

Michigan
Township Focus

MARCH 2020

OFFICIAL PUBLICATION OF THE MICHIGAN TOWNSHIPS ASSOCIATION

Cultivating an ethical culture in your township



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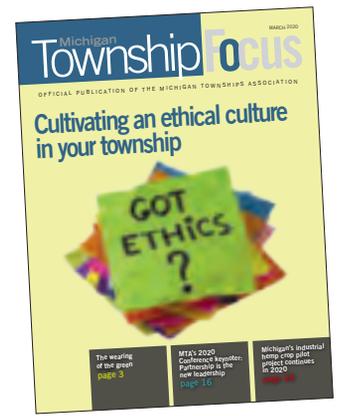


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mission statement

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

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Partnership is the new leadership

Ty Bennett's No. 1 passion is helping leaders—like Michigan's township officials—cultivate the relevance and influence they need to challenge old ways and open new doors. MTA's 2020 Conference keynote speaker will share how cultivating trust, encouraging collaboration and building consensus can help any township board and unite a community.

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Cultivating an ethical culture in your township

Local officials' words, actions and deeds are under scrutiny in the public eye, and are often held to a higher expectation by their constituents. Leading your township with ethical behavior—and expecting the same of your peers and colleagues—is critical. Learn how, and what boards around the state are doing to create a culture of ethics in their own township.

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Last spring, the state launched its first industrial hemp program—resulting in a new crop, and new questions, in communities throughout the state.

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president's round table

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The wearing of the green

March brings with it the first hints of the coming spring, as well as some critical matters for our township officials and residents. Those of you who are yourselves Irish, or lucky enough to be married to someone who is, might know the history of the phrase in this month's headline. The Irish people were deeply inspired by the **American Revolution** and began wearing green ribbons as a sign of unity in support for the cause of Irish freedom from tyranny. At the time, the Irish language, faith and Celtic names were all outlawed and soon wearing the green ribbons too became a hanging offense against the Crown.

This history came to mind as I sat and watched a legislative hearing in which one person advocated for stripping local control over zoning, making the case that big government "one size fits all" should rule across the state, regardless of our home communities' local preferences, needs and vulnerabilities. Just as in Michigan, the Irish called their movement "home rule" and its success has ultimately resulted in amicable intergovernmental relations on the island, educational advancement, peace and prosperity for many.

In Michigan, **the founding of the Michigan Townships Association** in 1953 successfully fought to preserve our home rule in the '60s and '80s. Let us never forget that there are continuing forces opposed to local control, and it is a battle of ideas: rational, fiscally responsible and locally led government versus those who favor concentration of power in big, central government far from the communities they would seek to dominate. MTA speaks with **"one voice"** to fight these special interests. We need your help in our legislative calls to action and in keeping our great Michigan residents informed and engaged against these attacks on their rights and quality of life.

This month, we experience our first presidential primary with greatly increased absentee ballot use. Measures in the Legislature seek to address a variety of challenges to the efficient and timely processing of the primary ballots and will likely be influenced by your own experiences on primary day—let your legislators know about them.

MTA's **District 13 Director Tom Paige**, Member Information Services Director Mike Selden and I were invited to the Michigan Department of Environment, Great

Lakes and Energy (EGLE) summit on preparations for the **historically high water levels anticipated** for the lakes, rivers and bays this year. MTA will share this information with you in future *Township Focus* magazines, newsletters and a podcast. Michigan **EGLE Director Liesl Clark** has gathered state and federal authorities to proactively prepare where possible and rapidly respond to events. Town hall-style meetings will be held across the state, and we encourage you to participate. In addition, **Gov. Whitmer** has included \$40 million in initial funding for infrastructure protection grants in her new budget; MTA applauds this inclusion and encourages expanded funding with a streamlined application process awarding small townships or regional coalitions **fast and fair access to the funds**.

In this month's magazine, we receive guidance on how **ethics guidelines and standards** can help townships project and maintain good governance and management. We also have information from the Michigan Department of Agriculture and Rural Development on a different kind of green that has been springing up across the state, in the form of **industrial hemp crops**. Unlike the consumer marijuana crops typically grown indoors, hemp plants will increasingly be a feature in Michigan's fields—prompting a new set of questions, concerns and compliance matters for growers and their communities.

I was once the chair of a large St. Patrick's Day Parade Committee, which is a nearly unparalleled way to learn about power politics, negotiation skills, leverage and alliance-building. So, in closing, may I offer these slightly modified Irish well-wishes as spring knocks upon our door ...

May the road rise up to meet you,
 May the wind be always at your back,
 May the sun shine warm upon your face,
 The rains fall soft upon your fields, and
 Until we meet again,
 May your township be always in the green.

Neil Sheridan



news¬es

a compendium of noteworthy items



COMPLETE COUNT

Help township residents say 'Count Me In' for Census 2020

Census Day—April 1, 2020—is fast-approaching, and townships can still help get the word out to their community that it is critical that every Michigander is counted.

The state's "Complete Count Committee"—on which MTA Executive Director Neil Sheridan serves—has launched a new website, www.michigan.gov/census2020. Under the "Partner With Us" tab are sample graphics, social media posts, newsletter articles, videos and more that townships can include on their website, in newsletters or on social media, or post in the township hall. Some "Census 101" reminders that every township resident should know include:

- **Everyone counts.** The U.S. Census counts every person living in the United States once every 10 years.
- **Privacy is protected.** Information collected through the census is 100 percent confidential and will not be shared with anyone.
- **The census is more convenient than ever.** In 2020, for the first time, the census can be completed online. People can also respond by phone or mail.
- **Being counted is a critical civic duty, like voting.** The census determines federal funding for local communities and essential services, shapes congressional representation, impacts legislative districts, and more.
- **Census questions are simple.** The U.S. Census form will ask questions about the number of people living in each household on April 1, 2020, including name, age, gender, race, date of birth, relationship status, phone number, and whether the home is owned or rented.

Beginning March 12, every Michigan household will receive an invitation from the U.S. Census Bureau to complete the census online, by phone or by mail (some households will also receive paper questionnaires). Reminder mailings will be sent in March and April, and a census enumerator will then visit non-responding households.

Each township can play a role in ensuring a "complete count" for Michigan in 2020.

MODERN CONVENIENCE

Online voter registration, eNotary now available

Township residents can head to the internet to register to vote, or to access a notary. Michiganders can now register to vote or update their voter registration online at www.michigan.gov/voterregistration. Offering electronic (eNotary) and remote notarization services is also now an option for the state's more than 113,000 notaries public. Many townships offer notary services.

Online voter registration—The secure, web-based online voter registration tool is available to citizens with a valid Michigan driver's license or state ID card. All other methods of voter registration, including registration by mail, remain available. With the implementation of this service, Michigan joins 37 other states that allow citizens to register to vote online. Legislation providing for online voter registration was enacted by the Michigan Legislature in 2018.

eNotary—Four eNotary vendor systems—which require a fee—have been approved for use in Michigan, three of which also offer remote notarization services. In an electronic notarization, the document being notarized is digital and the notary uses electronic signatures. A remote notarization is conducted through audio/visual equipment; the signer is not in the physical presence of the notary public. The approvals are effective immediately.

Use of eNotary vendors is optional and no action is needed on the part of notaries to continue performing traditional pen and paper notarizations. More information is available at www.michigan.gov/sos (click on "Office of the Great Seal/Notary/Document Certification" under the "Elections" tab).



In memoriam

Dona Emerson, Mills Township (Ogemaw Co.) treasurer (retired), for 27 years.

Duane "Pete" Shrontz, Marengo Township (Calhoun Co.) supervisor for seven years, trustee for nine years and firefighter for 14 years.

FEDERAL GRANT

Assistance to Firefighters Grant deadline is quickly approaching

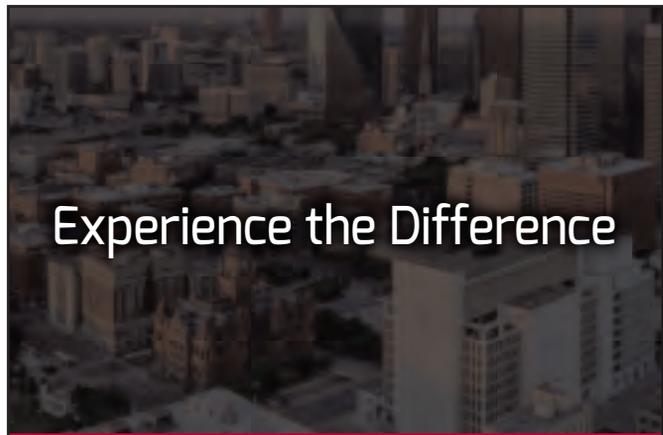
Township fire departments have until March 13 to apply for a portion of \$315 million available through the FY 2019 Assistance to Firefighters Grant (AFG) program.

The program aims to enhance the safety of the public and firefighters with respect to fire and fire-related hazards. Applicants may request funding for operations and safety projects, vehicle acquisition, and regional projects, which should benefit more than one local jurisdiction. Townships across the state have been recipients of the program, administered through the Federal Emergency Management Agency.

There are several changes from previous AFG programs:

- Under micro grants, “wellness and fitness” is now eligible, as well as modifications to facilities activities.
- Under the “Equipment” category, training “props” are limited to \$50,000 except for a state fire training academy request, and learning management systems to include software and computer programs for departments to track training and certifications were added as high priority.
- Under “Vehicle Acquisition,” brush vehicles are now a high priority.

For more information, visit www.fema.gov/welcome-assistance-firefighters-grant-program.



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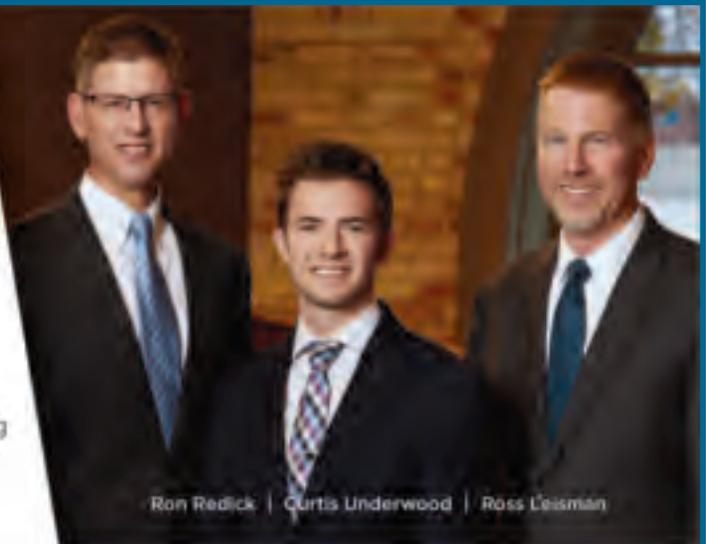
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MTA's Robinson Scholarship available to students in your township

Help ensure that today's youth become involved in local government tomorrow! Encourage students in *your* community to apply for MTA's Robert R. Robinson Memorial Scholarship by May 31, 2020.

The scholarship is a one-time award determined on a competitive basis by the applicant's academic achievement, community involvement and commitment to a career in local government administration.

Applicants must be a junior, senior or graduate student enrolled in a Michigan college or university and pursuing a career in local government administration. The following materials are required to apply: 1) a letter of recommendation from a professor or instructor, 2) a copy of a resolution of support from a Michigan township board, and 3) a short essay on an important issue facing local government.

Students must submit application materials to: The Robert R. Robinson Memorial Scholarship Fund, c/o Michigan Townships Association, P.O. Box 80078, Lansing, MI 48908-0078.

Ensure students in your area know about the scholarship! Post a link on your township website to www.michigantownships.org/scholarship.asp. Need more information? Call (517) 321-6467.

Contributions to the scholarship fund are also accepted throughout the year. Call the MTA office for details.

mta events | **March**

1-31 "March Madness" sale—50 percent off MTA webcasts throughout March. Use promo code: madness

30 Last day to obtain early-bird registration rate for MTA Annual Conference. Join us at the Grand Traverse Resort in Acme Township, April 27-30.

Order your updated "Little Red Book" TODAY!

Now called *Authorities & Responsibilities of Michigan Townships*, this essential guide to serving your community has undergone a complete review and rewrite by MTA Staff Attorney Catherine Mullhaupt, with assistance from MTA Legal Counsel Rob Thall, and has been expanded to cover even more information and insights on what's critical for you to know as a local leader.

The new version is not only bigger in terms of actual size, it is almost twice the number of pages, and approaches the information in a more accessible, user-friendly manner.

It truly is **THE crucial resource for today's township officials, and all who play a role in governing and leading their communities.**

Visit www.michigantownships.org to order online or download an order form, or call (517) 321-6467 to order.

Member price: \$52.50 | Non-member price: \$72



Save the date for MTA's 2020 UP North Summit

June 22-24

**Island Resort & Conference Center,
Harris**

Join us for two days of education, networking and fun in Michigan's beautiful Upper Peninsula.

Registration materials, including session descriptions, will appear in next month's Township Focus.



Join the Parade

The 2020 Township Parade of Flags will kick off the MTA Annual Conference Opening Session on Tuesday, April 28.

Register today to take part in the Parade—what some call “the most inspirational part of the Conference!” To register, email jenn@michigantownships.org or fax this form to (517) 321-8908 by April 13, 2020. Instructions will be emailed to all Parade participants prior to Conference.

Township/County: _____

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Questions? Call Jenn Fiedler at (517) 321-6467 or email jenn@michigantownships.org.

Join MTA in welcoming new Allied Service Provider



Please join MTA in welcoming a new member to the Allied Service Provide program. **Hennessey Engineers, Inc.**, a Southgate-based engineering firm, has joined the program at the Keystone Club level.

For more on the Allied Service Provider program, turn to page 2 or visit www.michigantownships.org/asp.asp.

profile



Advertorial

Michigan Township Participating Plan Property & Casualty Dividend Program

Public officials serving public officials

Founded in April 1985 under Public Act 138, the Michigan Township Participating Plan (the Par Plan) was formed to provide a stable market for the property and casualty insurance needs for townships and public entities through the state of Michigan.



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Now in its 35th year of operation, the Par Plan is governed by a board of directors comprised of public officials just like you. The program is constantly evolving to meet the needs of the townships of today. Membership has its privileges:

- Free Risk Reduction Grant opportunities
- Free scholarships for Citizen Planning and Zoning Administration courses through Michigan State University
- Free educational seminars
- An earnest dividend program
- Cyber coverage (*now available*)

These features, along with many others, are what the Par Plan feels set it distinctly above the rest.

“Partnering with MTA as an Allied Service Provider presents the Par Plan with an avenue for networking with Michigan communities to meet the individual property and casualty needs with local representation and personal service. Recognizing the individual and unique needs of every member forms the cornerstone and the strength of the Par Plan,” said Karen Zielinski, the Par Plan program administrator.

The Par Plan program is insured by an A++ rated insurance carrier and is administered by TMHCC Public Risk Group of Auburn Hills.

For more information about the Michigan Township Participating Plan’s services, visit www.theparplan.com or call the administrative offices at (248) 371-3137.

Opinions expressed within do not represent the views of MTA, its Board or members. 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, visit the Par Plan at Booth 201 during the MTA Expo in April, see their ad on the outside back cover, turn to the Allied Service Provider Index on page 2 or visit www.michigantownships.org/asp.asp.

MARCH

2 *On or before the first Monday in March.* The 2020 assessment roll shall be completed and certified by the assessor. (MCL 211.24)

Last day for treasurers to collect 2019 property taxes. (MCL 211.78a)

By 3 Notice of the March 10 presidential primary published. One notice required. (MCL 168.653a)

3 *Tuesday after the first Monday in March.* The assessor/supervisor shall submit the 2020 certified assessment roll to the board of review. (MCL 211.29(1))

Organizational meeting of township board of review. (MCL 211.29)

County treasurer commences settlement with local unit treasurers. (MCL 211.55)

County property tax administration fee of 4 percent added to unpaid 2019 taxes and interest at 1 percent per month. (MCL 211.78a(3))

Local units turn over 2019 delinquent taxes to the county treasurer. (MCL 211.78a(2)) On March 1 in each year, taxes levied in the immediately preceding year that remain unpaid shall be returned as delinquent for collection. However, if the last day in a year that taxes are due and payable before being returned as delinquent is a Saturday, Sunday or legal holiday, the last day taxes are due and payable before being returned as delinquent is on the next business day and taxes levied in the immediately preceding year

that remain unpaid shall be returned as delinquent on the immediately succeeding business day.

By 5 Public accuracy test must be conducted for the March 10 presidential primary. (R 168.778) Notice of test must be published at least 48 hours before test. (MCL 168.798)

By 6 Final date townships can establish, move or abolish a polling place for the May 5 election. (MCL 168.662)

6 Electors may obtain an absentee voter ballot for the March 10 presidential primary via first-class mail until 5 p.m. (MCL 168.759)

9 The board of review must meet on the second Monday in March. This meeting must start not earlier than 9 a.m. and not later than 3 p.m. The board of review must meet one additional day during this week and shall hold at least three hours of its required sessions during the week of the second Monday in March after 6 p.m. (MCL 211.30) Note: The township board may authorize an alternative starting date for the second meeting of the March board of review, which can be either the Tuesday or Wednesday following the second Monday in March. (MCL 211.30(2))

Electors may obtain an absentee voter ballot for the March 10 presidential primary in person in the clerk's office until 4 p.m. (MCL 168.761)

10 Election day registrants with proof of residency may obtain and vote an absentee voter ballot in person in the clerk's office or vote in person in the proper precinct until 8 p.m. (MCL 168.761)

Emergency absentee voting until 4 p.m. (MCL 168.759b)

Presidential primary. (MCL 168.613a)

12 Boards of county canvassers meet to canvass the presidential primary at 9 a.m. (MCL 168.821)

13 Within 10 business days after the last day of February, at least 90 percent of the total tax collections on hand must be delivered by the treasurer to the county and school district treasurers. (MCL 211.43(3)(b))

By 21 Delivery of military and overseas absentee voter ballots must begin for the May 5 election by this date. All requests received since Nov. 5, 2019, from a military or overseas voter must be honored for all 2020 elections. (MCL 168.759a)

County clerk delivers absentee voter ballots for the May 5 election to township clerks. (MCL 168.714)

Absentee voter ballots for the May 5 election must be available for issuance to voters. (MCL 168.714)

By 24 Boards of county canvassers complete canvass of the presidential primary; county clerks forward results to secretary of state within 24 hours. (MCLs

168.581, 168.822 and 168.828)

26 *through April 14.* Precinct inspectors for the May 5 election appointed by township election commissions. (MCL 168.674)

By 30 Board of State Canvassers meets to canvass the presidential primary. (MCL 168.581)

31 Deadline for townships to report any errors identified in the 2019 personal property tax reimbursements on Form 5654 *Correction of Millage Rate or Other Errors for the 2019 Personal Property Tax Reimbursement Calculations* to the state Department of Treasury. (MCL 123.1358(4))

Deadline for townships to report any modifications to the 2013, 2014 or 2015 commercial personal property and industrial personal property taxable values on Form 5658 *Modification of 2013, 2014 and 2015 Personal Property Taxable Values Used for the 2019 Personal Property Tax Reimbursement Calculations* to the Department of Treasury. (MCL 123.1345(e), (o) and (z))

APRIL

1 School district or intermediate school district must reach agreement for summer tax collection with township if there is a summer school levy. (MCL 380.1613(2))

Treasurers make final adjustment and delivery of the total amount of tax collections on hand no later than April 1. (MCL 211.43(3)(c))

Last day to pay all forfeited 2017 delinquent property taxes, interest, penalties and fees, unless an extension has been granted by the circuit court. If unpaid, title to properties foreclosed for 2017 real property taxes vests solely in the foreclosing governmental unit. (MCL 211.78k)

Assessors are required to annually provide a copy of Form 5278 *Eligible Manufacturing Personal Property Tax Exemption Claim, Personal Property Statement, and Report of Fair Market Value of Qualified New and Previously Existing Personal Property* (Combined Document), and Form 5277 *Affidavit to Rescind Exemption of Eligible Manufacturing Personal Property Defined in MCL 211.9(m) and 211.9(n)*, and other parcel information required by the state Department of Treasury in a form and manner required by the department no later than April 1 of each year. (MCL 211.9m and 9n)

Separate tax limitations voted after April 1 of any year are not effective until the subsequent year. (MCL 211.205i(2))

2 Each downtown development authority, tax increment finance authority, local development finance authority, corridor improvement authority, water resource improvement authority and neighborhood improvement authority shall send a copy or an electronic mail link of its currently adopted development plan or its currently adopted tax increment finance plan, if separate from the development plan, to the Department of Treasury. (MCL 125.4912)

By 6 Clerk shall post and notify the secretary of state of hours the clerk's office

will be open on the Saturday or Sunday, or both, immediately before the May 5 election to issue and receive absentee voter ballots. (MCL 168.761b)

Clerk shall post and notify the secretary of state of any additional locations and hours the clerk will be available to issue and receive absentee voter ballots for the May 5 election, if applicable. (MCL 168.761b)

6 *On or before the first Monday in April.* The board of review must complete its review of protests of assessed value, taxable value, property classification or denial by assessor of continuation of qualified agricultural property exemption. (MCL 211.30a)

By 8 Notice of voter registration for the May 5 election published. One notice required. (MCL 168.498)

8 The supervisor or assessor shall deliver the completed assessment roll, with board of review certification, to the county equalization director not later than the 10th day after adjournment of the board of review or the Wednesday following the first Monday in April, whichever date occurs first. (MCL 211.30(7))

An assessor shall file Form 606 (L-4021) *Assessment Roll Changes Worksheet* with the county equalization department, and Form 607 (L-4022) *Report of Assessment Roll Changes and Classification* (signed by the assessor) with the county equalization department and the State Tax Commission, immediately following adjournment of the board of review.

Form 4626 *Assessing Officers Report of Taxable Values as of State Equalization* due to the county.

20 *On or before the third Monday in April.* Allocation board meets and receives budgets. (MCL 211.210)

Last day to register for the May 5 election in any manner other than in person with the local clerk. (MCL 168.497)

By 21 Candidates for partisan and nonpartisan offices (other than judicial candidates) for the Aug. 4 primary file nominating petitions (or fees if applicable) and Affidavit of Identity. Withdrawal deadline elapses at 4 p.m. on April 24.

21 *through May 5 at 8 p.m.* In-person registration for the May 5 election with local clerk with proof of residency. (MCL 168.497)

By 24 Pre-primary campaign statements due. Books close July 19.

24 Write-in candidates for the May 5 election file declaration of intent forms by 4 p.m. (MCL 168.737a)

By 25 County clerks deliver remainder of ballots and election supplies

for the May 5 election to township clerks. (MCL 168.714)

By 27 Township clerks forward names and addresses of partisan and nonpartisan candidates for the Aug. 4 primary to county clerk. (MCL 168.321, 168.349)

By 28 Notice of the May 5 election published. One notice required. (MCL 168.653a)

Challenges against nominating petitions filed by partisan and nonpartisan candidates for the Aug. 4 primary submitted to filing official by 5 p.m. (MCL 168.552)

Petitions to place county and local questions on the Aug. 4 primary ballot filed with county and township clerks by 5 p.m. (MCL 168.646a)

By 30 Public accuracy test for the May 5 election must be conducted. (R 168.778) Notice of test must be published at least 48 hours before test. (MCL 168.798)

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Is there a deadline for making draft planning commission meeting minutes available to the public?

Yes. MCL 15.269 of the Open Meetings Act (OMA) requires that every public body must make proposed meeting minutes available for inspection by the public within eight business days after the public meeting to which the minutes refer. This provision applies to the planning commission, zoning board of appeals, township board and any other public body. A public body is defined in MCL 15.262 of the OMA and includes “any state or local legislative or governing body, including a board, commission, committee, subcommittee, authority, or council, that is empowered by state constitution, statute, charter, ordinance, resolution, or rule to exercise governmental or proprietary authority or perform a governmental or proprietary function ...”

Approved meeting minutes must then be available for public inspection within five business days after the meeting in which the minutes were approved.



If draft meeting minutes must be available for inspection, does this also apply to closed session minutes?

No. If a closed session is properly called under the OMA, then MCL 15.267 requires that, “[a] separate set of minutes shall be taken by the clerk or the designated secretary of the public body at the closed session. These minutes shall be retained by the clerk of the public body, are not available to the public, and shall only be disclosed if required by a civil action filed under section 10, 11, or 13. These minutes may be destroyed 1 year and 1 day after approval of the minutes of the regular meeting at which the closed session was approved.”



Our township is involved in litigation; can the township board discuss this litigation in closed session?

Possibly. A township may only go into closed session for certain purposes as set forth in the OMA. MCL 15.268 provides the permissible purposes for going into closed session, and one such purpose is, “[t]o consult with its attorney regarding trial or settlement strategy in connection with specific pending litigation, but only if an open meeting

would have a detrimental financial effect on the litigating or settlement position of the public body.” It is apparent from this language that not all litigation may be discussed in closed session.

To go into closed session under this provision, the regular meeting minutes must state this purpose, including that open meeting discussion would have a detrimental financial effect on the litigating or settlement position of the township and must reference the specific pending litigation that will be discussed. Additionally, a two-thirds roll call vote of the board members elected or appointed and serving (not just those present at the meeting) is required to go into closed session for this purpose under MCL 15.267.

Finally, it must be stressed that this provision cannot be used unless the board is consulting with the attorney. This requires the attorney to either be present for the closed session consultation or otherwise participate remotely. The board cannot just go into closed session to discuss the litigation among themselves.



What if our township attorney is not available to discuss litigation, but the board wants to have a closed session to discuss issues involved in a lawsuit?

Another permissible purpose for going into closed session under MCL 15.268 is, “[t]o consider material exempt from discussion or disclosure by state or federal statute.” A confidential attorney-client communication (i.e., memorandum) providing legal advice to the board is material exempt from disclosure and the township board could go into closed session to consider the communications content. This does not require the attorney to participate in the closed session. Discussion of the case in closed session, however, must not stray beyond the confines of the confidential attorney-client communication.



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As stated above, a two-thirds roll call vote on the stated purpose is required to go into closed session. It should be noted that this process can be used to go into closed session to discuss other matters of confidential written legal advice from the township attorney.

 Three months ago, our township entered into a contract to sell a piece of property, and the decision was made at a special meeting of the board. The meeting minutes were approved and made available more than 60 days ago. A neighbor who wanted to purchase the property is now before the board, challenging our decision by correctly indicating that we did not properly notice the special meeting. Can the neighbor go to court for an OMA violation to void our sale?

No. There are relatively short time frames to go to court to invalidate a decision of the township for an OMA violation. MCL 15.270 provides that, "The circuit court shall not have jurisdiction to invalidate a decision of a public body for a violation of this act unless an action is commenced pursuant to this section within the following specified period of time:

- (a) Within 60 days after the approved minutes are made available to the public by the public body except as otherwise provided in subdivision (b).
- (b) If the decision involves the approval of contracts, the receipt or acceptance of bids, the making of assessments, the procedures pertaining to the issuance of bonds or other evidences of indebtedness, or the submission of a borrowing proposal to the electors, within 30 days after the approved minutes are made available to the public pursuant to that decision."

Since the decision in this case was approval of a sales contract, the action would have had to be commenced against the township within 30 days after the approved minutes were made available. In this case, the circuit court would not have jurisdiction to void the contract.

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



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Legislative lowdown

A quick look at critical bills that MTA is following as they move through the legislative process. For a complete list, head to MTA's "Legislative Action Center" on the members side of www.michigantownships.org, or look to our weekly and monthly e-newsletters sent to all MTA member officials.

SB 14: Drinking water standards—Provides for maximum PFAS contaminant levels allowed for drinking water standards. *MTA monitoring.*

SB 19: Public employees and officers—Modifies population thresholds for contracts of public servants serving as public safety officers. *MTA supports.*

SB 26, HBs 4025 & 4047: Property tax—Requires Michigan Tax Tribunal determinations to consider all three methods of appraisal in assessment disputes and prohibits deed restrictions on valuation of property. *MTA supports.*

SB 28: Motor fuel tax—Requires motor fuel tax to be dispersed to county where fuel is pumped. *MTA monitoring.*

SBs 31-32: Recreation passport—Expands current recreation passport program to include trails and state forest campgrounds. *MTA monitoring.*

SB 39: Property tax assessments—Excludes private deed restrictions from being considered by the Michigan Tax Tribunal if they substantially impair the highest and best use of property as compared to property subject to assessment. *MTA supports.*

SB 46: Property tax assessments—Clarifies valuation of wind energy systems. *MTA supports.*

SB 54 & HB 4100: Historic preservation tax credit—Restores the state historic preservation tax credit program. *MTA supports.*

SB 78: Elections—Requires ballot instructions to be printed on ballot. *MTA monitoring.*

SBs 79, 117 & 297: Elections—Revises procedure for returning absentee ballots for military personnel. *MTA monitoring.*

SB 104 & HB 4179: Open Meetings Act—Allows additional remedies for noncompliance to include attorney fees and allows a one-year window during which civil actions may be brought. *MTA opposes.*

SB 431: Local preemption—Prohibits local regulations of certain conditions under zoning ordinance for mining permit approval. *MTA opposes.*

SBs 518-519: Transportation—Provides for the allocation of federal aid funding to MDOT and directs non-federal aid funds to local road agencies. *MTA monitoring.*

SB 520: Transportation—Clarifies pavement warranties for construction and repair. *MTA monitoring.*

SB 521: Transportation funding—Requires local road agencies to identify funding sources for new roads, including maintenance when adding new infrastructure or planned developments. *MTA monitoring.*

SB 522: Transportation—Establishes a local road agency advocate to the Transportation Asset Management Council. *MTA supports.*

SB 714: Erosion control—Allows for the construction of temporary erosion control structures without a permit under certain conditions. *MTA monitoring.*

SB 756: Elections—Allows election inspectors appointed to absent voter counting boards to work in shifts in townships with a population of 10,000 or more active registered voters. *MTA supports.*

SB 757: Elections—Allows for the pre-processing of absent voter ballots the day prior to election in townships with a population of 10,000 or more active registered voters and sets requirements for absent voter ballot secrecy containers. *MTA supports.*

HB 4035: Local preemption—Prohibits local regulation of dogs based upon breed or perceived breed. *MTA opposes.*

HB 4046: Land use/zoning preemption—Limits local zoning regulation of vacation rentals and short-term rentals. *MTA opposes.*

HB 4083: Sanctuary cities—Prohibits local laws that prevent local officials from cooperating with federal authorities regarding an individual's immigration status. *MTA opposes.*

HB 4095: Land use/zoning preemption—Preempts local zoning authority for child foster care institutions for a state-licensed facility up to 10 children. *MTA opposes.*

HB 4185: Destruction of property—Adds willfully and maliciously destroying or damaging the real property of a fire, sheriff or police department to the current prohibition regarding a fire or police department's personal property. *MTA supports.*

HB 4268 & SB 163: Broadband personal property exemption—Creates a personal property tax exemption for new broadband equipment that resolves lack of broadband service. *MTA opposes.*

HBs 4389-4391: Firefighting foam—Requires specific reporting requirements to the state when firefighting foam containing PFAS is used and sets minimum training and certification standards regarding use of firefighting foam and PFAS. *MTA monitoring.*

HB 4454: Unlawful dumping—Revises criminal penalties and civil fines for unlawful dumping of garbage. *MTA supports.*

HBs 4554-4563: Short-term rental—Creates the Short-term Rental Promotion Act requiring registry of short-term rentals and retains local zoning authority. *MTA supports.*

HB 4691: Municipal stormwater utilities—Creates a new act to provide for and authorize a fee for municipal stormwater utilities. *MTA supports.*

HB 4692: Drains and sewers—Specifies rainfall levels and what constitutes a sewage system defect for liability for overflow or backups. *MTA supports.*

HB 4750 & SB 400: Lead—Requires testing and disclosure of lead in water systems. *MTA monitoring.*

HBs 4775 & 4776: Recreation passport fees—Modifies the distribution of recreation passport fee revenue and increases the percentage to the Local Public Recreation Facilities Fund. *MTA supports.*

HB 4800: Transportation funding—Allocates a portion of revenue from vehicle registration fees to the township, city or village where registrant resides for road funding. *MTA supports.*

HBs 4963-4964: Transportation funding—Allows a county, city or township to ask voters to create a local gas tax and/or a local add-on to their driver registration fees. *MTA supports.*

HB 4965: Transportation funding—Modifies allocations for certain expenditures by county road agency for primary and local roads to provide more flexibility. *MTA neutral.*

HB 4971: Transportation—Requires the Transportation Asset Management Council to evaluate roads throughout the state for “right-sizing” and to work with local road agencies to ensure infrastructure is not overbuilt. *MTA monitoring.*

HBs 5024 & 5025: Property tax/special assessment—Allows authority for townships to establish a millage or special assessment for mosquito abatement. *MTA supports.*

HB 5031: Elections—Expands polling place locations to include a privately owned building. *MTA monitoring.*

HB 5032: Elections—Increases allowable precinct size, allows for precinct consolidation at certain elections by adding primary elections and requires permanent absent voter list. *MTA monitoring.*

HB 5119: Planning commission—Expands eligibility for membership to allow volunteers, police officers, firefighters and medical first responders to serve on a planning commission. *MTA opposes.*

HB 5123: Elections—Requires absent voter counting boards in cities and townships with more than one election precinct. *MTA monitoring.*

HB 5124: Delinquent property taxes—Reduces the redemption amount for delinquent taxes on a parcel of property under certain circumstances. *MTA monitoring.*

HB 5141: Elections—Allows a municipality to enter into an agreement with the county or one or more municipalities to establish an absent voter counting board. *MTA supports.*

HB 5197: Construction document retention—Allows municipalities to reproduce certain construction documents in electronic or digital file format and dispose of the original documents as long as specific conditions are met. *MTA supports.*

HB 5247: Elections—Allows township board elections to be nonpartisan with the approval of voters. *MTA supports.*

HB 5305: Land use—Modifies local zoning regulation and permitting of mining operations. *MTA supports.*

HB 5312: FOIA—Prohibits a public body from charging any fee for production of records and modifies the number of days to respond and produce records to 10 calendar days. *MTA opposes.*

HBs 5401, 5402 & 5463: High water speed limits—Allows temporary vessel speed limits on water bodies during high water conditions. *MTA supports.*



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2020 Conference reminders

Three caucus elections slated for MTA Conference

Three caucus elections—for MTA Districts 1, 3 and 13—will be held on April 28, during the 2020 MTA Annual Educational Conference & Expo at the Grand Traverse Resort, to elect directors to the MTA Board of Directors. Those Districts encompass the following counties:

District 1: Gogebic, Houghton, Ontonagon and Keweenaw Counties

District 3: Alger, Delta and Menominee Counties

District 13: Bay, Gladwin and Midland Counties

Elected officials from MTA-member townships in Districts 1, 3 and 13 are eligible to run for the MTA Board. Officials who wish to run for District director can campaign for the position before the caucus, though there are no requirements for prior announcement of candidacy. Profiles of officials who have announced their candidacy will appear in the April/May issue of *Township Focus*.

Specific times and locations for the caucus elections will be published in the Conference program received on-site.

Hitch a ride to Conference!

The Marquette County MTA Chapter is arranging transportation to bring township officials and their guests to the Conference from the Upper Peninsula, as well as other stops along the route (pending adequate participation). For details, contact **Wells Township** (Marquette Co.) Clerk **Patti Manninen** at (906) 238-4312 or plm@alphacomm.net, or MTA District 2 Director **James Nankervis** at (906) 485-5417 or supervisor@ishpemingtownship.com.

Is your area organizing a bus? MTA can help you spread the word! Contact kristin@michigantownships.org or call (517) 321-6467.

Upcoming dates & deadlines

March 30 Early-bird registration deadline

April 3 Last day to obtain housing at special rates in MTA room block

April 13 Last day to obtain the regular registration rate; on-site rate applies after this date



Neighbors serving neighbors.

Does any phrase more perfectly sum up township government?

Be inspired by—and celebrate—the very heart of townships at

MTA's 2020 Annual Educational Conference & Expo



This spring, MTA's **67th Annual Educational Conference & Expo**, being held **April 27-30, 2020**, is returning to the Grand Traverse Resort in **Acme Township** (Grand Traverse Co.).

You don't want to miss:

- **60-plus breakout sessions**, designed to provide knowledge, enhance your skills and inspire you to become a truly effective leader. Topics are designed for elected officials at every level and, in addition to statutory duties, address a variety of concepts, trends and current issues in township government.
- **Monday pre-Conference sessions**, including *Assessors Renewal: Professionally Speaking*, *What the Board Needs to Know about the Authorities & Responsibilities of Michigan Townships*, *Fundamentals of Assessment & Taxation*, *Cemetery Management*, and our *Legal Institute for Township Attorneys*.
- **Evening networking events**, including our Annual Banquet, preceded by a VIP Reception. Don't miss the "3-D" Welcoming Reception (*sponsored by Bendzinski & Co.*), Fun Night '80s Block Party (*sponsored by Michigan Township Participating Plan*), and Afterglow Reception (*sponsored by Burnham & Flower Insurance Group*).

REGISTER TODAY!

Download a registration brochure or register online at www.michigantownships.org/conference.asp.
Early-bird rates end March 30. Reserve your hotel room at www.grandconnection.com/mta2020.



Partnership is the new leadership

From his podcast, *Relevant Leadership*, to his book, *Partnership is the New Leadership*, Ty Bennett has been a proponent of connecting with people and developing relationships as a pathway for success. As MTA's 2020 Conference keynote speaker, he will share how cultivating trust, encouraging collaboration and building consensus can help any township board and unite a community. Here's a preview:

Ty Bennett's passion is helping leaders—like Michigan's township officials—cultivate the relevance and influence they need to challenge

old ways and open new doors. Township Focus asked MTA's 2020 Conference keynoter to share his thoughts on how local leaders

can further connect and develop relationships with the people they serve. Learn more from Bennett at MTA's 2020 Annual Conference this April in Acme Township (Grand Traverse Co.).



Tell us about your “Partnership is the New Leadership” message.

What led me to this concept was a survey that I conducted of 5,000 leaders, asking the question, “What do you want from your people?” The resounding response was, “We want commitment.”

When you think about what that looks like in the township world, it's people in your community who are committed to sharing their ideas, getting on board with initiatives, and volunteering some of their time.

What this drives, more than anything else, is your approach

as a leader because people are committed to people. The relationships between people engender trust, foster accountability and build a level of commitment. The approach that leaders take directly impacts the response that they get from their people. “Partnership is the new leadership” is a way to approach leadership in today's world.

How can township officials begin to build those types of relationships?

I often tell leaders that we're in the people business. And if we're in the people business, then relationships are the currency of that business, so we need to prioritize relationships.

Here is one simple idea: focus on being *interested*, not *interesting*. That may sound like a really clever play on words, but in practice, it's huge because being interesting is all

about you, but being interested is all about other people. It's listening. It's asking questions. It's validating other people's ideas. Developing the ability to connect and engage with people at a different level is so vitally important.

This year's Conference theme is "Neighbors Serving Neighbors." How do you see partnerships going hand in hand with that, and what do you hope our attendees take away from your keynote address?

That's the beauty of this—a partnership just by its very nature is a win-win relationship. A partnership elicits a feeling of mutual respect, of service toward each other, of support and collaboration, which is the idea of "neighbor serving neighbors." It's people coming together to make something better of their community.

I hope to bring some energy and inspiration to Conference attendees. The word "inspire" really speaks to me. It means to breathe life into someone. I hope I can do that through some of the stories and insights that I share. I also hope to be able to draw out some of the best practices of how we can do that more effectively, and make attendees feel excited about the service that they are providing and the things that they're doing.

How can MTA's members use communication to build a stronger connection with their community?

One important aspect for local leaders to recognize is that communication doesn't happen when it's said, it happens when it's understood. Communication has to connect, and people have to get their head around it, understand where it's coming from to get the full picture. One of the concepts in *Partnership is the New Leadership* is "conversational leadership"—the skill of learning how to talk *with* people and not *at* people. It's making yourself available, approachable and accessible for those conversations to take place.

From there, there's some balance in how we create dialogue versus monologue. It's how we give people the psychological safety to open up and share their ideas. In local government, it's so important to have those ongoing dialogues where people are openly sharing in more productive dialogue and moving in positive directions.

How can township officials cultivate a culture of trust with their fellow board members, residents and other community stakeholders?

The example starts at the township board level. If it doesn't start at the board level, it becomes very hard to do that on a bigger scale. Just like in any organization, it's hard to bring people together on the same page. From a relationship standpoint, I think it's having real conversations, having some of those open dialogues and understanding what priorities are.

One of the ideas that we're going to talk about at the Conference is investing in people. I use that term very consciously. "Investing in people" doesn't mean spending money or doing anything extravagant, but rather the things that we do that are more personal in nature, that are more specific and impactful. The more you can connect with your board and build those relationships, and that cohesion, the better you will function as a unit.

How do you encourage collaboration? How can this be done in the township hall?

In talking to MTA members, I learned there are people who come in with a single initiative, or they run on a specific platform. That's not a collaborative mindset to serve the community long-term.

Changing culture can take time. One of the beauties of this is that sometimes changing culture happens because we bring in new people, new blood, new excitement, new energy and new mindsets. We build engaged collaboration and engaged people who are willing to work together for the greater good. That's the end goal.

My hope is that when we meet at this year's Conference, I can share some ideas, shift some mindsets and give some specific approaches, so that people can leave with some idea of, "Okay, here's how we start to move more in this direction and take our township to the next level."

Listen to our full conversation with Ty Bennett on MTA's "Township Talk" podcast, available on www.michigantownships.org, or on Google Play and iTunes. Learn more from Bennett at the General Session of MTA's 2020 Annual Educational Conference & Expo on Wednesday, April 29. Bennett will share additional insights in his breakout session, Relevant Leadership, being held later that day, from 10:15 to 11:30 a.m. For more about the Conference, turn to pages 14-15, or visit www.michigantownships.org/conference.asp.



Cultivating an ethical culture in your township



When the **Silver Creek Township** (Cass Co.) board decided to create a mission statement, they knew they had an important message to convey to their community, their residents—and themselves.

The resulting mission expresses goals for township services and programs, a vision for a connected and committed community, and aspirations for the township's future. And its third, and final, stanza shares how those things become possible, with "ethical and transparent practices of elected officials who uphold the traditions and unique characteristics of township government."

"We want the people in our township to know that we are here for them," said Supervisor **Bill Saunders**. "Our board strives to keep the public informed of what we're doing. That is our big thing. Residents can come to us any time and discuss anything. It just works out great that way, keeping that front door open to our residents."

Silver Creek Township's mission could easily apply to any township in the state. Acting ethically and ensuring that township policies and operations are overseen in a

trustworthy and transparent manner is absolutely essential for each and every elected township official—as well as appointed officials, staff and even volunteers. While, of course, we all believe ourselves to be truthful, trustworthy and stalwart in our actions and values, this is even more important for local leaders—those in whom their residents have placed their trust and confidence to do the best for their community at all times, putting personal interests aside for the public good.

It seems like such a no-brainer—no one runs for public office thinking that he or she, or one of their township colleagues, will be embroiled in a public battle or accusation over ethical wrong-doing or misconduct. So why then does this occur—at all levels of government? And what can township officials do, and what tools are available to local leaders, to ensure ethical and proper behavior in the public realm?



Ethics matter

In today's world, there is an enormous concern around trust in government. While surveys and polls have shown that local government is the level of government most trusted by the people, residents often remain skeptical, no matter the level of government. It can be difficult for township board members to build and maintain the perception that they are acting truly ethically with their residents. It is imperative for township boards to be seen as ethical, fair and honest by their community—and it benefits both the township and the community.

“Acting in an ethical manner builds a solid foundation for the board,” Saunders said. “Open communication by board members is what is in the best interest of the township. If this is done, you will build the trust and confidence of your township residents. When you have the trust of the community, everything goes more smoothly.”

Simply put, all elected leaders—from the township level to the federal government—are held to a greater standard than the average member of the public. Township board members are each considered a “fiduciary”—a steward—entrusted with oversight and control of the township's property and assets. The public has put their trust in you to do what's best for the township and the needs of the community. Further, the best interests and needs of the public and the public trust require public officials act ethically, consistent with core ethical values, in a manner that promotes the public's trust and confidence, and that is in the public's interest, not for personal gain.

What does this mean on a practical basis? The fiduciary duties of a township board member involve:

- 1) **The duty of care**, which requires officials to be informed and involved, actively participate in meetings, and proactively seek to prevent problems.
- 2) **The duty of loyalty**, which requires officials to act in the best interests of the township, rather than advancing their own personal interests or using their township position for personal profit or gain.
- 3) **The duty of obedience**, which requires officials to follow the township's duly adopted ordinances, policies and procedures as they pertain to the conduct of township affairs, as well as applicable state and federal laws relating to the township, including laws that govern the use of township money.

A lack—or perceived lack—of ethical behavior on the part of local officials, or other township personnel, harms the township in intangible ways, from an erosion of the board's authority and influence on public matters, to potential recall or election challenges, and even criminal and civil penalties.

It goes well beyond simply public trust and faith. As stewards, officials are held by state and federal statutes (*see sidebar on page 20*) to a high standard of care and loyalty in the public interest. In addition to following the laws governing many aspects of ethics and conduct for public officials, there is still a need for township boards to adopt policies to govern board members, other officials and staff, as a proclamation of the rules or guidelines themselves and an expression of the township board's commitment to proper conduct. Township board policies and practices, and the conduct of the township's highest elected and appointed officials, must send a clear and consistent message that the public interest is paramount in all actions and decisions.

Walk the walk

The township board sets the tone, as the voice of the township as a public corporation, and as the “owner, operator and employer” of township property, facilities and personnel. Your board sets the township's moral compass, choosing to follow not only minimum ethical requirements but advocating for high standards of integrity, credibility, transparency and fairness.

According to the Institute for Local Government's Public Service Ethics Program, there are four tenets to ethical conduct in public office. Public officials must:

- Not financially benefit from their positions
- Not receive special benefits by virtue of their positions
- Not practice secrecy in their decision-making
- Not allow favoritism or bias to cloud their action

These four principles seem both logical and straightforward. So, why does corruption happen? As noted in our December 2016 “Local View” article entitled, “Township ethics start at the top,” ethicists identify three ingredients of public corruption:

State laws address numerous ethical issues

Michigan laws proscribe certain behavior and conduct that prohibit public officials from unfairly using their offices to benefit personally, and require public officials to put the interests of the organization to which they have been elected above the interests of any other entity in which the public official simultaneously holds an interest. Ethical standards of public officials encompass these issues in the laws that prohibit conflicts of interest and simultaneously holding incompatible offices.

Following what many viewed as abuses of power related to the Watergate scandal in the early 1970s, Michigan added laws requiring that all governments operate open to public scrutiny through the Open Meetings Act (OMA) and the Freedom of Information Act (FOIA). The Whistleblower Protection Act prohibits retaliation against public servants who disclose what they perceive to be wrongdoing in public entities.

In fact, many laws have been adopted to require adherence to various ethical principles. Open and transparent government is fostered through a multitude of public hearing requirements as well as our budgeting and accounting laws. Election laws guarantee that everyone has a fair chance of being elected to public office.

All township officials should be well aware of the provisions of two of the better-known ethics statutes: OMA and FOIA. However, there are ethical underpinnings to a variety of other state laws. Some of these statutes include:

- Neglect of duty, Penal Code (MCL 750.478)
- Fiduciary duty, Penal Code (MCL 750.489)
- Embezzlement, Penal Code (MCL 21.154)
- Commingling funds illegal expenditures, Penal Code (MCL 750.490).
- Extension of credit, nonpublic use of funds, Penal Code (MCL 750.490a)
- Custody of Records, Penal Code (MCL 750.492)
- Whistleblower Protection Act (MCL 15.362)
- Political Activities of Public Employees (MCL 15.403(1), *et seq.*)
- Incompatible Office of Public Officials (MCL 15.181(b), *et seq.*)
- Contracts of Public Servants With Public Entities (MCL 15.322(1), *et seq.*)
- Standards of Conduct for Public Officers and Employees (MCL 15.341, *et seq.*)

- **Motivation**—personal money problems stemming from gambling or drug addiction; a need to maintain an image of personal wealth; crushing debts or other family financial crisis
- **Rationalization**—the perception that misconduct is the norm; that no one cares or is harmed; a belief of being underpaid, under-appreciated or being passed over for promotion; or strong sense of duty to favor family and friends
- **Opportunity**—low odds of being caught or punished due to weak corruption detection procedures, such as poor internal controls; big-ticket township purchases and lucrative service contracts combined with a vendor perception that kick-backs and bribes are just the cost of doing business in the public sector

Fortunately, incidents involving township corruption are relatively rare. Township officials have earned their residents' trust—and work hard to keep it. A 2016 survey of 600 likely registered voters, commissioned by MTA, sought to find out more about residents' trust in government. Their responses were not altogether surprising—47 percent said that they trust their local government the most, over the federal, state and county government, which each received 12 percent of responses. Some 63 percent said they trust their township “a great deal” or a “fair amount.”

That trust has been hard-earned, by townships' transparency and accessibility to their constituents, and congenial, considerate relationships between officials and their community members—neighbors serving neighbors—that result in faith that local officials will act in the community's best interest.

This is the cornerstone of public service. “We make decisions based upon what's best for the community, not what's best for us,” said **Robert Cannon**, supervisor of **Clinton Charter Township** (Macomb Co.).

Being open and engaged with the public, and sharing information about how and why decisions are made, is a crucial step to garnering public trust. The importance of transparency is something that the Silver Creek Township board does not take lightly, according to Saunders. “For us, the ground rules for ethical practice are a transparency thing,” he said. “We have our website, and post draft minutes within 24 hours of the meeting. We try to keep it all available for residents to see, and would like for them to attend our meetings.”

Saunders recalled when tempers flared and emotions ran high when the township was putting in a new sewer system. Board meetings were packed. The board, in a effort to be transparent and ensure residents that nothing untoward was happening, held meetings in spaces large enough to accommodate the crowds. “We wanted to keep everything right out in the open as much as possible, so residents knew exactly where we were and what we were doing,” he said.

Follow the code

In addition to outward actions and visible proclamations in a township mission or vision statement, township boards can take further steps to officially adopt and adhere to a code of conduct to help aim for the highest levels of stewardship and public trust. All boards should at least consider the message that a code of conduct conveys. A code of conduct can highlight the most essential rules governing the township board and any others covered by the code. Written in a way that is easily accessible, and easily digestible, this is an important way to convey to township officials—and the public—the priorities of ethical decision-making and actions.

What goes into a code of conduct? According to MTA's *Authorities & Responsibilities of Michigan Townships*, a public service code of conduct requires that:

- township officials and employees do not receive special benefits because of their positions
- that actions are taken with transparency and without bias
- decisions generally should not be taken when there would be a direct financial gain
- even the appearance of impropriety should be avoided

A sample Township Code of Conduct is available on the "Ethics and Conduct" web page on the members-only portion of MTA's website, www.michigantownships.org. The sample has been adopted—and adapted—by townships across the state.

In **Denmark Township** (Tuscola Co.), MTA's Code of Conduct was a starting point for broader township ethics policies, and Supervisor **Charles Heinlein** believes adopting the code is a benefit to the board—and the community. The code helps officials "remember that you're an official elected by the township residents, and it is part of ethical conduct to act and be responsible for what the township residents expect," he said.

Put it in policy

How does a township board ensure that today's—and tomorrow's—elected officials, as well as others serving the township, will consistently act ethically, and make decisions in the community's best interest? In addition to setting a high standard—as a board, and as its individual members—for others, board expectations can be articulated through carefully considered and crafted policies. An ethics policy or ordinance can lay out the type of conduct that is expected of township officials, volunteers and employees—and that the residents deserve.

Denmark Township, for example, took the inspiration from MTA's Code of Conduct one step further, and began the process of creating and adopting a five-page "Standards of Conduct and Ethics Policy."

"Townships have come a long way from the 1800s and early 1900s, when all the agreements and everything that was done needed only a handshake and a beer," Heinlein said, with a laugh. "We figured there should be some basis of what



In today's world, there is an enormous concern around trust in government. It can be difficult for township board members to build and maintain the perception that they are acting truly ethically with their residents. It is imperative for township boards to be seen as ethical, fair and honest by their community—and it benefits both the township and the community.

we use to gauge ethical performance in all the different areas of the township."

In 2011, the township board began the two-year process to create an ethics policy, to "provide practical guidelines for ethical decision-making and to encourage ethical behavior from township representatives responsible to the citizens of Denmark Township." From definitions to outlining penalties for violations, the policy helps to "encourage representatives to act in the township's and citizens' best interests."

Following its adoption by the board, copies were made available to the public and given to all township personnel impacted by the policy, including members of the fire department, planning commission and zoning board of appeals. The board is quick to point to the policy if any concerns are raised about possible policy violations.

"For us, there are the ethics and values you are expected to hold, and the unethical, unacceptable behavior that is not acceptable at any time, but especially in a position as an elected official," Heinlein said. "The policy was put together to cover the different aspects of the township. If there's a problem, we have to have some way to address it, so we can move on."

Adoption of the ethics policy coincided with the township's plans to build a new municipal building. With a township board that includes a licensed builder and a licensed electrical contractor, the elected leaders wanted to eliminate any potential public perception of favoritism or nepotism during the planning and construction phases. This culture of ethical practices and transparency helped ensure the community stayed informed and can trust that the township is working in the residents'—and not their own—best interests.

cover story

“We tell them what we’re doing, why we’re doing it, and how the different boards and commissions here are all held accountable for what they’re doing,” Heinlein said. “You have elected us into these positions for the township and for the good of all the residents in the township. That is where we are all coming from here.”

Heinlein believes that each township should adopt some sort of ethics policy or guidelines, in a format that best reflects their individual community.

“This is our basis for what we feel we need to do here in our township,” Heinlein said of the township’s policy, which is reviewed regularly along with all other township policies. “Every township is different. Take your time, do it right and have something on record that sets the standard for what is expected of township employees, elected officials and other board members.”

In general, ethics policies should explore the following areas to help guide township boards and individuals:

- Personal gain vs. public interest
- Conflict of interest
- Gifts
- Financial relationships (*including contracts or jobs with the township*)
- Integrity (*doing the right thing*)
- Credibility and transparency (*letting the public see you’re doing the right thing*)
- Public policy (*acting in the public’s interest*)
- Fairness (*considering stakeholders’ interests*)

While an ethics policy can apply to all who govern and serve a township, such a policy can be somewhat less effective for elected officials, as they cannot be “fired” from their positions. Any ethics violation by an elected official could only be remedied at the ballot box or by a recall. An ethics ordinance, however, can ensure ethical conduct by providing sanctions—including to elected officials—with violations resulting in a misdemeanor charge or municipal civil infraction.

Taking it a step further

When Clinton Charter Township adopted a new ethics policy last spring, following a tumultuous period in the community and county, it added a further component to ensure strong local ethical behavior in their community. Cannon said the township needed to take action to show to the residents that their elected officials and employees are working in the best interests of the community.

“It became important to ensure that the public has a good perception of elected officials,” said Cannon of the decision to create the policy. “This policy is important to me, and to the people who are true public servants.” He sees the policy

as not only a message to the public, but a guideline for elected officials and a way to help avoid future issues.

A committee was created consisting of three township board members, the township attorney, its human resource director and other staff members. The township took inspiration from the Macomb County ethics policy, other communities’ efforts and resources from MTA.

“We took all that we could and put together what was best for our community,” Cannon said, noting that all elected and appointed officials, as well as township employees and volunteers, are asked to review and sign the policy to signify their commitment to upholding its values and tenets.

The policy goes further than outlining expectations, and unacceptable actions and behaviors. It also created the township’s first-ever ethics board, comprised of three township residents, appointed by the township board for staggered one-, two- or three-year terms. The new board will be convened if an ethical issue arises or is reported in the township. After receiving a complaint, the board must meet within seven days to determine whether the complaint has merit and make recommendations, based on the ethics policy, to the township board. The newly formed board can also act on requests for advanced rulings in regard to whether a proposed transaction or action would violate the ethics policy.

The ethics board offers an opportunity to hear voices that might have previously felt they had no option for registering a complaint. “It’s in our best interest to make sure the public knows that there’s a way to criticize if you think we’re doing something wrong,” said Cannon, who calls the new board a type of “checks and balance” system.

Since it was formally established in August, the board has not received any complaints, but has met to establish its operating procedures and bylaws, and to elect a chair, **Daniel Maher**, who said he sees the ethics board serving in an advisory capacity to the township board.

“Every time we act upon either a complaint or request for ruling, whatever response the board determines is appropriate is provided to the board of trustees as an advisory opinion,” he explained. “It is up to the board of trustees to either act on that recommendation or that finding of the board or to disagree with it and operate as they see fit.”

In addition to the new policy and ethics board, Clinton Charter Township also created an entire “township ethics portal” on its website, which includes township board contact information, the ethics policy as well as the township’s purchasing and bid policy, a complaint form, and financial disclosure information for the elected board members.

“It’s everybody’s business what you earn as an elected official, and what your benefits are,” Cannon said, noting that the disclosure includes property and any businesses owned as well. “Those things are important.”

More actions to consider

In addition to those actions outlined above, there are many other things that can be incorporated into a township’s oversight that ensure ethical behavior within the township. Consider:

- Tasking the township clerk, treasurer and auditor with implementing comprehensive internal control procedures
- Checking potential employee’s backgrounds
- Reviewing all expenditures to assure a public purpose is served
- Implementing procedures to prevent manipulation of procurement decisions, including limiting individual township board member involvement that could lead to inappropriate advancement of self-interest
- Having periodic training in ethical conduct for all officials and employees
- Involving the township board in developing contractual performance standards, including boilerplate ethical contractual obligations, reviewing major procurements for policy compliance, and appointment of an accountable official as the township’s purchasing agent
- Having a policy protecting whistleblowers and requiring the reporting of suspected ethical lapses to appropriate oversight or criminal justice agencies

Do the right thing, for the right reason

Like all public leaders, township officials are held to a higher standard—and closer scrutiny—by their constituents, taxpayers, the media and others. As the government closest to the people, townships are, by nature, more accessible and offer greater engagement in local matters. Serving one’s community is a privilege—and something not to be taken lightly.

Heinlein keeps that in mind whenever he makes decisions for his community. “When you’re speaking, you have more than 3,000 voices behind you,” he said. “You’re speaking for all 3,000, not for yourself. You represent the township.”

Careful and considerate actions and decisions by all public leaders can help ensure that township government remains the most trusted form of government for years to come.

“It’s very simple,” Cannon said. “Do the right thing, for the right reason.”



Scott Southard, MTA Staff Writer, and **Jenn Fiedler**, MTA Communications Director

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How can the board set aside some of the township’s fund balance for future capital improvement?

If the board wishes to allocate a portion of the general fund, there are a couple of ways to do so. Under Generally Accepted Accounting Principles, townships can segregate general fund balance into several categories, the most relevant being:

1. **Committed.** These funds include amounts that can be used only for the specific purposes determined by a formal action of the township board. Committed fund balance amounts cannot be used for any other purpose unless changed or amended by the same formal legal actions creating the original commitments, such as resolution or ordinance.
2. **Assigned.** These amounts are constrained by a township’s intent to be used for specific purposes and are neither restricted nor committed. Intent is permitted to be made by the township board itself or an official to whom the board has delegated the authority to assign amounts to be used for specific purposes.

The township board could formally adopt a resolution dedicating a portion of fund balance to specific projects, for example \$100,000 for a new parking lot. This would be a “commitment,” since the action was a formal action of the board. Or, the township could “assign,” through a less formal action, a specific amount for future capital improvements. Either of these actions are reversible; a subsequent action by current or future township board majorities could “reclassify” either committed or assigned fund balances to “unassigned.”

If your board would like to more formally allocate surplus funds, it could consider a public improvement fund, under authority granted by Public Act 136 of 1956 (MCL 141.261, *et seq.*). This fund is used to accumulate non-tax revenue to “construct, acquire, extend, alter, repair or equip public improvements or public buildings.” Monies deposited in a public improvement fund cannot be used for any other purpose.

Funds may only be used for improvements or buildings authorized to townships under state law. A public improvement fund works best if project financing will be provided primarily from township funds. The township can only use non-earmarked, unpledged revenues, and may not transfer tax revenues to this fund. Only surplus non-tax revenue, such as state-shared revenues, may be used in a public improvement fund, which is established by a resolution of the township board.



From a budgetary standpoint, is there a difference between segregating fund balance in the general fund or a public improvement fund?

Yes. The monies accumulated in the general fund, whether committed or assigned, need formal board action before the money could be spent. The expenditures must be included in the original adopted budget, or through a budget amendment prior to spending. Board action to segregate fund balance to accumulate resources for capital expenditures is **not** an authorization to spend.

Similarly, the establishment of a public improvement fund by the board is also not an authorization to spend. The board must approve the expenditure prior to incurring the cost. The public improvement fund is assigned a new fund number 445 under the State Michigan’s revised Uniform Chart of Account and is classified as a “capital projects fund.” While the Uniform Accounting and Budgeting Act (PA 2 of 1968; MCL 141.421, *et seq.*) does not require capital project funds to have formally adopted budgets, many townships do include them in their budgeting process, either through a general appropriations act or a supplemental budget appropriation when specific projects are brought before the board.

The township can elect to subject any and all funds not to be budgeted under state law, to bring more control over expenditures. Note: Any transfers from the general fund to the public improvement fund also must be budgeted in the general fund.



Can the public improvement funds be transferred back to the general fund?

Public improvement funds cannot be transferred back to the general fund; once established, they can only be used for the purposes outlined in MCLs 141.261-141.265.

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.



upcoming MTA workshop

REGISTRATION INFORMATION

Zoning Board of Appeals: What's Your Role?

The zoning board of appeals (ZBA) was created as a safety valve, in recognition that the zoning ordinance is not able to anticipate how every property might be affected by zoning. With thousands of individual properties, a single zoning regulation cannot possibly be applied uniformly to every property's unique physical characteristics.

At MTA's May workshop, *Inside the Township Zoning Board of Appeals*, planning expert Steve Langworthy will demonstrate how the ZBA serves as a safety valve in those circumstances where zoning requirements don't fit. Explore how variances approved without sufficient justification can turn the safety valve into a leak, and a leak into a flood.

Whether you've been a member of your township's zoning board of appeals for many years or were recently appointed, this evening class will assist you in carrying out your responsibilities. Elected officials can learn more about the role of the ZBA and its relationship with the township board.

Explore the ZBA's authority, duties and roles, including use of alternates and when a conflict of interest might exist. Dig into ZBA review standards, variances, appeals of administrative decisions and interpretations, and hear about other duties that may be assigned to ZBAs. Dinner is included with registration and will begin at 4 p.m. The workshop is held from 5 to 8 p.m. Dates and locations are:

May 11: Comfort Inn Conference Center, 2424 S. Mission St., Mt. Pleasant (989) 772-4000

May 12: Treetops Resort Conference Center, 3962 Wilkinson Rd., Gaylord, (888) 873-3867

May 13: Fetzer Center at WMU, 2350 Business Ct., Kalamazoo (269) 387-3232

Discounted book package available! Use this form to pre-purchase MTA's Planning & Zoning Book Package, which includes 2019 editions of *The Township Guide to Planning & Zoning* and *Planning & Zoning Decision-making*. The *Township Guide to Planning & Zoning* provides a detailed look at the planning process and outlines elements of a successful planning program, while *Planning & Zoning Decision-making* aims to help planning and zoning officials reach defensible, effective decisions and build a strong community based on sound planning principles and procedures. Books will be distributed at check-in. A limited number of publications will also be available to purchase on-site.

Cancellation, Substitution & Switching Policy

Written cancellation requests received at the MTA office by April 24 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.



Inside the Township ZBA Registration Form — — — —

Township _____ County _____

Telephone _____ Email _____

Name & Title _____ Purchase P&Z book package? Yes No

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

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May 11: Mt. Pleasant

May 12: Gaylord

May 13: Kalamazoo

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*Rate applies to MTA members. Non-members, call for rates.

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A budding commodity

Michigan's industrial hemp ag pilot program continues in 2020

In April 2019, the Michigan Department of Agriculture and Rural Development (MDARD) launched the state's first industrial hemp program, adding a new crop to the state's farming community. Township officials may receive questions from residents—or may have questions themselves—about this new crop, which is being planted in communities throughout the state.

A new opportunity

Hemp (also known as industrial hemp) is one of the largest new opportunities for growers in Michigan after it was legalized in the 2018 U.S. Farm Bill. Hemp is cannabis (*Cannabis sativa* L.) with less than 0.3 percent tetrahydrocannabinol (THC), the psychoactive component found in marijuana. Hemp is cultivated to produce fiber, grain, biomass, or non-intoxicating medicinal compounds such as cannabidiol (CBD).

As one of the nation's most agriculturally diverse states, Michigan is uniquely positioned to grow, process and manufacture industrial hemp. This emerging crop creates new opportunity for the farming community, and can also offer an avenue for new businesses to develop across the state.

The 2018 U.S. Farm Bill authorized the commercial production and processing of industrial hemp in the United

States. The U.S. Department of Agriculture (USDA) published its interim final rules on the establishment of a domestic hemp program and sought public comments until the end of January before finalizing a national program. (*The interim final rules are available at www.ams.usda.gov/rules-regulations/hemp.*) In the meantime, MDARD is utilizing authority in the 2014 Farm Bill for an Industrial Hemp Ag Pilot Program, which continues into 2020.

The USDA's interim final rules provide guidance on federal requirements as states across the nation draft state hemp plans for approval. MDARD is currently reviewing the rules to identify needed changes to state law. Once statute changes are made, MDARD will submit Michigan's industrial hemp plan, and once approved, will provide oversight of the department's commercial hemp program.

Questions remain

While there is a lot of excitement around the state's newest crop, many questions remain on the long-term, overall regulation of hemp, CBD and hemp products. There is a steep learning curve for everyone involved in this budding commodity—farmers, federal and state regulators, and local authorities. The 2019 and 2020 Industrial Hemp Ag Pilot Programs have, and will continue, to provide an opportunity for all to learn.

Michigan's Public Act 641 of 2018, the Industrial Hemp Research and Development Act, authorizes the growing and cultivating of hemp, and requires the registration and licensing of certain persons who are interested in growing, processing and handling hemp. PA 641 also preempts local governments, including townships, from adopting any rule, regulation code or ordinance to restrict or limit any hemp cultivation or processing. The law also:

- Prohibits a person from growing hemp in Michigan unless registered as a grower.
- Requires growers to identify all growing locations on their grower application.
- Prohibits a person from processing, handling, brokering or marketing hemp unless licensed as a processor-handler.
- Requires signage to be placed at the boundaries of each growing area.
- Requires growers to have their crops tested for THC content prior to harvest.

- Requires individuals to be able to show proof of registration and licensing upon request by law enforcement.

Under PA 641, all growing areas with hemp must be labeled with signs, which must include a statement indicating "hemp registered with Michigan Department of Agriculture and Rural Development," and the grower's name and registration number. A listing of growers, processors or handlers is not available, as grower and process-handler information is exempt from disclosure under PA 641.

People growing or processing hemp in the state must have a current and valid license from MDARD. Licenses to grow or process hemp in Michigan are available at any time, and expire annually on Nov. 30. Applications and additional resources—including Frequently Asked Questions and MDARD's comments on the USDA interim rules—are available on www.michigan.gov/industrialhemp.



Gina Alessandri, Director, Industrial Hemp Program, Michigan Department of Agriculture and Rural Development

For more information, call (800) 292-3939. You can hear more from Alessandri at the educational session, What is Hemp and How Does It Impact My Township?, being held from 2:45 to 4 p.m. Tuesday, April 28 at MTA's 2020

Annual Educational Conference & Expo at the Grand Traverse Resort in Acme Township (Grand Traverse Co.). Turn to pages 14-15 or visit www.michigantownships.org to learn more about the Conference.



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aroundthe**state**

townships in the spotlight



Gourley Township

Gourley Township, established in 1920, is the smallest township in Menominee County. The Big Cedar River flows through this rural township community of 420, with homes along its banks, on its way to Lake Michigan. There are approximately 2,177 acres of state land within the township for residents and visitors to enjoy.

The township facilities recently received a major upgrade—without asking residents for a tax increase of any kind. The township was in need of a new fire hall and new township hall. The buildings were located on a hill causing dangerous conditions for drivers when a fire truck pulls in or out. When considering a new facility, the township board wanted a central location and addition parking to accommodate vehicles for events, but most importantly, wanted to take on the project without asking for a millage from taxpayers. Over the past four years, the township board gauged interest from the fire department and residents before using \$421,000 from the fund balance to purchase three acres of land for the new facilities and leaving a cushion in the fund balance to cover operating costs and other expenditures.

The fire garage was operational this past fall, though the township hall's interior is not yet completed. The township is hoping that the sale of the previous hall and the use of grants



will help complete the project shortly. The new facility is much larger and provides more room for future events. The township hopes to finish the parking lot and sidewalks with the help of a Hannahville Indian Community grant, as well as to add landscaping, create a training facility for the firefighters, and add a playground behind the new garage.



On MTA's 2019 *MTA On The Road* regional meeting tour, 2019 MTA President Jeff Sorensen, **Cooper Charter Township** (Kalamazoo Co.) supervisor (pictured above with Gourley Township Supervisor **Stephen Wery**), along with MTA Executive Director Neil Sheridan, were able to visit the new facility. The township is very proud that their savings allowed this project become a reality without having to go to its taxpayers for additional funding.



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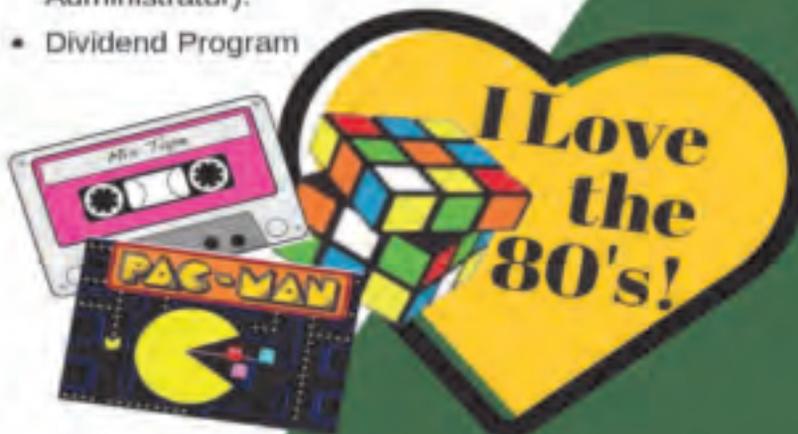
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