

Michigan Township Focus

JUNE 2016

OFFICIAL PUBLICATION OF THE MICHIGAN TOWNSHIPS ASSOCIATION

Cleaning up

Bringing life back to brownfields & other sites



New attorney general opinion impacts incompatible offices
page 10

Coalition lawsuit successful in halting 'gag order' law
page 14

Gov. Snyder keynotes 2016 MTA Capital Conference
page 26



2016 marks Burnham & Flower's 50th anniversary specializing in serving Michigan townships. Throughout our history we have learned what is important to public officials like yourself and we have made it our ongoing commitment to provide you with unparalleled service and expertise.

We are proud of the relationships we have developed and accomplishments we have achieved working with you over the past 50 years. It is with our sincere appreciation and gratitude that we extend to you a heartfelt... **Thank You!**

Burnham & Flower specializes in employee benefits, risk management programs and innovative insurance options for municipalities. The agency offers life, health, dental, vision, and short- and long-term disability insurance, as well as group and individual retirement plans, liability coverage, and workers' compensation. In addition, Burnham & Flower offers third party administration services and post-employment benefit solutions.

2016 UP North Summit SPONSOR

Burnham & Flower
INSURANCE GROUP

Serving Michigan Townships Since 1966



315 South Kalamazoo Mall • Kalamazoo, MI 49007

800.748.0554 • www.bfgroup.com

Scholarship Sponsor

contents

June 2016 | Volume 4, Number 5



18

featured articles

18

Cleaning up: Bringing life back to brownfields & other sites

Michigan's industrial past is the basis for much of our state's economic strength, but also resulted in many contaminated properties. How can townships help turn these sites into successes for their communities today?

26

Gov. Snyder keynotes MTA Capital Conference

A keynote address from Gov. Rick Snyder was just one highlight from MTA's two-day Capital Conference, where officials gathered to ensure the township message resonated among lawmakers in Lansing.

28

Small changes can mean big energy savings for townships

Townships big and small can find measurable savings by implementing small, but calculated, changes to their energy use.



26



28



Official Publication of the Michigan Townships Association

mta officers

President

Doug Mansfield, Supervisor
Union Township
(Grand Traverse Co.)

First Vice President

Diane Randall, Supervisor
Roscommon Township
(Roscommon Co.)

Second Vice President

Ken Gauthier, Supervisor
Sanborn Township (Alpena Co.)

Treasurer

Jeff Sorensen, Supervisor
Cooper Charter Township
(Kalamazoo Co.)

Secretary

Peter Kleiman, Supervisor
Harris Township
(Menominee Co.)

Immediate Past President

Linda Preston, Supervisor
Pokagon Township (Cass Co.)

past presidents

Doug Merchant, Supervisor
Arcada Township (Graftiot Co.)

Denny Olson, Supervisor
Breitung Charter Township
(Dickinson Co.)

Bill Renn, Supervisor
Chandler Township (Huron Co.)

editorial & design

Publisher G. Lawrence Merrill

Editor Jennifer Fiedler

Advertising Manager Ashley Maher

Printer Foresight Group, Lansing

mission statement

The Michigan Townships Association advances local democracy by fostering township leadership and public policy essential for a strong and vibrant Michigan.

in this issue

- 3 Local View
- 4 News & Notes
- 10 Hello, MTA ... ?
- 12 Financial Forum
- 14 Inside Lansing

- 16 Capitol Close-up
- 24 Knowledge Center
- 30 Legal Review
- 32 Around the State



mta board of directors

Steven Karpiak Jr., Osceola Township (Houghton Co.), Dist. 1
 Jim Nankervis, Ishpeming Township (Marquette Co.), Dist. 2
 Peter Kleiman, Harris Township (Menominee Co.), Dist. 3
 Marilyn Strickland, Newton Township (Mackinac Co.), Dist. 4
 Harold Koviak, Burt Township (Cheboygan Co.), Dist. 5
 William White, Elk Rapids Township (Antrim Co.), Dist. 6
 Ken Gauthier, Sanborn Township (Alpena Co.), Dist. 7
 Susanne Courtade, East Bay Charter Township (Grand Traverse Co.), Dist. 8
 Steven Ebels, Clam Union Township (Missaukee Co.), Dist. 9
 Diane Randall, Roscommon Township (Roscommon Co.), Dist. 10
 Connie Cargill, Golden Township (Oceana Co.), Dist. 11
 Yulanda Bellinger, Morton Township (Mecosta Co.), Dist. 12
 Dennis Bragiel, Kawkawlin Township (Bay Co.), Dist. 13
 Lawrence Krohn, Oliver Township (Huron Co.), Dist. 14
 Joel Hondorp, Byron Township (Kent Co.), Dist. 15
 Kevin Beeson, Pine River Township (Grafton Co.), Dist. 16
 Joanne Boehler, James Township (Saginaw Co.), Dist. 17
 Bill Deater, Grant Township (St. Clair Co.), Dist. 18
MTA Executive Committee member-at-large
 Jeff Sorensen, Cooper Charter Township (Kalamazoo Co.), Dist. 19
 Patti Jo Schafer, Eagle Township (Clinton Co.), Dist. 20
 Pauline Bennett, Addison Township (Oakland Co.), Dist. 21
 Barbara Rose, Covert Township (Van Buren Co.), Dist. 22
 Donald Rogers, Coldwater Township (Branch Co.), Dist. 23
 Al Boggs, Rome Township (Lenawee Co.), Dist. 24
 Lance Schuhmacher, Ocoela Township (Livingston Co.), Dist. 25

To find your MTA District, visit www.michigantownships.org or call (517) 321-6467.

postal requirements

Michigan Township Focus serves as the medium for the exchange of ideas and information for the elected and appointed officials of Michigan townships. The views expressed and the material presented by the contributors and advertisers are not to be construed as having the endorsement of the officers, board of directors, staff or membership of the Michigan Townships Association nor represent the views or positions of said parties unless specifically so stated.

Michigan Township Focus, Issue 5 June 2016 (ISSN 2330-9652), is published monthly, except for a combined January/February issue. MTA membership provides a subscription to township board members, the manager/superintendent, planning commission chairperson and township attorney. Member counties also receive subscriptions for elected officials, the equalization director and road commission chairperson. Annual membership dues include \$30 for a one-year subscription to *Michigan Township Focus*. Additional member subscriptions are available for \$30 per year. Subscription rate for residents and firms in member townships is \$40 per year (schools and libraries may subscribe for \$30 a year).

Michigan Township Focus is a publication of the Michigan Townships Association, 512 Westshire Dr., Lansing, MI 48917-9757. Phone: (517) 321-6467; fax: (517) 321-8908; Web: www.michigantownships.org. Periodicals postage paid at Lansing, MI. POSTMASTER: Send address changes to: *Michigan Township Focus*, P.O. Box 80078, Lansing, MI 48908-0078.

Direct all display and classified advertising inquiries to Ashley Maher at (517) 321-6467. Member rate for a classified ad in either the magazine or on the MTA website on a monthly basis is \$1 per word. Call MTA for non-member rates. Deadlines for display and classified ads in the magazine are five weeks preceding the publication date. Send ads to: P.O. Box 80078, Lansing, MI 48908-0078; phone: (517) 321-6467, ext. 254; fax: (517) 321-8908; or email: ashley@michigantownships.org.

Michigan Township Focus, © 2016
 Michigan Townships Association, all rights reserved.

allied service provider index



president's round table

Burnham & Flower Insurance Group
 315 S. Kalamazoo Mall
 Kalamazoo, MI 49007
 (800) 748-0554
www.bfgroup.com
See ad on inside front cover.

Municipal Employees' Retirement System of Michigan
 1134 Municipal Way
 Lansing, MI 48917
 (517) 703-9030
www.mersofmich.com
See ad on page 9.

Michigan Township Participating Plan
 1700 Opdyke Ct.
 Auburn Hills, MI 48326
 (248) 371-3657
www.theparplan.com
See ad on back cover.



leadership circle

Asphalt Materials, Inc.
 3737 Fisher Rd.
 Columbus, OH 43228
 (614) 634-6024
www.asphalt-materials.com

Fahey Schultz Burzych Rhodes PLC
 4151 Okemos Rd.
 Okemos, MI 48864
 (517) 381-0100
www.fsblawyers.com

Mika Meyers PLC
 900 Monroe Ave. NW
 Grand Rapids, MI 49503
 (616) 632-8000
www.mikameyers.com
See ad on page 7.

Bauckham, Sparks, Thall, Seeber & Kaufman, PC
 458 W. South St.
 Kalamazoo, MI 49007
 (269) 382-4500
www.michigan-townshiplaw.com

Foster, Swift, Collins & Smith, PC
 313 S. Washington Sq.
 Lansing, MI 48933-2193
 (517) 371-8100
www.fosterswift.com

Ted Hartleb Agency
 5840 King Hwy.
 Kalamazoo, MI 49048
 (269) 385-5911
www.hartlebagency.com
See ad on page 5.

Consumers Energy
 2400 Weiss St.
 Saginaw, MI 48602
 (989) 791-5608
www.consumers-energy.com

ITC Holdings Corp.
 27175 Energy Way
 Novi, MI 48377
 (248) 946-3000
www.itc-holdings.com

Wightman & Associates, Inc.
 2303 Pipestone Rd.
 Benton Harbor, MI 49022
 (269) 927-0100
www.wightman-assoc.com
See ad on page 31.



keystone club

Axe & Ecklund, PC
 21 Kercheval Ave.,
 Ste. 355
 Gross Pointe Farms, MI
 48236
 (313) 884-9811
www.mfci.com

EMC Insurance Companies
 5826 Executive Dr.
 Lansing, MI 48911
 (517) 908-4800
www.emcins.com

Pontem Software
 215 Dexter
 Eaton Rapids, MI 48827
 (888) 742-2378
www.pontem.com

Thrun Law Firm, PC
 2900 West Rd.,
 Ste. 400
 East Lansing, MI 48823
 (517) 484-8000
www.thrunlaw.com

Carlisle Wortman Associates, Inc.
 605 S. Main St., #1
 Ann Arbor, MI 48104
 (734) 662-2200
www.cwaplan.com
See ad on page 24.

Michigan Municipal Risk Management Authority
 14001 Merriman Rd.
 Livonia, MI 48154
 (734) 513-0318
www.mmrra.org

Rizzo Environmental Services
 6200 Elmridge
 Sterling Heights, MI 48313
 (586) 354-2352
www.rizzoservices.com

Tyler Technologies
 1194 Oak Valley Dr.,
 Ste. 150
 Ann Arbor, MI 48108
 (800) 457-3863
www.tylertech.com

David Chapman Agency
 5700 W. Mt. Hope Hwy.
 Lansing, MI 48917
 (517) 321-4600
www.davidchapman-agency.com

Miller, Canfield, Paddock & Stone, PLC
 150 W. Jefferson Ave.,
 Ste. 2500
 Detroit, MI 48226
 (313) 963-6420
www.millercanfield.com
See ad on page 23.

SAFEbuilt/LSL Planning, A SAFEbuilt Company
 3755 Precision Dr.,
 Ste. 140
 Loveland, CO 80538
 (970) 292-2205
www.safebuilt.com

Wade Trim
 25251 Northline Rd.
 Taylor, MI 48180
 (734) 947-9700
www.wadetrim.com
See ad on page 29.

DTE Energy
 One Energy Plaza
 Detroit, MI 48226
 (800) 477-4747
www.dteenergy.com

Nickel & Saph, Inc. Insurance Agency
 44 Macomb Place
 Mount Clemens, MI 48043
 (586) 463-4573
www.nickelsaph.com

Participation in the Allied Service Provider program does not constitute or imply MTA's endorsement of the company or its products/services.

Towns and townships nationwide offer a united voice on federal issues

In the midst of campaign season when congressional and presidential candidates focus on headline-grabbing issues like global warming, tensions in the Middle East and government involvement in personal privacy and financial matters, it is easy to forget that the federal government also



has a profound impact on townships and other local governments.

And it is the role of the National Association of Towns and Townships (NATaT) to ensure that the White House, Congress and a multitude of regulatory agencies are made aware of how their decisions impact Michigan townships and other smaller governmental entities.

While a primary NATaT responsibility is monitoring and reporting federal affairs via a weekly electronic update shared with MTA members in our newsletter *Township Insights* and on our website, NATaT also advocates on behalf of townships on federal issues important to Michigan townships.

NATaT annually hosts a Washington, D.C. fly-in for town and township officials from member states, including Michigan, where township officials receive briefings on federal issues and schedule meetings with their senators and representatives to discuss key issues in the NATaT policy platform.

This past April, MTA Board members **Kevin Beeson, Pine River Township** (Gratiot Co.) supervisor; **Barbara Rose, Covert Township** (Van Buren Co.) supervisor; and MTA Past President **Linda Preston, Pokagon Township** (Cass Co.) supervisor, and I met with Michigan Congressman John Mollenaar and policy staff of Sens. Debbie Stabenow and Gary Peters and Congressman Fred Upton at the NATaT fly-in to share perspectives on the following key federal issues:

- **Rural broadband deployment.** High-speed Internet connectivity is having the same impact that railroads in the 19th century and the interstate highway system had in the 20th century had on rural communities—connection means the difference between growth and decline. According to the Federal Communications Commission, 39 percent of America’s rural population lacks access to fixed cable resources, compared to only 4 percent of those living in urban areas. If high-speed Internet access continues to be primarily profit-driven, rural communities and important economic sectors

such as agriculture, small businesses, Internet start-up companies, education and health care will lag behind densely populated areas. There are a few federal bills and funding sources that have a marginal impact on the availability of rural broadband, but without a substantial federal investment as part of a comprehensive infrastructure initiative, productivity in America’s rural communities will lag behind that of other countries.

- **Fair Labor Standards Act mandatory overtime rules.** The U.S. Department of Labor has more than doubled the salary threshold at which employers must pay overtime for hours worked in excess of 40 hours in a work week, a new rule that hits low-wage states like Michigan particularly hard. The impact on townships will be overtime payments primarily to department heads earning less than \$47,476 per year. We contend that the increase is excessive. A court challenge is possible, but congressional override is not likely.
- **Tax incentives for nominally compensated emergency first responders.** NATaT has perennially urged Congress to readopt a tax exemption for paid on-call first responders, but stand-alone tax bills such as ours are stranded amidst the ongoing debate over comprehensive tax reform.
- **Repeal the Affordable Care Act’s “Cadillac Tax.”** While implementation has been postponed to 2020, many local governments offering high-quality health care coverage will see their premiums subject to a 40 percent excise tax unless the law is permanently repealed.

Other township issues advocated by NATaT that are not likely to see action in this Congress, but nonetheless require continued emphasis:

- Support the ability of Michigan to efficiently collect its use tax on online sales, which would bring in an estimated additional \$400 million per year and give “Main Street” businesses that must collect the state sales tax a level playing field
- Support federal transportation dollars to local communities
- Oppose federal government encroachment into policy matters that are primarily local in nature

Larry Merrill



SAFE AND SOUND

Townships named among nation's, state's 'safest communities'

Townships were among the top of the list on several recently released online rankings for safest communities, both statewide and across the nation.

Among the 100 safest communities in U.S., according to crime statistic website www.safewise.com, were **Grosse Ile Township** (Wayne Co.), which ranked No. 26, **Hamburg Township** (Livingston Co.), at No. 50, and **Flushing Charter Township** (Genesee Co.), which came in at No. 76.

The Safewise list was compiled following analysis of FBI crime statistics from all 50 states for communities larger than 5,000, along with research on each municipality's public safety, public health and educational offerings.

Grosse Ile Township—which also topped a 2016 Michigan safe communities list released by backgroundchecks.org—is an island community on the Detroit River. The local fire department has a designated ice/water rescue team, supported by the Downriver Dive Team when necessary, ready to respond if any resident gets in over his or her head while recreating or traveling on the river. Noted safewise.com, “Since the town[ship] is surrounded by water, there is a huge amount of traffic on the river. ... It's their version of highway safety patrol that's there to enhance the protection of residents.”

Said Police Chief **Joseph Porcarelli**, “We continue to strive to make Grosse Ile the safest community for the people who live, work and visit. I am not only proud to be a part of this community but proud to serve the people of Grosse Ile and give them the service they truly deserve.”

Hamburg Township, which has more than 30 lakes and other waterways in its borders, has also put water-safety protocols in place to protect its residents. The Hamburg Flood Response Action Plan dictates what needs to be done

when there is a risk of flooding or a major flooding disaster. Said safewise.com, “It's nice to see a place that focuses so much on keeping residents secure in all aspects of living.”

In describing Flushing Charter Township, the safety site noted that the township's original inhabitants, the Sauk Indians, “valued the land for its sustenance and beauty. Today's diverse community continues to appreciate its surroundings. The Flushing Township Nature Park boasts 130 acres of walking and biking trails amidst abundant wildlife. With low crime rates, [t]ownship residents can go out and enjoy their lovely neighborhoods with peace of mind.”

Townships also comprised numerous slots in the backgroundchecks.org list of 50 safest communities in Michigan. Along with Grosse Ile at No. 1, six townships made the top 10: **Plymouth Charter Township** (Wayne Co.) ranked No. 2; **Milford Charter Township** (Oakland Co.), No. 5; **Hamburg Township** (Livingston Co.), No. 6; **Bloomfield Township** (Oakland Co.), No. 7; **Lincoln Charter Township** (Berrien Co.), No. 8; and **West Bloomfield Charter Township** (Oakland Co.), No. 9. Thirteen additional townships were among the top 50 communities on the list.

MICHIGAN'S WEST COAST

West Michigan counties lead state in population growth

According to new county-level Census estimates released this spring, West Michigan counties are leading Michigan's slight population gains. The data showed that Kent and Ottawa counties once again led state growth in 2015.

Kent County gained 6,144 residents, or 1 percent, to 636,369 total population, while neighboring Ottawa County increased 1.2 percent, or 3,357 residents, to 279,955 in population. The West Michigan counties have seen consistent growth over the last several years. A majority of counties along Michigan's west coast—from Kalamazoo County up through Charlevoix County—experienced some growth in population.

A trend nationally shows that suburban, “exurban” and more rural areas continue to outpace urban areas in terms of population growth. In Michigan, Wayne County ranked last in terms of growth—losing another 6,673 residents to 1.76 million.



NEW RULE

Federal overtime rule may impact township budgets, employees

Townships will be required to pay certain employees overtime, under a new federal rule finalized by the U.S. Department of Labor.

In 2014, President Obama directed the U.S. secretary of labor to update the overtime regulations to reflect the original intent of the Fair Labor Standards Act, and to simplify and modernize the rules so they're easier for workers and employers to understand and apply. On May 18, the department issued a final rule that can impact township budgets and pay for township workers. The final rule will:

- Raise the salary threshold indicating eligibility from \$455/week to \$913 (\$47,476 per year).
- Automatically update the salary threshold every three years, based on wage growth over time.
- Set the total annual compensation requirement for highly compensated employees subject to a minimal duties test to the annual equivalent of the 90th percentile of full-time salaried workers nationally (\$134,004)
- Strengthen overtime protections for salaried workers already entitled to overtime.

The final rule takes effect Dec. 1, 2016, giving townships more than six months to prepare. The final rule does not make any changes to the duties test for executive, administrative and professional employees.

Learn more on MTA's "Employee Wage and Hour Information" and "Employment Issues" Web pages on the members-only section of www.michigiantownships.org. (Look under the "Index of Topics" on the "Answer Center" page after logging in.) You can also visit www.dol.gov/featured/overtime.

AG OPINION

Attorney general: Township board of review member can serve on planning commission

Attorney General Opinion No. 7289, issued April 11, 2016, in response to an inquiry from Sen. Tonya Schuitmaker (R-Antwerp Twp).



Summation: Neither the Michigan Planning Enabling Act, MCL 125.3801 *et seq.*, nor the General Property Tax Act, 1893 PA 206, MCL 211.1 *et seq.*, prohibits a member of a township board of review from simultaneously serving as a member of a township planning commission in the same township.

The Incompatible Public Offices Act, 1978 PA 566, MCL 15.181 *et seq.*, does not prohibit a member of a township board of review from simultaneously serving as a member of a township planning commission in the same township unless circumstances arise that would result in the individual being unable to protect, advance, and promote the interests of both offices simultaneously.

Turn to the "Hello, MTA ... ?" column on page 10 for additional insights on the impact of this opinion.

2016 UP North Summit SPONSOR

Municipal Insurance You Can Count On



count on
EMC
INSURANCE

ALLIED
SERVICE PROVIDER
MTA

TED Hartleb

AGENCY

geofflansky@hartlebagency.com jonathankoets@hartlebagency.com
5840 King Highway Kalamazoo, MI 49048
phone: 269.385.5911 fax: 269.385.3370

LANDPLAN

INCORPORATED

Rural Community Planning & Zoning Services

MARK A. EIDELSON, AICP
President

517-347-2120



P.O. Box 313 • Okemos, MI 48805-0313
email: landplanning@comcast.net
www.landplan-eidelson.com

MTA Board members, executive director advance federal policy agenda

MTA Board members **Kevin Beeson**, **Linda Preston** and **Barbara Rose** joined MTA Executive Director Larry Merrill for a congressional fly-in hosted by the National Association of Towns and Townships (NATaT) in April to discuss with Michigan's senators and two members of Congress federal issues of concern to Michigan townships.



The MTA delegation met with staff of U.S. Sens. Debbie Stabenow and Gary Peters and Rep. Fred Upton, and met personally with Rep. John Mollenaar and his staff (*pictured at left*) to share concerns that

poor broadband deployment in rural Michigan will hinder our competitive position related to economic development, agriculture, education and emergency services. While a number of federal programs spread over numerous federal agencies encourage rural broadband, there is little coordination among programs or no effective strategic plan. However, rural leaders willing to advocate for their communities to expedite broadband development can initiate public-private partnerships along with limited federal grants and loans.

MTA officials also expressed concerns regarding the eventual implementation of the so-called "Cadillac" excise tax on health care programs negotiated with public sector employees, and the recent expansions of mandatory overtime payments for township department managers and professional employees earning less than \$50,000 per year.

MTA directors also repeated a long-standing NATaT policy objective to exempt the first \$600 of income and other benefits provided to nominally compensated volunteer first responders or allowing first responders to claim volunteer hours as a charitable contribution. Other issues presented to federal policy-makers included allowing Michigan to collect use tax revenue on goods purchased over the Internet and continuing the deductibility of municipally issued bonds.

Before meeting with congressional offices, MTA participants met with other local officials and state association staff from Pennsylvania, Wisconsin, Illinois, Ohio, New York and Minnesota to hear U.S. Department of Transportation Deputy Director Victor Mendez provide an overview of the Obama Administration's rural transportation initiatives. In addition, Congressman Bob Gibbs (R-OH), chair of the Transportation and Infrastructure Committee's Subcommittee on Water Resources and Environment, outlined the House majority position on various federal regulations. Laura Spining, director of Broadband USA, also welcomed NATaT's engagement with coalitions seeking to expand rural broadband.

profile



Asphalt Materials Inc.

Fixing Michigan's roads starts here

As a proud member of MTA's Allied Service Providers Program, Asphalt Materials Inc. is dedicated to being a client-focused, innovative provider of high-quality asphalt and asphalt emulsions products. For more than 50 years, Asphalt Materials has provided quality materials for roadway construction. Asphalt Materials plays a critical role in assisting federal, state, local and private authorities in building economical and reliable pavements.



Through experience and research, the company has found that asphalt performance is dependent on selection of grade, mix design and how it is applied. Asphalt Materials recognizes the value of a knowledgeable sales staff to assist clients in the technical aspects of constructing and maintaining asphalt pavements. Its marketing team has the "real world" experience of having worked within the public sector and understands the demands placed on agencies to provide services to the traveling public. Through consistent research and the strong relationship between other Heritage-related industries, they continue to introduce new technology to ensure the highest quality asphalt products.

New technologies available to townships for pavement preservation and rehabilitation include cold in-place recycling and cold central plant recycling. The recycling process uses the existing roadway materials to create a new asphalt base course. Scrub sealing is used as a mass crack filling and chip sealing process. This creates a sealed underlying surface with a chip seal wearing surface.

Asphalt Materials Inc. is committed to building long-term relationships with its customers based on trust and confidence, creating solutions to issues affecting its customers. For more information, visit www.asphalt-materials.com or contact Jeremy Thomas at (734) 395-9766 or Bruce Wehr at (614) 634-6024.

Participation in the Allied Service Provider program does not constitute or imply MTA's endorsement of the company or its products/services. For more information, turn to the Allied Service Provider Index on page 2 or visit www.michigantownships.org/asp.asp.

Advertisorial

Got township questions? MTA's got answers!



Member township officials and employees may contact MTA Member Information Services (MIS) staff with questions Monday through Friday, from 8 a.m. to 5 p.m. Inquiries can be submitted via phone at (517) 321-6467, fax at (517) 321-8908, or email to:

- MTA Director of Member Information Services
Michael Selden: michael@michigantownships.org
- MTA Staff Attorney Catherine Mullhaupt:
catherine@michigantownships.org
- MTA Member Information Services Specialist
Cindy Davis: cindy@michigantownships.org

mta events | June

7 *Fundamentals of Assessment & Taxation* workshop, held in conjunction with MTA's *UP North Summit* at the Island Resort & Conference Center, Harris

8-9 MTA's *UP North Summit*, held at the Island Resort & Conference Center, Harris



READ Bridge & WIN

Sign up to receive a **FREE** subscription to **Bridge Magazine**, and you'll be automatically entered to win a

\$100 amazon
gift card (or Mich. retailer of your choice)

Enter today at:
bridgemi.com/win

Bridge Magazine is Michigan's leading source of non-partisan, fact-based journalism. This FREE publication of the Center for Michigan will arrive in your inbox four times per week.

Mika Meyers PLC

Attorneys at Law



Legal counsel that helps local government work effectively.

Our Local Government Law practice group works with local governments and public authorities to ensure the efficient and cost-effective delivery of vital public services. We provide specialized legal expertise in areas as diverse as zoning and land use planning, bond issues, special assessments, tax increment financing, DDAs and other public authorities, labor contracts and arbitration, employee benefits, elections, environmental regulation and many other matters affecting local governments. For more than 50 years, skilled Mika Meyers attorneys have helped public-sector entities meet the ever-increasing demands of their constituents and communities.

For more information on how our **Local Government Law team** can assist your community, visit mikameyers.com.



900 Monroe NW Grand Rapids, MI 49503 (616) 632-8000

mikameyers.com

JUNE

1 Deadline for filing Principal Residence Exemption Affidavits (Form 2368) for exemption from the 18-mill school operating tax to qualify for a PRE for the summer tax levy. (MCL 211.7cc(2))

Deadline for filing the initial request of a Conditional Rescission of PRE (Form 4640) for the summer tax levy. (MCL 211.7cc(5))

Deadline for filing Foreclosure Entity Conditional Rescission of a PRE (Form 4983) to qualify for the summer tax levy. (MCL 211.7cc(5))

Assessment roll due to county treasurer if local unit is not collecting summer taxes. (MCL 211.905b(6)(a))

Not later than June 1. Requests are due from a brownfield redevelopment authority, tax increment finance authority, local development financing authority or downtown development authority for state reimbursements of tax increment revenue decreases as a result of the Michigan Business Tax reduction in personal property taxes. Public Acts 154-157 of 2008

By 2 Post-election campaign statements filed for May 3 election (books closed May 23).

3 Final date townships can establish, move or abolish a polling place for the Aug. 2 primary. (MCL 168.662)

By 6 Clerks submit reimbursement requests with verified costs for the conduct of the March 8 presidential primary. (MCL 168.624g)

By the first Monday in June. Deadline for notifying protesting taxpayers in writing of board of review action. (MCL 211.30(4))

On or before the first Monday in June. County equalization director calculates current year millage reduction fractions including those for inter-county taxing jurisdictions. Completed, verified State Tax Commission (STC) Form L-4028 is filed with the county treasurer and the STC. (MCL 211.34d(3))

7 Assessors who receive and approve additional Form 5278, *Affidavit and Statement for Eligible Manufacturing Personal Property and Essential Services Assessment*, filings must submit an amended assessment rolls and transmit to the state Department of Treasury and county equalization director. *For 2016 only.* PA 108 of 2016

By 13 *By second Monday in June.* Allocation board must issue final order. (MCL 211.216)

15 Deadline for the assessor's report to the STC on the status of each neighborhood homestead exemption granted under the Neighborhood Enterprise Zone Act. (MCL 207.786(2))

Each municipality that is a tax increment finance authority shall calculate and report to the Department of Treasury the municipality's tax increment small taxpayer loss for the current year. (MCL 123.1356a)

By 18 Delivery of military and overseas absentee voter ballots must begin for the Aug. 2 primary. All requests received since

Nov. 4, 2015, from a military or overseas voter must be honored for all 2016 elections. (MCL 168.759a)

County clerks deliver absentee voter ballots for the Aug. 2 primary to local clerks. (MCL 168.714)

23 *through July 12.* Precinct inspectors for Aug. 2 primary appointed. (MCL 168.674)

27 *Fourth Monday in June.* Deadline for equalization directors to file tabulation of final taxable valuations with STC on STC Form L-4046. (MCL 211.27d)

By 28 Notice of close of registration for Aug. 2 primary published. (MCL 168.498)

30 Township supervisor shall prepare and furnish the summer tax roll before June 30 to the township treasurer with supervisor's collection warrant attached if summer school taxes are to be collected. (MCL 380.1612(1))

Deadline for classification appeals to STC. (MCL 211.34c(6)) Boards of review must provide taxpayer with form to appeal their classification.

JULY

1 Taxes due and payable in those jurisdictions authorized to levy a summer tax. (MCL 211.44a(3))

5 Last day to register for Aug. 2 primary. (MCL 168.497)

Deadline for government agencies to exercise the right of refusal for 2016 tax foreclosure parcels. (MCL 211.78m(1))

19 *Tuesday after the third Monday in July.* The July board of review (BOR) may be convened to correct a qualified error. (MCL 211.53b) The township board may authorize, by adoption of an ordinance or resolution, an alternative meeting date during the week of the third Monday in July. (MCL 211.53b(9)(b))

An owner who owned and occupied a principal residence on May 1 for taxes levied before Jan. 1, 2013, for which the exemption was not on the tax roll may file an appeal with the July BOR in the year for which the exemption was claimed or the immediately succeeding three years. For taxes levied after Dec. 31, 2012, an owner who owned and occupied a principal residence on June 1 or

Serving the Government Market in

- Engineering
- Surveying
- Master Planning
- GIS
- Drafting
- Environmental

Arne Larsen, P.E.
Civil Engineering Group Mgr.
616-392-5938

HOLLAND
ENGINEERING
HollandEngineering.com

Nov. 1 for which the exemption was not on the tax roll may file an appeal with the July BOR in the year for which the exemption was claimed or the immediately succeeding three years. (MCL 211.7cc(19))

An owner of property that is qualified agricultural property on May 1 may appeal to the July BOR for the current year and the immediately preceding year if the exemption was not on the tax roll. (MCL 211.7ee(6))

July BOR may hear appeals for current year only for poverty exemptions, but not poverty exemptions denied by the March BOR. (MCL 211.7u, STC Bulletin No. 5 of 2012)

21 Candidates without political party affiliation file qualifying petitions and affidavit of identity for the Nov. 8 general election by 4 p.m. Withdrawal deadline elapses at 4 p.m. on July 25. (MCL 168.590c)

22 Write-in candidates other than those who seek precinct delegate position file declaration of intent forms by 4 p.m. for Aug. 2 primary. (MCL 168.737a)

By 22 Pre-primary campaign statements for Aug. 2 primary due. Books closed July 17.

By 23 County clerks deliver remainder of ballots and election supplies for Aug. 2 primary to local clerks. (MCL 168.714)

26 Village candidates who wish to seek office at the Nov. 8 general election file an affidavit of identity and a nonpartisan nominating petition with the township clerk by 4 p.m. Withdrawal deadline elapses at 4 p.m. on July 29. (MCL 168.381)

By 26 Notice of Aug. 2 primary published. (MCL 168.653a)

By 28 Challenges against qualifying petitions filed by candidates without political party affiliation submitted to filing official. (MCL 168.552)

Township clerks forward names and addresses of candidates without political party affiliation to county clerk. (MCL 168.321, 349)

Public accuracy test for Aug. 2 primary must be conducted. (R 168.778) Notice of test must be published at least 48 hours before test. (MCL 168.798)

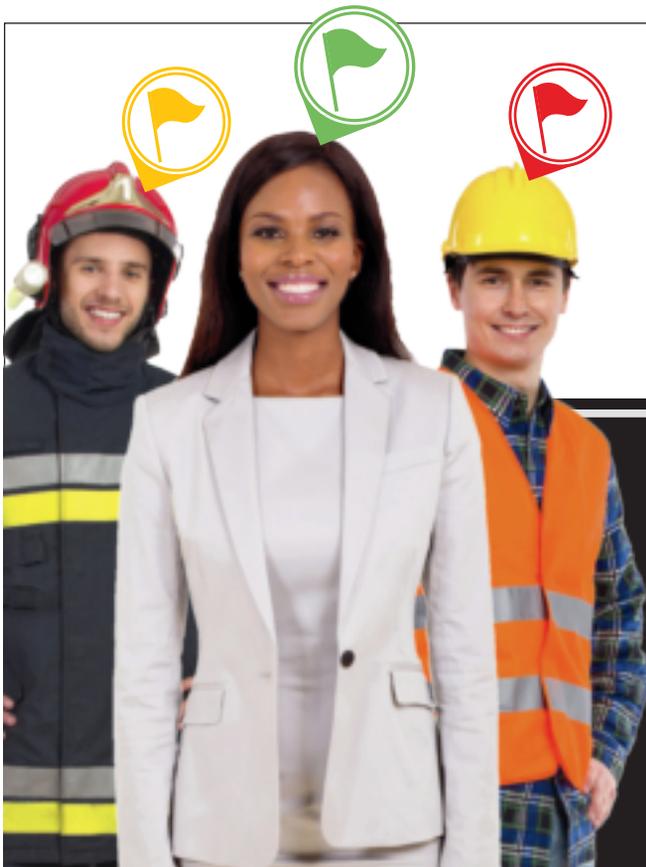
29 Write-in candidates who seek precinct delegate positions file declaration of intent forms for Aug. 2 primary by 4 p.m. Candidates may file form with appropriate precinct board on Election Day before the close of polls. (MCL 168.737a)

Industrial Facilities Exemption Treasurer's Report (Form 170) must be filed with the Property Services Division of the Department of Treasury on or before July 31 of the tax year involved.

Appeals of property classified as residential real, agricultural real, timber-cutover real or agricultural personal must be made by filing a written petition with the Michigan Tax Tribunal (MTT) on or before July 31 of the tax year involved. (MCL 205.735a(6))

A protest of assessed valuation or taxable valuation or the percentage of qualified agricultural property exemption subsequent to BOR action, must be filed with the MTT, in writing on or before July 31.

30 Electors who wish to receive an absentee voter ballot for Aug. 2 primary by mail submit absentee voter ballot applications by 2 p.m. (MCL 168.759)



RETIREMENT READINESS

What Color is Your Flag?

MERS helps your employees prepare for a financially secure retirement.

With online tools and customizable reports, MERS provides your employees with a clear picture of where they stand on the path towards retirement and suggestions to keep them on target.

Contact MERS to learn more. www.mersofmich.com





Can a township employee be appointed to the township planning commission?

No. Section 15 of the Michigan Planning Enabling Act (MPEA), MCL 125.3815, states in part: “(5) ... Except as provided in this subsection, an elected officer [other than the one township board member required to be appointed] or **employee** of the local unit of government is not eligible to be a member of the planning commission...”.

But, there have been differences of opinion between municipal attorneys on what constitutes a township “employee” for the purposes of this prohibition. A recent attorney general opinion has now provided a definitive opinion on how this prohibition applies.

Attorney General Opinion 7289, issued April 11, 2016, looked at the question of whether a township board of review member could serve on that township’s planning commission. The opinion concluded that neither the MPEA nor the General Property Tax Act, MCL 211.28, specifically prohibited a board of review member from simultaneously serving on the township planning commission.

The opinion then examined how the Incompatible Public Offices Act applied to a board of review member and the planning commission:

“Subsection 2(1), MCL 15.182(1), provides: ‘Except as provided in section 3, a *public officer* ... shall not hold 2 or more incompatible offices at the same time.’ (*Emphasis added*). A ‘public officer’ includes a person ‘appointed’ to a ‘public office of a ... township ... in this state.’ MCL 15.181(e). Township planning commission members and board of review members are ‘public officers’ for purposes of the IPOA.”

Subsection 1(b) of the IPOA, MCL 15.181(b), defines incompatible public offices as follows:

“Incompatible offices” means public offices held by a public official which, when the official is performing the duties of any of the public offices held by the official, results in any of the following with respect to those offices held:

- (i) The subordination of 1 public office to another.
- (ii) The supervision of 1 public office by another.
- (iii) A breach of duty of public office.

The opinion concluded:

“A review of the duties and responsibilities of these offices discloses no instance in which these offices have a superior-subordinate or supervisory relationship for purposes of MCL 15.181(b)(i)-(ii).

“The two offices perform distinct functions. A board of review member participates in the board’s determinations regarding the accuracy of the township’s property tax assessment roll, including 1) consideration of objections to the roll that are submitted to the board; 2) corrections to be made to the roll; and 3) approval of the roll on an annual basis. See MCL 211.28-MCL 211.33. By contrast, a township planning commission member participates in

the commission’s determinations as to 1) the development and maintenance of the township’s master development plan; 2) the preparation or review of the township’s capital improvement program; and 3) the undertaking of other planning-related activities. See MCL 125.3811, MCL 125.3833, MCL 125.3839, MCL 125.3845, and 125.3865.

“In addition, one must look to subsection 1(b)(iii) of the IPOA to determine whether holding these offices at the same time results in a breach of duty. A breach of duty arises when a public official holding dual offices cannot protect, advance, and promote the interests of both offices simultaneously. ...

“After reviewing the duties and responsibilities of a planning commission member and a board of review member, it appears that holding both offices would not result in an individual being unable to protect, advance, and promote the interests of both offices simultaneously. Thus, absent specific facts resulting in a breach of duty, holding the offices of township board of review member and township planning commissioner does not violate the IPOA.

“It is my opinion, therefore, that the IPOA does not prohibit a member of a township board of review from simultaneously serving as a member of a township planning commission in the same township unless circumstances arise that would result in the individual being unable to protect, advance, and promote the interests of both offices simultaneously.”

So what does this mean for other positions that might be an “employee” in the context of the MPEA?

Based on AGO 7289 and MTA Legal Counsel recommendations, consider the following factors:

- 1) Is the position specifically prohibited by statute from serving on the planning commission? (*for example, a second township board member*)
- 2) If no, is the position a “public officer” or a “public employee” as defined by the IPOA (MCL 15.181(d) or (e)):
 - (d) “Public employee” means an employee of this state, an employee of a city, village, township, or county of this state, or an employee of a department, board, agency, institution, commission, authority, division, council, college, university, school district, intermediate school district, special district, or other public entity of this state or of a city, village, township, or county in this state, but does not include a person whose employment results from election or appointment.
 - (e) “Public officer” means a person who is elected or appointed to any of the following:
 - (i) An office established by the state constitution of 1963.
 - (ii) A public office of a city, village, township, or county in this state.
 - (iii) A department, board, agency, institution, commission, authority, division, council, college, university, school district, intermediate school district, special district, or other public entity of this state or a city, village, township, or county in this state.

3) If the position is a **public employee**, then the person is prohibited by the MPEA from also serving on the planning commission. Note that MTA Legal Counsel advise that, for this purpose, a township employee is a person who is paid by the township but who is not a public officer or independent contractor.

4) If the position is a **public officer**, then the position must be evaluated to determine whether it is *incompatible* with serving on the township planning commission due to subordination, supervision or breach of duty.

 A township board member intends to resign before the end of the term. What does the board need to do?

When a vacancy occurs in a township board office due to death or resignation—at any point in the four-year township term—the township board is required to appoint to fill the vacancy within 30 calendar days prior to the vacancy taking effect, or within 45 calendar days after the vacancy takes effect. If a board does not fill a board vacancy within 45 calendar days, the county clerk must call a special election within five calendar days to fill the vacancy. (MCL 168.370)

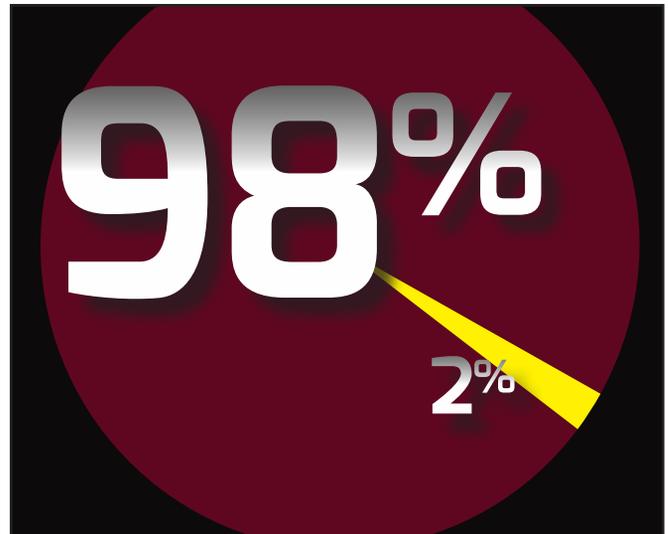
When a board vacancy occurs **earlier** in the township term, there is the additional question of whether the position must be on the ballot for the mid-term primary and general election.

If a board vacancy occurs **more than** seven days before the nominating petition filing deadline for the mid-term general November election (*the 15th Tuesday before the August primary*), then the person appointed holds office only until a successor is elected at the mid-term general November election, which fills the office for the remainder of the unexpired term. If a vacancy occurs on or after the seventh day before the nominating petition deadline, then the person appointed holds office for the remainder of the township term. (MCL 168.370a)

So, at this point in the 2012-2016 township term, a person appointed to a township board vacancy serves out the remainder of the term, until noon on Nov. 20, 2016, or whenever the person elected for the new term takes the oath of office after that, but no later than Dec. 31, 2016.

For the upcoming 2016-2020 township term, if a vacancy occurs in township board office **before** April 17, 2018, then the position will be on the ballot for the 2018 August primary and general November election. If a vacancy occurs **on or after** April 17, 2018, the position will not be on a ballot until the primary and election for the 2020-2024 township term.

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.



98%

2%

Discover why the vast majority of Michigan Townships experience the BS&A difference.

Financial Management Suite · Community Development Suite
Assessing & Property Tax Suite · AccessMyGov Online Services



BS&A
SOFTWARE
(855) BSA-SOFT



Scholarship Sponsor

Get started today at bsasoftware.com



SPALDING DEDECKER

Helping you traverse your way to achieve the best engineering and surveying solutions



Excellence since 1954

(800) 598-1600
www.sda-eng.com
Rochester Hills | Detroit | San Antonio



A vendor performed a service for our township at the end of one fiscal year and the beginning of the next. Our year-end is in March. We paid 50 percent of the contract up-front in February, and 50 percent in April upon completion. How much of the cost should be recognized in our current fiscal year?

The answer depends on how much of the work was done before the end of the fiscal year. For example, if the township paid \$2,500 in February, but none of the work was done until April, the entire February payment would be a “prepaid item”—which is a balance sheet account, not an expenditure account. If 30 percent of the work was done, the township would recognize \$1,500 as an expense and \$1,000 as prepaid. If all the work was completed except a small portion—say 10 percent—and the total contract was \$5,000, the township would recognize \$4,500 in costs, by expensing all of the \$2,500 paid in February, and accruing as an accounts payable \$2,000 of the April payment.



What are “prepaid items”?

These represent outflows of cash that aren’t yet recognized as expenditures or permanent reduction of equity, as the goods or services have not yet been delivered to the township. The most common type of transaction involves general liability insurance; workers’ compensation and health insurance are typically paid for before the period covered by insurance. For example, the township’s fiscal year is on a calendar year, and the insurance policy runs from Nov. 1 to Oct. 31. If the premium is \$12,000 for the policy year, and the township paid the entire amount on Oct. 31, the entry to record the payment would be:

GL Line Item		Debit	Credit
100-000-123	Prepaid Insurance	\$12,000	
101-000-001	Cash		\$12,000

The township would make the following entry prior to closing the books to “amortize” the two months (November and December) of the policy year that has expired:

GL Line Item		Debit	Credit
101-851-805	Insurance Expense	\$2,000	
101-000-123	Prepaid Insurance		\$2,000

At the end of the township’s fiscal year, the balance in the prepaid account would be \$10,000, which would be “recognized” or expensed in the following fiscal year. The insurance expense recognized in the current year would be 10 months’ costs paid in the prior fiscal year, plus two months of the policy paid in October of the current year.

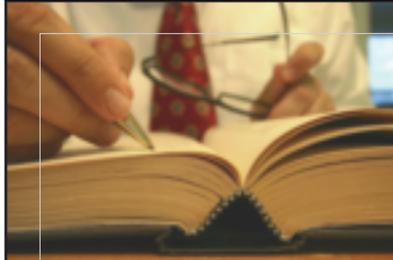


What methods should be used to ensure accurate deposits when a township has a remote site that receives payments?

A township that receives payments, such as recreation fees or building permits, at a site other than the treasurer’s office should consider the following procedures to limit the risk involved in collecting money at remote sites:

- **Use numbered permits or receipt documents.** The clerk or treasurer should control the supply of unused forms.
- **Make deposits daily.** If that is not practical due to the small amounts, make deposits at least once a week, regardless of size.
- **Use cash registers.** Give customers an actual cash register receipt.
- **Have a supervisory employee or the treasurer reconcile the deposited amount to the corresponding amounts entered on the cash register.** All voided transactions should be explained in a written report to the treasurer.
- **Make sure all employees receiving payments are covered by bonds.**

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.



experience
knowledge
integrity

Governmental Accounting
Auditing
Financial Consulting
Services

PSLZ, LLP
CERTIFIED PUBLIC ACCOUNTANTS
1034 West Ann Arbor Trail
Plymouth, MI 48170
Ph. 734.453.8770 Fax. 734.453.0312



THANK YOU 2016 MTA-PAC CONTRIBUTORS!*

Gold

Judy Allen
Chris Barnett
John Hinkle
Larry Merrill
Richard Stauffer

Silver

Kevin Beeson
Joanne Boehler
Alfred Boggs
Dennis Bragiel
William Deater
Edward Hak
Penny Haney
Harold Koviak
Denny Olson
Donald Rogers

Bronze

Dieter Amos
Earl Arnold
Tracey Bartlett
Jean Beethem
Pauline Bennett
John Calhoun
Susan Daugherty
Kay Doerr
Omer Doran
Paul Gambka
John Gaudette
Kenneth Gauthier
Joel Hondorp
Michael Flood, Jr.
Barry June
Wayne Kellogg
Chuck Korn
Lawrence Krohn
Desiree LaDuke
Maryion Lee
Mark Lemoine
Andrew Linko
Kenneth Lobert
Doug Mansfield
Gerald Masters
Julia Morford
Diane Morrison
James Nankervis
Bret Padgett
Sonia Peters
Diane Randall
Barbara Rose
Lloyd Saunders
Don Schultz
Sharon Schultz
Steve Smith
John Stanowski
Donni Steele
James Stover
Al Titus
Marie Twite
Richard VanderKlok
John Walsh
Robert Weise
William White

Member

L. Keith Acker
Roy Aho
Carol Asher

Brenda Ashley
Jeremy Austin
Howard Baumann
Tammy Beal
Charles Beckwith
Kathleen Bert
Thomas Biel
Wanda Bloomquist
Phil Bombrys
Gary Brandt
Alan Briolat
Charles Briolat
Edward Brosowski
Jerry Brown
Julie Brown
Lee Brown
Mary Brown
Linda Bruckner
Brenda Buiskool
Connie Cargill
William Carlson
Dave Chrenka
Meryl Christensen
Ronald Cischke
George Cochran
Robert Cole
Nancy Collins
Florence Connolly
Scott Cordes
Robert Corrin
Susanne Courtade
Ronald Cousino
Dianne Coutant
John Cox
Robert Crawford
Kathy Curtis
Paul Cutting
Mary Daniels
Benita Davis
Laura Dawson
Carol DeHaan
Izzy DiMaggio
Mary Beth Dixon
Richard Dougherty
Jerry Duck
Lyn Durant
Patti Durr
Mary Eaton
Arlene Erickson
Sheryl Feazel
Kenneth Fletcher
Brigid Forlenza
Thomas Frazier
Doris French
Robyn Froberg
Neil Froncek
Judith Fusko
Cheryl Gahn
David Garvin
Kevin Gillette
Pamela Goodacre
Sandra Goodale
Larry Green
Norman Groner
George Haga
Gary Hakes
Cindy Hanson
Robert Hanvey
Lysanne Harma

Kenneth Harrington
G. Dan Harvey
Rick Hayes
Donna Heeres
Barbara Jean Henley
Robert Henshaw
David Hertzberg
Don Hilton
Steve Hoeksema
Herschel Hoese
Marilyn Hoffman
Monica Hoffman
Ken Hubbard
Madalyn Joyce Hubble
Ronald Hunt
Robert Jacokes
Scott Jarvis
John Jenkins
Gary Johnson
Gwenn Johnson
Ray Johnson
Michael Juip
Anthony David Karhoff
Steven Karpiak
Gary Kastel
Mary Ellen Keel
Skip Keeter
Peter Kleiman
John Kohr
Michael Krager
Dean Kruse
Walter Krzycki
Bethel Larabee
Pete LaRue
Clifford Lehner
Paul Lehto
Robert Lewandowski
John Linnerson
James Lisowski
William Livingston
Stacy Loar-Porter
Jerry Marchetti
James Marion
Lorraine Markovich
Donald Martin
David McCormick
Lanie McManus
Melvin McNally
Douglas Merchant
Danny Miller
Anne Milligan
Cindy Minnie
Stanley Mischley
Todd Moeggenborg
John Morgan
Larry Niederstadt
Steve Northrup
Teresa Onica
Thomas Oonk
Cynthia Paavola
Louis Parsch
Robert Pawlak
Deborah Peterson
Gregory Petrimouxl
Barbara Pett
Gordon Pickerd
Arthur Pillen
James Pitsch
Richard Pohl

Neal Porter
Linda Preston
Mary Ann Price
Melanie Priehs
Cheryl Prusakiewicz
Duane Putnam
Donna Reichard
Ronald Reid
Wesley Reinbold
Judith Reynolds
Rick Richardson
Michael Rife
Trudy Roberts
Dave Roberts
Sharon Rogers
Karen Rosa
Rodney Roy
Bonnie Rumley
Linda Ruwersma
Patricia Sampier
Mary Sanders
Rita Sands
Pamela Schaedig
Robert Schiedel
Linda Schweihofer
Roger Seely
Arnold Sirtola
Ruth Skiera
Jacqueline Smith
Charles Smith
Jeffrey Sorensen
Denise Sovey-Meyer
Mike Sowles
Tom Spaulding
Deborah Spicer
Joseph Stevens
Constance Stone
Carol Stone
Ronald Styka
Paul Swartzendruber
Roy Sweet
Janice Thelen
Debra Thomas
Kathy Thurman
Sheryl Tillitson
Tom Tithof
Carolann Tremble
Linda Trombley-Robitaille
Darlene Turner
Donald Ulsh
Sharon Vanderveer
Esther VanSlooten
Mary VerHage
Peter Villemure
Fred Vlietstra
William Wagner
Dawn Walker
Gerald Walt
Cinda Walton
Wayne Warner
Shirley Wazny
Edith Webber
Linda Weger
Christopher Weinzapfel
David Wesoloski
Marvin Willis
Kevin Young
Jesus Yruegas
Jay Zollinger

Contribution Levels

Platinum	\$1,000+
Gold	\$500-999
Silver	\$250-499
Bronze	\$100-249
Member	\$1-99

*As of May 5, 2016

Call MTA today to make your MTA-PAC contribution! (517) 321-6467

Federal court permanently enjoins enforcement of ‘gag order’ law

Township officials no longer need to worry that they’ll be prosecuted when they provide factual information to their residents regarding local ballot proposals, thanks to an order entered in late April in federal court.

U.S. District Judge John Corbett O’Meara permanently enjoined Michigan Secretary of State Ruth Johnson from enforcing Section 57(3) of Public Act 269 of 2015 (MCL 169.257(3)). The “gag order” law severely restricted how local officials could communicate with their residents about local ballot proposals. The gag order was part of a larger campaign finance bill that passed the Legislature with little debate in the final days of last year’s legislative session and was signed into law in early January by Gov. Snyder.

MTA was part of a coalition that filed a federal lawsuit on behalf of 17 local government and school officials and one private citizen to challenge the law. Shortly after the lawsuit was filed, O’Meara issued a temporary injunction against enforcing the law, prompting attorneys for the coalition and the state to negotiate an agreement with the Secretary of State’s office that it would not enforce the gag order law. O’Meara accepted that agreement in his enjoining order.

“This consent judgment will allow townships and all local governments to do their proper duty—without fear of prosecution—of ensuring voters have the necessary knowledge to make informed decisions regarding local ballot measures,” MTA Executive Director Larry Merrill said. “A well-informed citizenry is at the heart of democracy and voters deserve clear, factual information about the issues that impact their community. Any legislative attempts to muzzle local officials’ ability to provide impartial information to their voters does not serve the public interest.”

MTA thanks all members who spoke out against the gag order and contacted their legislators on this issue.

PPT exemption deadline extended for 2016 only

Township assessors must submit amended assessment rolls after a legislative extension provided businesses additional time to file personal property tax (PPT) exemptions this year—until May 31, 2016.

The change was finalized under new laws Public Act 107 of 2016, sponsored by Rep. Aric Nesbitt (R-Porter Twp.), and PAs 108-110 of 2016, sponsored by Rep. Jeff Farrington (R-Utica). Together, the bills make several law changes regarding property tax exemptions for eligible manufacturing personal property and address implementation issues associated with the Essential Services Assessment.

The most significant impact of all the changes for townships is the May 31 deadline extension. Previous law

required businesses to file Form 5278 with their local assessor by Feb. 20. Assessors then had until April 1 to transmit all data to the state Department of Treasury. However, because this was the first year for businesses to file the form, many missed the deadline or were denied the exemption due to incomplete forms.

The change extended the deadline to May 31, 2016, *for this year only*. Assessors must amend their assessment roll to reflect any additional exemptions and transmit newly filed forms to the state and county equalization director by June 7, 2016.

MTA worked with the Department of Treasury to secure an amendment that requires forms to be complete before any appeal can be filed—either with the local board of review or Michigan Tax Tribunal.

The new laws also make a number of technical and clarifying changes including the clarification of the reporting and filing requirements for eligible manufacturing personal property, streamlining the appeal process, and defining acquisition cost for construction in progress as 50 percent of the fair market value at the time of acquisition by the first owner beginning with the 2017 tax year. MTA worked with the Legislature and the department to minimize the changes for townships throughout the process.

www.manniksmithgroup.com

- Municipal Engineering**
●
- Parks & Cemeteries**
●
- Grant Assistance/Procurement**
●
- Water & Wastewater Design**
●
- Construction Management**
●
- Landscape Architecture & Sustainability**
●
- Transportation Planning**
●
- Archeological & Historical Services**
●
- Wetland Studies & Mitigation**
●



Mannik
Smith
GROUP

TECHNICAL SKILL.
CREATIVE SPIRIT.

Monroe
734.289.2200

Canton
734.397.3100

Lansing
517.316.9232

Detroit
313.961.9500

Traverse City
231.929.7330

More cost-effective funding option available for township energy projects

Townships could save money on energy conservation projects if they use a more cost-effective funding option available to them under recently passed legislation.

Public Acts 119-123 of 2016, sponsored by Rep. Al Pscholka (R-Lincoln Chtr. Twp.), were signed into law by Gov. Rick Snyder. MTA supported the bills for their potential to save townships money by providing expanded financing options for these projects. Once the bills take effect on Aug. 17, 2016, townships can use a lease-purchase agreement to pay for energy conservation improvements.

The bills amend multiple public acts that allow local units of government to accomplish energy-conserving projects by improving their facilities' heating system, installing insulation and other changes. These can currently be funded by money from the local unit's general fund, or from savings that result from the improvements.

Under the legislation, the list of approved projects is expanded to include ventilating or air conditioning system improvements, installing or repairing ventilating or air conditioning controls, and information technology or municipal utility improvements associated with energy conservation.

Townships could finance these projects using lease-purchase agreements—multi-year contractual obligations that provide for automatic renewal unless the local unit terminates the contract. Interest on these agreements is tax-exempt, resulting in a cost savings. The hope is that more townships will decide to complete energy conservation projects because this financing option is available.

New law could help deter traffic sign vandalism

Harsher penalties could help prevent township road signs from being vandalized or stolen under a newly enacted bill.

Public Act 111 of 2016, sponsored by Rep. Fred Durhal (D-Detroit), was signed by Gov. Rick Snyder and takes effect Aug. 8, 2016. While it was already a misdemeanor to vandalize or steal a traffic or railroad sign or signal, many believed the penalty was too low to deter criminals. Municipalities must then pay to repair or replace the sign, costing unanticipated taxpayer dollars.

PA 111 could potentially decrease this problem by creating graduated penalties for those who willfully and maliciously damage traffic control devices. A first offense is punishable by no more than 93 days imprisonment and/or a maximum \$500 fine. The punishment for the second offense is no more than 180 days imprisonment and/or a maximum \$1,000 fine. Further offenses would result in a maximum imprisonment of one year and/or a fine of up to \$10,000.

MTA supported the legislation for its potential to prevent vandalism and save townships money.

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.*

SBs 579, 619-624: Allows public libraries to be excluded from tax captures. *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 pre-empted 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 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 recently enacted 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.*

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 used by "big box" retailers, resulting in 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.

Rep. Mary Whiteford (R-Casco Twp.)

Mary Whiteford truly means it when she says she wants an open line of communication with the local officials back home. When the new state representative was asked about the biggest issue facing local governments, she didn't try to guess. She turned directly to the source—her local leaders.

From talking to leaders and residents in her district, she learned that her constituents want an accessible lawmaker whom they can contact about anything. That's why she's been committed to communication since winning the special election in March.

"In order to foster positive relationships, there must be regular communication maintained between legislators and local government," Whiteford said. "To best serve the people of the 80th District, I will continue to be in regular contact with local township officials so that I know what is happening within their communities."

The **Casco Township** (Allegan Co.) resident is new to the Legislature but has a wealth of experience in the business community, medical field and classroom. She began her nursing career as a pediatric neurosurgical nurse in 1986, and worked as an emergency nurse in an inner-city children's hospital from 1989 through 1999. In 1997, she started an accounting business with her husband, Kevin. Today, they run their own financial planning firm. When she wasn't working, she was busy volunteering in her children's schools, running homeowner associations and raising human trafficking awareness on the Michigan Women's Commission.

Whiteford first dipped her toes into public service on her city's public works commission for three years. Later, she was appointed to the South Haven Downtown Development Authority.

"Because I have worked on roads, water towers, drains and even sewer lines in my community, I have a general understanding of the issues that are faced by the 80th District's townships and municipalities," Whiteford said.

Her experience in local government—as well as her conversations with local officials—opened her eyes to the issue of decreasing revenue sharing. She's determined to work with state and local leaders to find ways to improve this problem.

Since taking office, Whiteford has been appointed to the House Natural Resources, Agriculture, and Military and Veteran Affairs committees. These committees tackle issues that impact not only her district, but the state as a whole.



Rep. Mary Whiteford (R-Casco Twp.) represents more than 20 townships in the 80th House District, and the newly elected state lawmaker aims to foster regular, open communications with local officials in each of these communities.

Whiteford's goal is to serve as her district's conservative voice on these committees as well as on the House floor.

"It is my duty and privilege to ensure that the voice of the 80th District is heard at the state level, and I want to introduce legislation that helps the people here," she said.

Whiteford represents 30 cities, villages and townships in her district—including the townships of **Allegan, Casco, Cheshire, Clyde, Fillmore, Ganges, Gun Plain, Heath, Hopkins, Laketown, Lee, Manlius, Martin, Monterey, Otsego, Overisel, Salem, Saugatuck, Trowbridge, Valley** and **Watson**, all in Allegan County. Fostering open and regular communication among all of these municipalities will be a big challenge, but Whiteford is excited to take that on. She knows it's crucial for municipalities, schools and businesses to work together. That's how Michigan will continue its economic rebound, she said.



Townships are a unique kind of community, and they need an engineer who knows how they tick.

P&N is the engineer of choice for nearly 50 Michigan Townships. If you're looking for someone who speaks your language, give us a call.

Prein&Newhof
www.preinnewhof.com (616) 364-8491

Rep. Gary Howell (R-North Branch)

When a bill comes across Gary Howell's desk, chances are he knows exactly the impact it will have on local government.

The new state representative has served in a wide variety of offices, including **Flint Charter Township** (Genesee Co.) trustee and planning commissioner, school board member and road commission member. And for 40 years, he specialized in representing townships and villages in the Thumb area as an attorney.

Now, the North Branch Republican wants to use his wealth of experience to be the most effective lawmaker possible. Since being elected in the March special election, he's been committed to maximizing his potential of nearly seven years in office.

"I want my legacy to be that of a hard-working legislator who got things done," Howell said.

Howell was just 22 years old when he got his start in politics. His father circulated a petition to elect him as a Republican precinct delegate while he was in Korea serving in the U.S. Army. He was elected in absentia, and even though he was 7,000 miles away at the time, he caught the public service bug. He enrolled in law school at the University of Michigan when he returned, was elected as a township trustee and, after graduation, joined a law firm that allowed him to represent townships and villages.

In the few short months he has served as a legislator, Howell has already seen his local government experience pay off. He understands how townships and other local units work—and how they'll be impacted by bills being considered.

"You cannot craft good legislation without understanding the effect it is going to have on the various local governments across the state," Howell said.

A lack of local government experience is the reason behind what Howell called the "disturbing trend" of undermining local control and pre-empting local ordinances. Legislators who don't have township experience are also the ones who mistakenly think townships are outdated.

To fight this problem, it's critical that township officials educate their lawmakers about the importance of local control and township government. In election years, said the first-term lawmaker, local officials should vote for candidates who have the knowledge and commitment to serve local units of government.

"Eternal vigilance will be needed to protect and expand the role of townships," Howell said.

Townships can also become even more efficient by finding ways to share services with other local units—while still protecting their integrity as the form of government closest to the people. Many townships already do this by sharing assessing services, utilities and more. Howell believes



Rep. Gary Howell (R-North Branch) brings decades of local government experience to his new role in the state Legislature. The lifelong farmer has served as Flint Charter Township (Genesee Co.) trustee and planning commissioner, a school board member, a county road commissioner, and was a municipal attorney for 40 years.

townships need to be creative and look for even more efficiencies.

As a new lawmaker, Howell also hopes to make state government more efficient and reduce unnecessary regulations. He's focused on giving businesses opportunities to expand in Michigan while also helping to train and re-train workers for 21st-century jobs coming down the pike. Howell is especially interested in workforce development and hopes to use his role on the Workforce and Talent Development Committee to push for vocational education, apprenticeships, community college career programs and more.

"We cannot assure our young people the opportunity for good-paying jobs in this state without this type of training," Howell said.





Cleaning up

Bringing life back to brownfields & other sites

The boys and girls who race across the soccer fields in **Flint Charter Township** (Genesee Co.) on Saturday mornings likely have no idea that beneath their feet lies a former landfill. This location—which now echoes with the sounds of parents and coaches cheering for goals scored and shots blocked—underwent a major transformation, turning a contaminated site into a township treasure.

Michigan's heritage is steeped in its industrial and manufacturing past. While this activity provided the basis for much of Michigan's economic strength, the long-term environmental effects of many historical industrial processes and practices were not understood at the time. Activities that we now know to cause environmental problems were commonplace, and many historical commercial and manufacturing facilities are sites of environmental contamination.

In Flint Charter Township, for example, General Motors (GM) purchased a 40-acre parcel, which had previously

been some sort of gravel and sand mining operation, in the 1930s. For the next 30 years, the motor company used the Linden Road Landfill for general refuse disposal, including construction debris, metal chips and other process wastes. The landfill closed in 1969, and the property lay dormant for another quarter century.

In the late 1990s, a combined effort between the state Department of Environmental Quality (DEQ), GM and the township brought about the redevelopment of the property. Following a site-specific health and safety plan, including a risk analysis, the site was capped with 2.5 feet of soil,

and converted into recreational fields. A gravel road and parking area were constructed, with American Youth Soccer Organization (AYSO) soccer fields on either side of the parking lot.

A stormwater management system to control run-off, groundwater monitoring and other general site maintenance were all part of the remediation plan. Continued remedial activities include inspection and maintenance of the soil cover. The Genesee County site is now owned by the Revitalizing Auto Communities Environmental Response (RACER) Trust, which was created in 2011 to take charge of former GM properties across the state and the country.

Said Supervisor **Karyn Miller**, “If this project had not occurred, that property would still be contaminated and still be wasted space. It could have been an eyesore. As a result of this cooperation, it became a township asset—the township benefits, the AYSO benefits, and the kids who get to play there benefit.”

Indeed, many Michigan townships now include sites of environmental contamination that are abandoned, idle or underutilized industrial and commercial properties. Revitalization of these properties—more typically called “brownfields”—can achieve a healthier, cleaner and more productive environment for Michigan’s citizens.

What role do townships play?

The role that townships play in their community’s overall environmental health cannot be overstated. These duties—and opportunities—far surpass residential recycling programs and community clean-up days. Townships can also help to clean up sites of environmental contamination in their community.

These sites are more than just eyesores for communities—they can also threaten public health, water quality and the economic vitality of an area. Efforts to revitalize these properties can be well worth the effort, and help to transform blighted areas of townships all around the state.

Many townships—those with police, fire, rescue or maintenance vehicles as well as those with gas stations in their communities—likely have underground storage tanks located within their boundaries. Townships must also be aware the issues surrounding these hidden containers, and what liabilities they may face if contaminants begin to leak into the environment.

Cleanup laws and rules

The primary legislative authorities for the state cleanup program are Parts 201 (Environmental Remediation) and 213 (Leaking Underground Storage Tanks) of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, as amended. (You can read these administrative rules at www.michigan.gov/remediation.) The Michigan Department of Environmental Quality (DEQ), Remediation and Redevelopment Division (RRD) administers programs that involve the cleanup and redevelopment of contaminated properties. These complex programs can affect local units of

government in several different ways, including liability and ongoing responsibilities, as well as property issues.

The RRD also manages portions of the federal Superfund program, established under the federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). CERCLA is a federal law designed to clean up sites contaminated with hazardous substances and pollutants.

“This was a wonderful project for our community. It was an excellent way to recycle that contaminated site, and a great opportunity for the township to move forward and get the property developed.”

—**Dick Stauffer**, supervisor, **Lincoln Charter Township** (Berrien Co.) on his township’s brownfield plan that helped revitalize the site of a former die cast company

The benefits of environmental cleanups

Contaminated sites are often a blight on a community—and not just larger, more urban townships. Brownfields and other contaminated properties are not limited to just large industrial or manufacturing parcels—abandoned gas stations, commercial buildings, vacant land and even houses can all be contaminated properties.

Remediation of these properties helps to remove blighted areas in the township, makes use of existing infrastructure, and improves the community’s overall economic—and environmental—health. Remediation of these already developed properties ultimately protects undeveloped areas and habitats elsewhere in the township. These sites can be cleaned up and reused for anything from office and retail space to residential areas, municipal buildings to even public parks. Such redevelopment can spur additional investment—both public and private, restore tax revenue to a community, increase property values and create jobs.

Seven years ago, a nearly 30-acre site in **Lincoln Charter Township** (Berrien Co.) that had been occupied by a die cast company was remediated, including wide-spread abatement of contaminated soil. The end result? A new, \$15 million Meijer facility. What had been an eyesore in the community resulted in a new business, which brought 300 new jobs to the area, with an annual payroll of more than \$6 million.

“This was a wonderful project for our community,” said supervisor **Dick Stauffer**. “It was an excellent way to recycle that contaminated site, and a great opportunity for the township to move forward and get that property developed.”

Contamination on the site—which had sat vacant for roughly 15 years—was extensive, with polychlorinated



Saturday morning soccer games in Flint Charter Township (Genesee Co.) are played on the site of the old Linden Road Landfill, which was redeveloped following cooperative efforts between the state Department of Environmental Quality, General Motors and the township.

biphenyls (PCBs) existing deep in the soil, though limited to where the store's parking lot was to be located. Total cleanup costs were estimated at up to \$4 million, paid for mainly through tax increment financing. The township also secured a \$1.5 million loan from the DEQ to help fund a portion of the project costs. Under terms of the loan, that amount is being repaid by property taxes from Meijer.

Following a recommendation by the township brownfield authority board, the township board held public hearings on the proposed cleanup project, and ultimately voted to approve the plan. "This is a wonderful tool to help redevelop property," noted Stauffer, of the township's brownfield efforts. "Otherwise, Meijer would have likely developed 30 acres of farmland somewhere else—so it is helping to preserve open space, and making use of already developed property. We didn't even have to bring in any utilities—it was already well-served with water, sewer and power."

The ripple effects have been felt throughout the community, Stauffer said, noting that the store is a big supporter of community organizations in the area. The project has ultimately even made the township a little safer for residents. Stauffer said that the township was able to secure funding to help improve a road near the store, and install sidewalks to make it easier for residents to walk to the store from nearby neighborhoods. In addition, a stoplight was installed at a busy intersection to accommodate additional traffic in the area.

"Now you can cross this road without taking your life in your hands," Stauffer said. "It's just been a great project."

A new project in **Delta Charter Township** (Eaton Co.) has officials in the mid-Michigan community eager to see big changes to the area's main corridor. A dilapidated, sprawling hotel right off a main thoroughfare in the township had turned into an eyesore. The township economic development corporation, which also serves as its brownfield redevelopment authority, had recommended the township's first full brownfield plan and project for the functionally obsolete property, that included demolition and lead and asbestos abatement.

The township board approved the brownfield plan to breathe new life into the two-parcel property, spanning six-plus acres located just off of the I-96 freeway. Demolition of the old Days Inn hotel building began this April, with construction on a new building set to be soon.

The township opted to pursue the brownfield project because "it is a tool that townships can use, to say, this project isn't likely to happen without some incentives," said Supervisor **Ken Fletcher**. "This isn't impacting our current tax revenue—we are utilizing future tax growth to get the site redeveloped." Final project costs are not yet known, but will be repaid through tax increment financing over 10 years—possibly sooner depending on demolition costs and tax revenues from the future businesses that locate on the site.

The property will soon house a 124-room Hilton Garden Inn Hotel with meeting space, as well as a full-service restaurant, a coffee shop with a drive-thru, and more than 3,500 square feet of retail space. Officials are thrilled with the substantial benefits the brownfield redevelopment will mean for the Delta community as a whole. "The property was languishing," Fletcher said. "This property is at a prime location. We will have a significant new development that will spur a great deal of additional economic development."

The project should also benefit other hotels in the area—helping to draw conferences and conventions that require multiple facilities. Total capital investment estimates for the project top \$14 million, and once complete, the development will create roughly 50 new full-time jobs. The project should be complete in 2017.

The township's local economy is not the only thing benefitting from the redevelopment project. Before the building was razed, the township fire department used the old hotel for live trainings, including rescue, fire suppression in hallways and forceable-entry trainings.

What about liability for environmental cleanups?

In the past, Michigan environmental cleanup and redevelopment efforts were constrained by statutes that adhered to a strict liability scheme. Prior to 1995, any person who purchased contaminated property became liable for the cleanup, regardless of their involvement—or lack thereof—in causing the contamination. Fear of liability may have discouraged developers from buying and re-using these blighted properties.

Michigan's cleanup laws were amended in 1995 to more actively encourage redevelopment and cleanup of contaminated properties. Today, new owners of an environmentally contaminated site are liable for remediation if they are responsible for causing a release or threat of release of contaminants. A person or entity that becomes an owner/operator of contaminated property after June 5, 1995 (or March 6, 1996, for leaking underground storage tank sites) is liable for remediation, unless a baseline environmental assessment (BEA) is conducted as part of their due diligence.

For both Part 201 and Part 213 sites of environmental contamination, regardless of liability, the owner or operator must exercise due care with respect to the contamination on the property.

This liability structure presents several key takeaways for townships. Importantly, if your township is a liable owner or operator of sites of environmental contamination, the township will be responsible for either cleaning up the property or reimbursing the state DEQ its costs if the state conducts the cleanup activities. In addition, if a township is the owner of the property and is liable for the contamination, the township may not be eligible for certain brownfield redevelopment grants or loans, which could impede its ability to redevelop contaminated sites within the community.

Determining if a property is contaminated

Any purchaser or new owner/operator of property must conduct an evaluation (called an all appropriate inquiry) to determine whether environmental contamination is potentially present on a piece of property. The initial step is to ask the seller or owner about any known environmental conditions. The DEQ also maintains records of contaminated properties and may have additional information about the property.

An environmental consultant can also conduct an assessment of the property, which may identify conditions indicative of an actual or threatened release of hazardous substances. The consultant can then assist in determining if it is necessary to conduct an additional assessment, such as soil and/or groundwater samples, identifying the presence of underground tanks, and documenting any abandoned containers and their contents, etc.

Documentation of the investigative conclusions is important and should be maintained by the new owner or operator to show that they have conducted due diligence in accordance with Parts 201 and 213.

Part 201 and Part 213 include disclosure requirements for any property transfers. Anyone with knowledge or information that a parcel of real property is a Part 201 or a Part 213 site of environmental contamination must provide written notice of the nature and extent of the contamination to a purchaser or other person to whom the property is transferred.

If the property is contaminated, a baseline environmental assessment (BEA) may be the next step. Townships should discuss the necessity for a BEA with the DEQ, environmental professionals and/or their attorneys. Disclosure of this written document, which describes the results of the sampling and analysis, provides liability protection for cleanup of contamination caused by others.

'Due care' responsibilities for townships

Regardless of liability, if the township is an owner/operator or if it is working to develop property, due care must be exercised with respect to any contamination on the property. Owners and operators must take measures to ensure that existing contamination on a property does not cause unacceptable human health risks and is not exacerbated (does not migrate beyond the property's borders). Such measures include evaluating the contamination and taking necessary response actions. Due care responsibilities are designed so that contaminated properties can be safely redeveloped and used by businesses or the public.

Due care responsibilities include:

- **Preventing** anyone using the property from being exposed to the contamination, and preventing fire and explosion hazards related to the contamination.
- **Preventing actions** that might cause the existing contamination to spread off the property (exacerbation).
- **Taking reasonable precautions** to protect other people who come onto the property, such as contractors, utility workers, etc.
- **Cooperating with** and providing access to the person responsible for cleanup of the contamination, and not interfering with their actions.
- **Being aware** of and complying with any land or resource use restrictions on the property due to the contamination. For example, preventing the installation of a drinking water well into contaminated groundwater, if such a restriction exists.

Exemptions for 'due care'

Parts 201 and 213 provide exemptions to some "due care" responsibilities for the following entities:

- An owner or operator of property that has been contaminated due to migration from another property.
- An owner or operator of a utility franchise on the property.
- An owner or operator of the severed mineral rights to the property.
- A local unit of government that involuntarily acquires title or control of property by virtue of its governmental functions; receives the property by a transfer from the state or a local unit of government that is not liable under Part 201 or 213; receives the property by seizure, receivership or forfeiture or court order; or voluntarily acquires the property and conducts a BEA.

DEQ resources can help

- Receive email notice of news, updated documents and posts from the DEQ's Remediation and Redevelopment Division by visiting www.michigan.gov/deq. Click on the red envelope near the bottom of the page, and following instructions to sign up.
- For a statewide listing of DEQ/RRD offices, visit www.michigan.gov/remediation and select "Office Map" at the top of the page.



Seven years ago, a nearly 30-acre site in Lincoln Charter Township (Berrien Co.) that had been occupied by a die cast company was remediated, and a new, \$15 million Meijer facility was built on the property.

- A local unit of government that has an easement interest or holds a utility franchise for a transportation or utility corridor or public right of way, or for conveying or providing goods and services.
- A local unit of government that is not liable and is leasing the property to a non-liable party.

However, if a township exempted above offers access to the property and makes it available for public use, such as for parks, schools, municipal office buildings, public works operations, etc., then the township must comply with all due care responsibilities for that portion of the property that is accessible to the public.

Additionally, an exempted township still has due care responsibilities to provide cooperation, assistance and access, comply with land use or resource use restrictions, and not impede the integrity or effectiveness of the land or resource use restriction. Utilities and severed mineral right owners must comply with due care in regard to their own activities.

It should go without saying that, regardless of these exemptions, it is always in the best interest—of the township and any owner/operator—to ensure the property is safe for its intended use and to avoid causing any new release or exacerbating pre-existing contamination.

Local land use planning and cleanup standards

Townships use the master plan process to determine and document the community's vision for growth and development for the future. Townships can also adopt their own ordinances and zoning codes to enforce land uses and ensure that future development conforms to the master plan. Both the community's planned land uses and zoning ordinances may play a role in environmental cleanups.

The environmental remediation program authorizes the DEQ to set cleanup standards by considering how the contaminated land will be used in the future. Michigan's

cleanup standards are risk-based and reflect the potential for human health or ecological risks from exposure to potentially harmful substances at contamination sites.

A township that is cleaning up a contaminated property, or working with a developer to clean up the property, can choose an appropriate category of cleanup standard, based on proposed land use. The categories of land use-based cleanup standards include residential, non-residential and site-specific.

The residential cleanup standards are the most restrictive remediation criteria for property because it is assumed that there is the greatest opportunity for exposure to contamination in residential settings, especially for children. When contaminated property is cleaned up to residential standards, the property is considered safe for all uses. Institutional settings, such as schools or nursing homes, may also need to meet the residential standards to protect those sensitive populations. If it is proposed to clean up property based on non-residential standards, it must be demonstrated that the future land use and zoning at the property does not allow residential uses.

Restricted (limited) categories exist for circumstances that require restrictions on the use of property, such as not allowing residential or institutional uses, or on the natural resources, such as exposure barriers (i.e., paving) or prohibitions on resource use (i.e., don't drink the groundwater) to keep people from being exposed to contamination now and in the future.

If a property owner proposes to clean up property based on any of the restricted categories, certain restrictions must be placed on the property deed to ensure that the use restrictions and exposure barriers remain in place.

Cleanups based on site-specific land uses are also allowed. Contact the DEQ for further information on these cleanups.

Opportunities for redevelopment

There are many contaminated sites around the state, and as more commercial and industrial facilities close, this number may be on the rise. There are also thousands of leaking underground storage tanks throughout the state that have not been fully remediated—posing a continued environmental threat.

Brownfield redevelopment grants, loans and tax-increment financing can assist townships to clean up and redevelop contaminated properties. Grants and loans of up to \$1 million can be awarded to conduct environmental investigations, baseline environmental assessments, due care activities and additional response activities at contaminated properties. Loans consist of a 15-year term, which includes a five-year payment and interest-free grace period and a current interest rate of 1.5 percent. Funding considerations include, but are not limited to:

- 1) The type of redevelopment.
- 2) The number of new jobs and the amount of private investment that will be leveraged with the funding.
- 3) The social and environmental benefits of the project.

As in Delta Charter and Lincoln Charter Townships, tax increment financing can be used to reimburse a developer for eligible environmental costs they incur during redevelopment and are often used in conjunction with brownfield loan funding. For more information on these programs, and to find the DEQ brownfield redevelopment coordinator for your area, visit www.michigan.gov/deqbrownfields.

Safeguarding the environment

Townships play an important role in cleaning up sites of contamination and keeping your community safe. A key thing to remember is that environmental solutions in Michigan depend on what kind and quantity of contaminants are present, where they are located, who or what is at risk of exposure, and how the property is to be used. Each piece of property, each contamination scenario, and each proposed new use is different.

However, by partnering with experts and using forward-thinking vision, townships can help to clean up these properties, resulting in revitalized areas and a more sustainable environment for future generations.

Compiled by MTA & Michigan Department of Environmental Quality Staff

Visit www.michigan.gov/deq (click on "Land," then "Remediation" or "Redevelopment") for additional resources, including sites of contamination, assistance, information on brownfield authorities and more.

Get involved in Michigan Green Communities

Every day, local government leaders across Michigan are implementing creative sustainability projects, programs and policies that save money, and offer social and environmental benefits. These leaders can be models for change across the state only if their peers are aware of their efforts. Michigan Green Communities (MGC) connects those leaders and supports their work through training, education and communications. This peer-to-peer network shares home-grown best practices to help other Michigan communities overcome barriers in the path toward sustainability.

The Michigan Townships Association is among the partners in the network, which also includes more than 400 local government leaders, other local government associations, Michigan Energy Office and Michigan Department of Environmental Quality. MGC also has a formal partnership with six state-funded Regional Energy Demonstration Centers to provide local, hands-on technical support.

Learn more at <http://migreencommunities.com/> and get involved by taking the MGC Challenge, attending events or webinars, and subscribing to the monthly newsletter.



 Steven Mann +1.313.496.7509 mamm@millercanfield.com	 Patrick McGow +1.313.496.7684 mcgow@millercanfield.com	 Thomas Colis +1.313.496.7677 colis@millercanfield.com
 Harold Bulger +1.313.496.7507 bulger@millercanfield.com	 Steve Frank +1.313.496.7503 frank@millercanfield.com	THE LAW FIRM FOR TOWNSHIPS

From municipal bonds to innovative projects, collaborative agreements and tax increment financing, townships and their attorneys throughout Michigan rely on Miller Canfield's 160+ years of collective wisdom and diverse expertise.

We are where you are. Local firm. Global resources.

MILLER CANFIELD

millercanfield.com/PublicLaw



2016 UP North Summit SPONSOR

MTA *On The Road* regional meetings move to fall

Were you wondering about MTA's *On The Road* regional meetings this spring? Never fear—we are still holding these valuable day-long educational and networking events throughout the state! MTA is adjusting its educational calendar in preparation for the move of our Annual Educational Conference & Expo to April, beginning in 2017.



The shift to a springtime Conference means that our *On The Road* meetings—held at a dozen locations from Houghton all the way down to Kalamazoo—will now be held in the fall. The timing may be changing but one thing that remains constant about our *On The Road* meetings is the

unparalleled opportunity to connect with fellow township officials, get the inside scoop on issues impacting townships, and visit with MTA staff and vendors all in one day, at one location.

So officials can plan ahead for this valuable event, dates and locations have already been secured. Mark your calendar now for the *On the Road* meeting near you:

- 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

Get the inside story on the challenges facing townships and walk away armed with strategies to make your board more effective. Breakout sessions dig into financial literacy and oversight, identify internal control pitfalls, examine emerging issues in local pre-emption and other timely topics. You won't want to miss our "Hello ... MTA?" *On The Road*, session with MTA Member Information Services staff.

Additional information coming soon!

Share your ideas with MTA

Is there a particular topic you'd like MTA to cover in an educational session or *Township Focus* magazine article? MTA wants to hear your ideas, including any "trouble spots" your township is facing, successes your community is experiencing, or topics or trends you are seeing impact township government. Suggestions could be incorporated into upcoming MTA workshops, Annual Conference educational sessions or *Focus* articles.

Contact MTA Knowledge Center Education Director Shelley Cardenas at (517) 321-6467 or shelley@michigantownships.org to share your ideas.

Interested in serving as a speaker or author? Consider sharing your experiences, best practices or practical solutions by presenting at a workshop or contributing to articles in the magazine. Download a speaker/author information form at www.michigantownships.org/submitproposal.asp.





CARLISLE

WORTMAN

associates, inc.

Community Planners



























*Committed to Michigan communities
for more than 25 years.*

Contact Us Today

www.cwaplan.com • 734-662-2200



upcoming MTA workshops

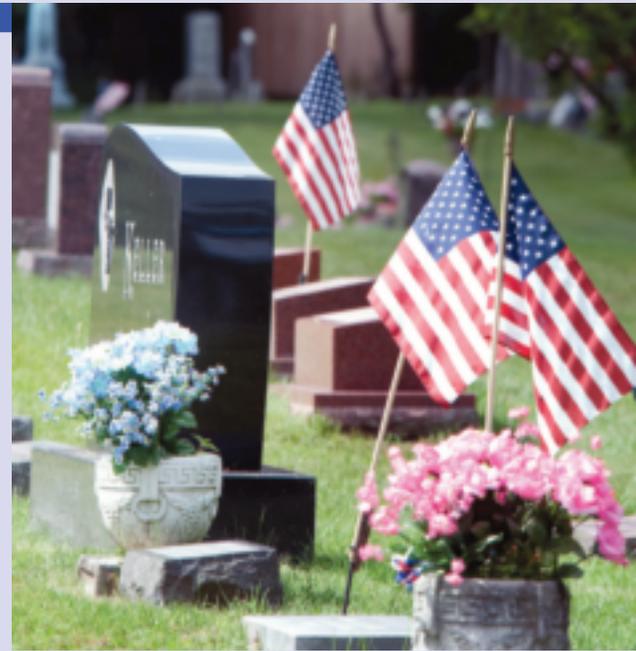
REGISTRATION INFORMATION

Cemeteries: Challenges & Solutions

Township cemeteries provide a positive personal service to residents during a difficult time. Gain a better understanding of the rules and regulations, along with other important aspects of cemetery management and administration, during this half-day workshop.

Led by **MTA Member Information Services Specialist Cindy Davis**, a featured Michigan Association of Municipal Cemeteries conference speaker, this informative workshop will also dig into elements of green or natural burials and other options many conventional cemeteries are incorporating. Participants will also:

- Review the **legal obligations** for cemeteries, including content and procedures for adopting a cemetery ordinance.
- Explore fees and other **budgeting and financial aspects**, including tips on dealing with special cemetery management issues.
- Examine the **role of advisory committees, cemetery sextons and other caretakers**, as well as the duties and responsibilities of the clerk and township board.



Registration, along with a networking lunch, begins at noon; the class is held from 1 to 5 p.m.

Dates and locations are:

- July 13:** Crystal Gardens, Howell
- July 20:** Garland Resort, Lewiston
- July 27:** The Shack, White Cloud

Workshop participants can purchase MTA's *Township Cemetery Management* book for the discounted price of \$31.50. This informative book offers a review of statutes that govern township authority over cemeteries along with the financial aspects of this valuable service. CD of customizable samples included. Pre-purchased books will be distributed at check-in. A limited number of books will also be available to purchase on-site.

Cancellation, Substitution & Switching Policy:

Written cancellation requests received at the MTA office by June 28 will receive a full refund. No refunds will be issued thereafter. You may switch workshop locations at no charge if you notify MTA of the change at least one week prior to the workshop; otherwise, a \$25/person fee will be assessed. You may substitute another individual from your township without incurring a charge; please notify MTA of the change.

Cemetery Challenges & Solutions Registration Form

_____ Township	_____ County
_____ Name & Title	<input type="checkbox"/> Purchase Cemetery Management Book
_____ Name & Title	<input type="checkbox"/> Purchase Cemetery Management Book
_____ Name & Title	<input type="checkbox"/> Purchase Cemetery Management Book
_____ Telephone	_____ Email Address

Date and location:

- July 13: Howell July 20: Lewiston July 27: White Cloud

Workshop rate:

- REGULAR rate*: \$101/person for paid registrations received after June 28.
 DISCOUNTED rate*: \$81/person for paid registrations received by June 28.

Add book: Indicate who receives the book on-site using box at left.

- \$31.50/book *Township Cemetery Management* (includes CD)

_____ (# registered) x \$ _____ (rate*) = _____

_____ (# of books added) x (\$31.50/book*) = _____

AMOUNT ENCLOSED = _____

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

NOTE: Payment must accompany form in order to be processed.

Check enclosed (payable to MTA)

Charge to: (circle one) MasterCard VISA

_____ - _____ - _____ / _____

Card # _____ Expires _____

Print Card Holder's Name _____ Signature _____

Save time, register online: www.michigantownships.org



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.

'Let's keep working together'

Gov. Snyder keynotes MTA Capital Conference

Gov. Rick Snyder was the keynote speaker at MTA's 2016 Capital Conference in April, addressing township officials from across the state who gathered in downtown Lansing for the two-day event.

Township leaders traveled from as far as Marquette County to be part of the conference, which is an opportunity for officials to learn about key legislative issues impacting townships, enhance their relationships with lawmakers and share how decisions at the state level affect their communities.

Snyder told attendees that townships were his first exposure to government, as his father served as trustee for the now-former **Battle Creek Township** (Calhoun Co.). The governor's first car, in fact, was an old red station wagon that had once served the township fire department—and still had the siren and a faint "BCTFD" on the side.

Snyder thanked the local leaders for their service to Michigan communities. "I appreciate the work that you do," he said. "You're at the grassroots level, and have the opportunity to talk with citizens every day, address their challenges and issues, and help them."

During his address, Snyder explored the need for improving the state's infrastructure and continuing to build the state's economy. "We have infrastructure challenges throughout the entire state," he said, noting that he called for a \$165 million appropriation in his budget proposal for a 21st Century Infrastructure Commission. "Last year, we focused on road funding, but if you look at our water, sewer and pipelines—they are no better than our roads. We need to do something about it, we need to do more."

Noting Michigan's low unemployment rate, private-sector job growth and rise in home values, Snyder told the group, "These are all good things, but we need to keep it up. Let's keep working together—it's a partnership that I appreciate.

"You're doing great work back in your communities," he continued. "And we are trying to create a business environment where businesses and residents can be successful in your communities—because that benefits all of us."

'An opportunity'

Prior to the governor's address, participants were welcomed to the annual MTA event by MTA First Vice President **Diane Randall, Roscommon Township** (Roscommon Co.) supervisor, and MTA Executive Director Larry Merrill.

"Township officials not only embrace the hard work and dedication that it takes to serve their township, but by taking part in MTA's Capital Conference, they also recognize the opportunity to ensure that members of the Michigan Legislature know MTA members are on the front lines working for and with the citizens they represent," Randall said.

"Our township world is constantly changing and adapting in response to what happens in Lansing—whether it's property tax exemptions, election law changes, state shared revenues or medical marijuana legislation. Local officials can impact upcoming legislative issues affecting townships and create meaningful relationships so that lawmakers know who they can count on for clear and accurate input."

Attendees also received updates on personal property tax changes from Michigan Department of Treasury Tax Analysis Division Administrator Howard Heideman, and learned about state grant programs, from Michigan Department of Environmental Quality and Department of Natural Resources grant personnel.

A discussion on proposed changes to medical marijuana licensing was provided by MTA Legal Counsel and a representative from Rep. Mike Callton's office, followed by an overview of the "dark stores" issue—an assessing theory unfairly reducing the property taxes for big box stores. The dark stores discussion was led by a panel of experts, including **Breitung Charter Township** (Dickinson Co.) Supervisor **Denny Olson**, Lenawee County Administrator Martin Marshall and Attorney Jack VanCoevering, with the firm Foster Swift Collins & Smith, P.C.

Said Olson, "This practice is disrupting the local businesses that are the fabric holding our communities together. This hurts me to allow something like this to continue in this state. It takes money from our roads, fire protection, economic development and parks."

A legislative wrap-up and evening reception with state lawmakers rounded out Day 1 of the conference.

Leadership panel and a deep dive

The conference concluded with a legislative leadership panel, and deep dive into the impacts of the Public Act 269 "gag order" law on local officials' ability to communicate information about local ballot initiatives to voters.

Officials heard about the priorities of each legislative caucus, from a leadership panel that included Rep. Aric Nesbitt, House majority floor leader, Sen. Geoff Hansen, assistant Senate majority leader, and Rep. Vanessa Guerra, assistant minority leader for the Michigan House Democratic Caucus. Each of the lawmakers on the panel had a connection to township government—and were either raised in, currently live in or have served townships.

Among the issues discussed were the state budget, revenue sharing, energy policy and access to broadband. "Broadband is a huge challenge in my area," Hansen said. "I have 56 townships that I represent, and I'm guessing that 25 percent of them don't have access to high-speed Internet. It's a challenge to get the companies to come in."

The panel also shared insights on how local officials can better engage with their state counterparts. "The most important part is reaching out to us as your legislators," said Guerra, a former **Bridgeport Township** (Saginaw Co.) trustee. "When township officials reach out to our office, I immediately call them back or return their email—those are the folks who really have their finger on the pulse of what's going on in our communities. They know what's going on, and how they will be impacted by upcoming legislation."

Following the leadership panel, **Orion Charter Township** (Oakland Co.) Supervisor **Chris Barnett**, and attorneys Scott Eldridge from Miller Canfield and Gary Gordon from Dykema explored "fact" versus "advocacy" in the wake of the PA 269 "gag order" that placed prohibitions on local officials when providing information to voters on local ballot issues. *See page 14 for an update on PA 269.*

Before heading home, numerous officials headed to individual meetings to share the township perspective with their state leaders.

Next year's Capital Conference will be part of MTA's Annual Conference, which moves to April in 2017.





Go green

Small changes can mean
big energy savings for townships

Many Michigan municipalities are finding measurable savings by implementing small, but calculated, changes to their energy use. By applying smart thinking to their lighting, office equipment and energy-dependent machinery, communities big and small can maximize rebates and incentives to provide the needed momentum—and funds—to move forward with other upgrades.

When considering any kind of energy efficiency upgrade or improvement, knowing where to begin is the primary challenge for many township officials. In many cases, it means starting with the largest energy draw; however, even the smallest upgrade can add up to major savings.

A pleasant surprise

The efforts of a neighboring municipality inspired one township to push even further to make their operations as efficient as possible. **Union Charter Township** (Isabella Co.) took note after its neighbor, the city of Mount Pleasant, made changes to its aging water distribution system. City

officials, with the help of an energy use auditor, identified equipment that required the most energy to operate, then studied how the equipment was being used.

The resulting plan—which included changing the pump schedule to accommodate higher time-use periods and performing more frequent maintenance—cut the city's energy costs by 21 percent. Replacing water pump motors with higher-efficiency motors saved an additional 5 percent on their energy bill—resulting in a 26 percent total savings.

Seeing their neighboring municipality's efforts pay such large dividends piqued the interest of Union Charter Township officials, who had already implemented

energy-savings strategies in the past, including a variable frequency drive on a well pump in 2009, and LED lighting in 2015.

“We’d already been in contact with our energy provider about some other energy-saving strategies,” said **Kim Smith**, public works coordinator for Union Charter Township. “So, when the city’s results came out, we added the water pump station to the areas we’d like to improve.”

An energy audit evaluated every aspect of Union Charter Township’s pump station, including how and when the water pumps saw the most use. According to Smith, the preliminary findings were encouraging and surprisingly low-cost. By implementing small operational alterations—like changing the pump schedule to increase pressure at key times of the day and adjusting maintenance schedules on the pumps—the township uncovered significant savings.

“The energy auditor is still examining some of its findings, and we don’t have final numbers because the study is ongoing,” said Smith. “But the money we’re projecting to save will provide necessary funding for additional upgrades. Township officials who are looking for ways to save should talk to their energy provider about their rates. Small, no-cost changes like changing the time-of-use schedule on their pumps or upgrading an older piece of equipment can put them in a different rate. Those changes can save money.”

At this time, the Union Township pump system energy audit total savings is anticipated at 36 percent, with the majority of energy savings coming with paybacks ranging from immediate to eight years.

Saving green by going green

Examples of municipal energy savings are evident across the state. In one West Michigan community, exterior lighting was the biggest energy expense. The municipality’s energy provider devised a plan and called in lighting architects and engineers to help design a solution. The municipality was eligible to subsidize the costs associated with the lighting upgrades through incentives and efficiency rebates.

The project became the largest LED conversion in the state of Michigan and one of the largest in North America. It took the team 18 months to retrofit 536 metal halide and high-pressure luminaries and 1,388 incandescent traffic and pedestrian signals. The final results were even better than predicted. Because LED bulbs typically last 10 times longer than alternative bulbs, taxpayers continue to save \$33,948 annually in material and labor costs alone. In fact, since 2012, the community has saved \$149,208 annually.

The community didn’t stop with lighting. Savings from the lighting upgrades provided funds for renovations at the community’s event and recreation center—allowing the municipality to save another \$84,000 in annual energy costs.

Another west Michigan community shows how small energy upgrades can lead to bigger projects and savings. An aggressive project began with heating, ventilation, air conditioning and air controls; however, while evaluating energy use across multiple buildings and equipment, more opportunities to save were discovered.

During the first phase of the project, changes were implemented at the administration building, adding insulation and replacing boiler systems to reduce heating and cooling costs. The resulting energy savings allowed the municipality to make even more short-term updates—and a long-term plan, including a way to apply existing bio-solids to power the wastewater treatment plant.

Small ways to reap serious rewards

Upgrades like these may seem cost-prohibitive at first, but there are often ways to offset expenses with grants, incentives and rebates.

In one central Michigan community, officials wanted to save energy without upsetting the community’s old-world charm, so they worked with their energy contractor and a team of experts to plan and implement a lighting upgrade.

When officials submitted their plan to the state for possible incentives, they were awarded with a \$61,000 Advanced Lighting Technology grant. The change is saving the community approximately \$13,000 annually. The remaining costs incurred during the updates are predicted to be paid back in approximately three years.

A variety of options

There are ways to increase energy efficiency in your existing township buildings. A variety of energy efficiency financing options are available, and townships can work with their energy provider, the Michigan Energy Office and other experts to help realize greater efficiencies—and ultimately, savings—to benefit their communities.



Erik Lathers, Business Account Manager,
Consumers Energy

To find out how your township can implement energy saving improvements to help manage energy costs, visit ConsumersEnergy.com/startsaving. Contact Lathers at (248) 433-5748.



Consumers Energy is an MTA Allied Service Provider at the Leadership Circle level. Turn to page 2 for more information on Township Allied Service Providers.

Trusted professionals delivering America's infrastructure solutions

WADE TRIM
Engineering | Landscape Architecture
Operations | Planning | Sciences | Surveying
800.482.2864 | www.wadetrim.com



Reserve officer not a 'police officer' for purposes of 'resisting and obstructing' statute

People v. Feeley, 312 Mich. App. 320, Sept. 15, 2015—Feeley was arrested for resisting and obstructing a police officer, under MCL 750.81d, after he failed to comply with a City of Brighton reserve officer's command. The district and circuit courts refused to bind Feeley over for trial on the grounds that a "reserve police officer" was not a "police officer" for the purposes of MCL 750.81d of the Michigan Penal Code.

MCL 750.81d states in part:

"(1) Except as provided in subsections (2), (3), and (4), an individual who assaults, batters, wounds, resists, obstructs, opposes, or endangers a person who the individual knows or has reason to know is performing his or her duties is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$2,000.00, or both. ...

(7) As used in this section: ...

(b) 'Person' means any of the following:

- (i) A police officer of this state or of a political subdivision of this state including, but not limited to, a motor carrier officer or capitol security officer of the department of state police.
- (ii) A police officer of a junior college, college, or university who is authorized by the governing board of that junior college, college, or university to enforce state law and the rules and ordinances of that junior college, college, or university.
- (iii) A conservation officer of the department of natural resources or the department of environmental quality.
- (iv) A conservation officer of the United States department of the interior.
- (v) A sheriff or deputy sheriff.

- (vi) A constable.
- (vii) A peace officer of a duly authorized police agency of the United States, including, but not limited to, an agent of the secret service or department of justice.
- (viii) A firefighter.
- (ix) Any emergency medical service personnel described in ... MCL 333.20950.
- (x) An individual engaged in a search and rescue operation as that term is defined in section 50c." *[Emphasis added.]*

Citing the "consistent principle of statutory construction ... that the express mention in a statute of one thing implies the exclusion of other similar things (*expressio unius est exclusio alterius*)," the Court of Appeals affirmed, holding that, "In the resisting and obstructing statute, the Legislature did not include the term 'reserve police officer' in the definition of persons whose lawful orders must be obeyed in order to avoid criminal liability. Many other law enforcement personnel one might reasonably consider implicitly included in the term 'police officer' were nevertheless explicitly listed in the statute. Had the Legislature intended a broad meaning to apply to the term 'police officer,' there would have been no need to specify the statute's application to, *inter alia*, university police officers, sheriff's deputies, and federal conservation officers. ... That the Legislature pointedly did not include reserve police officers indicates that the omission was intentional."

Noise ordinance violation for 'destroying the peace' invalidated

People of the City of Grand Rapids v. Gasper, ___ Mich. App. ___, March 8, 2016—In consolidated appeals to the

Michigan Court of Appeals stemming from municipal noise ordinance violations involving live music playing at night at the Tip Top Deluxe Bar and Grille in Grand Rapids, several individuals associated with the bar challenged as unconstitutionally vague language in the city's ordinance that stated:

“(3) No person shall use any premises or suffer any premises under his or her care or control to be used which shall destroy the peace and tranquility of the surrounding neighborhood.”

The Court held that the ordinance's use of “destroy” was unconstitutionally vague, and reversed a Circuit Court ruling supporting the ordinance.

According to the Court, “[A] person making noise in a neighborhood is similarly required to guess whether law enforcement would consider his or her conduct as destroying the peace and tranquility of the neighborhood. Simply put, conduct that ‘destroys’ the peace and tranquility of some would not affect others to such an extent. There is simply no standard for determining what ‘destroys’ the peace and tranquility of a neighborhood, which compels ‘men of common intelligence’ to guess as to what conduct is proscribed by § 9.63(3). ... Moreover, because § 9.63(3) fails to provide explicit standards for determining what ‘destroys the peace and tranquility of the surrounding neighborhood,’ law enforcement officers and finders of fact are necessarily

vested with ‘virtually complete discretion’ to determine whether a violation of § 9.63(3) has occurred.”

But the Court distinguished the use of the word “destroy” from the more commonly used word, “disturb”:

“We also find this case distinguishable from cases involving challenges to disturbing the peace statutes. Although this Court has held that a reasonable person is sufficiently aware of what conduct constitutes a ‘disturbance’ of the peace, the ordinance at issue does not proscribe conduct that merely disturbs or disrupts the peace and tranquility, but rather that which destroys the peace and tranquility. Thus, a person of ordinary intelligence would still have to guess whether his or her conduct was lawful, as conduct that one person might consider to totally destroy their peace and tranquility might merely disrupt the peace and tranquility for a another person.”

The Court did rule that “deletion of § 9.63(3) would not render invalid or unreasonable the remainder of the ordinance,” which also included decibel standards for other noise violations.

Although the use of the word “destroy” is not common, townships should review their noise ordinance language with their local legal counsel to determine whether it requires any revision in light of this opinion.



BUILDING COMMUNITIES.

Wightman & Associates, Inc. has delivered first-class engineering, architecture and survey solutions to clients since 1946. We've made our mark by building strong, vibrant communities. We believe people flourish when they partner with a dynamic team of problem solvers. Let our dynamic team of 80 professionals assist your community.



W **WIGHTMAN & ASSOCIATES, INC.**
ENGINEERING ♦ SURVEYING ♦ ARCHITECTURE

Benton Harbor
269-927-0100

Portage
269-327-3532

Allegan
269-673-8465

www.wightman-assoc.com

aroundthestate

townships in the spotlight



a community garden on a former school site. Northwood abuts a county park with camping, swimming and tennis, and is home to a beautiful stretch of the Kalamazoo River Valley Trail. Westwood, adjacent to Western Michigan University, is home to the township's golf

Kalamazoo Charter Township

Kalamazoo Charter Township (Kalamazoo Co.) wraps around three sides of the city of Kalamazoo. It is one of the most populated townships in the state, with nearly 22,000 residents within its 12-square-mile borders. The township board's mission is to provide government services that promote a safe, healthy, accessible and economically viable community to live, work, learn and play.



Officials say that the township is where residents can find their piece of the new American dream. The township offers quality residential living with open space—all within walking, biking or transit distance from work and play. It's made up of distinct and diverse neighborhoods, and a sense of community is encouraged by allowing street closures for block parties, little league parades, neighborhood garage sales, and other activities.

Every week brings new activities at the county's Expo Center in the Lakewood neighborhood, including car or dog shows, flea markets and a county fair. In Eastwood, there's

a community garden on a former school site. Northwood abuts a county park with camping, swimming and tennis, and is home to a beautiful stretch of the Kalamazoo River Valley Trail. Westwood, adjacent to Western Michigan University, is home to the township's golf course, and several of the township's parks. A full 75 percent of the houses in the township are eligible for the Kalamazoo Promise scholarship.

The township is investing in its future. A survey of residents led to a strategic plan that includes better roads and communication. The voters approved a bond issue to pay for upgrading all local roads over three years. The board also adopted complete streets and passed a non-motorized transportation plan, which is being implemented. An updated parks and recreation plan will help in seeking funding to increase recreation. The township's master plan has been updated and a new form-based zoning ordinance should be adopted this summer.

The township had one of the first curbside recycling programs in the state, was an early adopter of single stream recycling and now has single-hauler garbage service. This saves wear on roads, and cuts down on noise, pollution and costs.

Kalamazoo Charter Township works with other governments in several areas, including consolidated dispatch and a countywide transit authority. Kalamazoo Charter Township is looking forward to, and embracing, its future.





There is still time to register
for MTA's

UP North Summit

June 8-9, 2016

Island Resort Conference
Center, Harris
(west of Escanaba)

Join us for two days of intensive learning,
networking—and fun—in the splendor
of Michigan's Upper Peninsula.

Practical techniques and valuable resources

The program features three informative general sessions, exploring topics relevant to the entire township board, and 10 breakouts offering something of interest for each office.

Mini expo

Take a stroll through the "Northern Market Expo" and network with vendors to find providers of products and services that can help your township run more efficiently. You may even win a prize!

Pre-Summit class

Kick off your learning experience early by participating in the afternoon class, *Fundamentals of Assessment & Taxation*, held June 7. Lunch is included!

Evening activity

Get out of the classroom and into the fun! After a full day of education, we know you'll be ready for some fresh air. MTA teams up with the Island Resort to bring you a tropical dinner party. Hula, anyone?!?

2016 Summit Sponsors*



*As of May 16, 2016

The registration brochure was included in the April issue of Township Focus, and can also be downloaded at www.michigantownships.org.

2016 UP North Summit SPONSOR



New and Improved



To get a proposal for your property and liability coverage or for more information, call us today at 1(800)783-1370 or visit our website at www.theparplan.com.