

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,

1958). However, in light of subsequent constitutional and statutory changes, you have expressed uncertainty as to the continued viability of that opinion. Your precise question may be stated as follows:

May members of a county plat board receive compensation for serving on the board under the pertinent provision of the Subdivision Control Act, 1967 PA 288, MCLA 560.101 *et seq*; MSA 26.430(101) *et seq*?

The original opinion to which you refer arrived at the conclusion that members of the county plat board were prohibited from receiving compensation for their services for two reasons. First, it was recognized that increases in the salaries of county officials were restricted by Const 1908, art 16, § 3, and by MCLA 45.421; MSA 5.1101. Second, it was determined that the duties performed by members of the county plat board were not beyond the scope of the principal office held by each member, and were therefore official duties germane to the regular office.

Since that opinion was issued, both of these reasons have been negated by adoption of the Constitution of 1963 and by legislative amendment. The second sentence of Const 1908, art 16, § 3, prohibiting an increase in the salary of public officers, has no counterpart in the Constitution of 1963. The Official Record of the Constitutional Convention of 1961 indicates that Committee Proposal 124 which would have set a limit on salary increases payable to public officials during their term of office was considered, but that the proposal was not adopted and never became part of the new Constitution, but rather "the entire content [was] stricken." 2 Official Record, 1961, p 3455.

The statutory restriction referred to in the original opinion, MCLA 45.421; MSA 5.1101, has been amended by 1967 PA 163 and now reads:

"The annual salaries of all salaried county officers, which are now or may be hereafter by law fixed by the board of supervisors, shall be fixed by the board on or before October 31 each year and shall not be diminished during the term for which such county officers shall have been elected or appointed, but *may be increased* by the board during their term of office." [Emphasis added]

As to the second reason detailed in the original opinion, the legislature has specifically directed that the additional duties imposed upon the various county officials by virtue of their membership on the county plat board should not be considered as among the usual duties germane to their principal offices. Section 247 of the Subdivision Control Act of 1967, MCLA 560.247; MSA 26.430(247), provides in full as follows:

"(1) Each member of the county plat board shall be paid compensation and mileage for attendance at plat board meetings equal to compensation and mileage paid to supervisors for attendance at meetings of the board of supervisors. The compensation shall be payable from the general fund of the county.

"(2) The duties of the county plat board shall not be considered as being a part of the duties of the regular offices of the members thereof."

The duties associated with membership on the plat board not being part of the duties of their regular offices, the members of the board may receive additional compensation as provided by statute.

Shortly after the enactment of the Subdivision Control Act of 1967, *supra*, a letter opinion issued by me dated July 25, 1969, considered the question of compensation to members of the county plat board under the provisions of the new law. In that opinion it was determined that the members of the county plat board, as well as members of three other boards whose compensation was fixed by a comparable statutory provision, were entitled to receive compensation at the same rate set for payment to the members of the board of commissioners.

Therefore, your question is answered in the affirmative. The formal opinion found at II OAG, 1957-1958, No 3131, p 162 (June 9, 1958), should be regarded as superseded by subsequent constitutional and statutory revisions.

FRANK J. KELLEY,
Attorney General.

751110.1

ADMINISTRATIVE LAW: Rules exceeding statutory authority.

DEDICATION: Right of way shown by plan on file.

HIGHWAYS AND ROADS: Dedication.

A rule adopted by the Department of State Highways and Transportation mandating dedication to public use by a proprietor of a portion of his land needed to comport with a state trunkline highway plan on file, which plan indicates right of way widths in excess of existing trunkline right of way widths, is invalid.

Opinion No. 4906

November 10, 1975.

Mr. John P. Woodford
Director
Michigan Department of State Highways
and Transportation
Lansing, Michigan

Mr. Allison Green
State Treasurer
Michigan Department of Treasury
Lansing, Michigan

By memorandum to the Highway Division of the Department of Attorney General, Mr. G. J. McCarthy, Deputy Director, Bureau of Highways, Michigan Department of State Highways and Transportation, stated that the Taubman Company of Grand Rapids, Michigan, has requested approval by the Department of a preliminary plat, known as the Woodland Plat,