

751105.1

TOWNSHIPS: Creation of a park commission.

The filing of a petition seeking to establish a township park commission does not result in the creation of a township park commission. Such a commission does not come into existence until the question of its establishment has been approved by the electors and the members of the Commission are appointed.

Opinion No. 4888

November 5, 1975.

Mr. Robert Carlton
Supervisor
Woodhull Township
Route 3
Perry, Michigan 48872

You have requested my advice concerning the current validity of OAG, 1930-1932, p 557 (April 29, 1932), dealing with the authority of a township board to serve as a park commission. The question you have asked is:

Does the authority of a township board to act as a park commission pass to the township park commission upon the filing of a proper petition seeking to establish such a commission, or does the board retain this authority until the question of establishing the commission has been submitted to the electors at the next regular election?

As originally enacted, 1931 PA 271 stated:

"On receipt of a written petition signed by fifty freeholders and taxpayers of any township of this state, the township board of such township shall, at its first meeting after the receipt of such petition, appoint a township park commission of three members, such members to serve until the next annual township meeting. . . ."

Based upon this language, Attorney General Paul W. Voorhies, in OAG, 1930-1932, pp 557, 559 (April 29, 1932) stated:

". . . The members of the township board become the park commissioners coincidental with the acquisition by the township of land by 'gift or devise' for park purposes, and they shall continue as such until the provisions of Act 271 P.A. 1931 are invoked by the filing of the statutory petition. The filing of such a petition would immediately bring into operation the provisions of the 1931 act, and upon the appointment of the new commissioners by the township board, they would exercise the broadened powers conveyed by the latter act."

The statute, however, was amended by 1962 PA 33 and now reads:

"On receipt of a written petition signed by 50 freeholders and taxpayers of any township of this state, the township board of such township, at its first meeting after the receipt of such petition shall submit the question of establishing a township park commission to the registered and qualified electors of the township at the next regular election to be held in the township. If a majority of the electors voting on the question vote in favor of establishing a park commission, the township

board shall appoint a township park commission of 6 members, such members to serve until the next biennial township election. At such biennial township election 2 members of such commission shall be elected for a term of 2 years, 2 members for a term of 4 years and 2 members for a term of 6 years, and at each succeeding biennial township election 2 members of such commission shall be elected for a term of 6 years."

The difference in the terms of the two provisions leads to a result different than that arrived at by Attorney General Voorhies. Upon receipt of the petition, the township board is now required to submit the question of establishing a township park commission to a vote of the electors rather than immediately proceeding to appoint the first members of the commission.

Furthermore, as the statute currently reads, a township park commission can be created only "if a majority of the electors voting on the question vote in favor of establishing a park commission." At that point the township board can appoint the initial members of the commission to serve until the next election. Until the electors have passed upon the question of establishing the commission, no park commission exists and all authority relative to matters involving parks remains with the township board.

Therefore, under the current statute, the authority of the township board to act as a park commission does not pass to the township park commission upon the filing of a written petition. The township board retains the authority until the question of establishing a commission has been submitted to the electors, received approval, and the members of the commission are appointed.

FRANK J. KELLEY,
Attorney General.

751106.1

COUNTY PLAT BOARD: Compensation of members.

COMPENSATION AND SALARIES: Members of county plat board.

The duties associated with membership on a county plat board are not a part of the regular duties of county officials and therefore they may receive additional compensation as provided by statute.

Opinion No. 4895

November 6, 1975.

Mr. Robert K. Kennett
Prosecuting Attorney
Isabella County
200 North Main Street
Mount Pleasant, Michigan 48858

At the request of the Isabella County Clerk, you have sought an opinion concerning the payment of compensation to members of the county plat board. As noted in your letter, this matter has been considered in a formal opinion of a predecessor, II OAG, 1957-1958, No 3131, p 162 (June 9,