500, was named after the Chippewa word for “long-legged.” The first settler to the area was James O’Leary, in 1837. The township was organized on Feb. 9, 1855, with Abel Stockwell serving as the first supervisor. Stockwell was also the first postmaster, serving a settlement then known as Hard Scrabble, which has since faded into history after the post office closed in the early 1900s. The unincorporated Village of Avoca began to thrive in the late 1800s, after the railroad was built through the township. The original village, mostly destroyed by fire in 1922, has since become more centralized, and the railroad still exists.



Today, the Wadhams-to-Avoca Trail utilizes more than 12 miles of a historic rail line, offering a variety of opportunities for walkers, rollerbladers, bicyclists and horseback riders. The scenic beauty of the trail makes it a great place to take in the area’s beauty. The centerpiece of the trail is the 640-foot long Mill Creek Trestle. Built in the

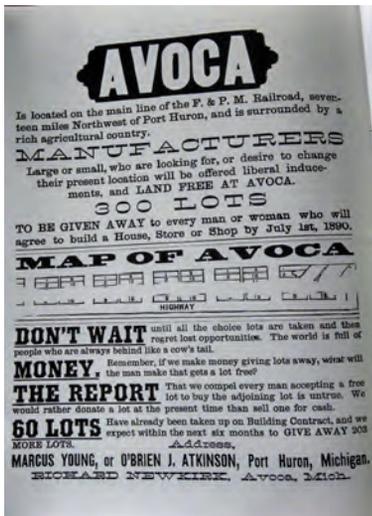
late 1800s, the 60-foot-high trestle has been decked and railed to provide safe access for trail users. There are four overlook areas on the trestle to enjoy the beautiful views of the Mill Creek Valley.

The Kenockee Township Park, located near the township hall, opened in 2006 with a celebration quickly dubbed “Kenockeefest.” The festival has

since become a popular annual June event. The festival is a collaborative effort between the parks and recreation department and the Avoca Community Club, featuring a car and tractor show, kids’ games and rides, vendors, karaoke, an air show, ball games, and fire trucks on display. The township was officially named a bicentennial community when it hosted another festival, named the “Spirit of ‘76” to celebrate the country’s bicentennial, on July 19, 1975.

The fire department, organized in 1950, still utilizes the original fire hall. The original township hall, nicknamed “the bullpen,” was built in 1881 and is also still used today.

Visitors to the township quickly become an “Okee from Kenockee,” and the welcoming township officials and residents say that you are only a stranger in this community once.





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