

The Review

The official magazine of the  michigan municipal league

Winter 2025

New League President

**Sault Ste. Marie
Mayor Don Gerrie
sees a future
of both promise
and challenge**

- 07** Council Rules: Legal and Local
- 10** Ethics
- 14** The OMA and Boards and Commissions

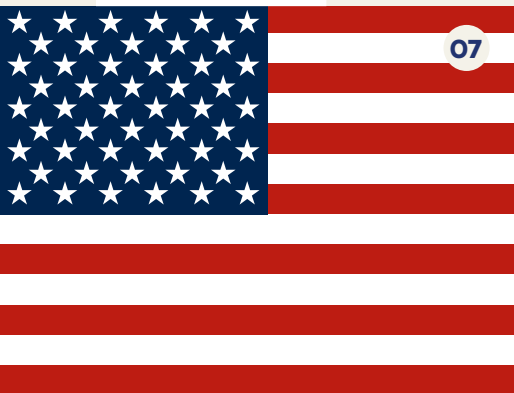
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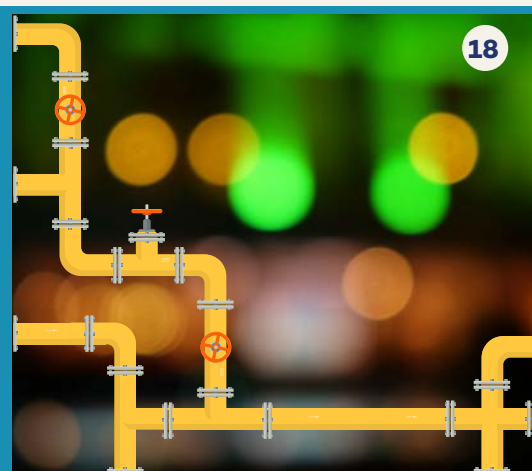
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07



10



18



20



26



30

Features

- 07 Council Rules of Procedure:
What Is the Law and
What is Local Choice?
By Kim Cekola
- 10 Local Government Ethics
By Michael McGee
- 13 Top 10 Legal Things that Make a
Municipality Different from a Business
By Roger Bird and Eric Scheske
- 14 The Open Meetings Act and
Local Boards and Commissions
By Andrea M. Pike and Carlito H. Young
- 18 MI Water Navigator Celebrates Three
Years, Transitions to MI Funding Hub
By Grace Carey
- 20 New League President Has Experience
at the City, State, and Federal Levels
By Liz Foley
- 26 Incorporation from a Village to a City
By Don Beavers

Columns

- 05 Executive Director
- 29 Legal Spotlight
- 30 Northern Field Report
- 34 Municipal Finance
- 37 Municipal Q&A
- 38 Membership

On the Cover

Mayor Don Gerrie served 12 years on
the Sault Ste. Marie city commission
before being elected mayor in 2019.



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The *Review* relies on contributions from municipal officials, consultants, legislators, League staff and others to maintain the magazine's high quality editorial content. Please submit proposals by sending a 100-word summary and outline of the article to **Ariel Ryan**, aryan@mml.org.

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The League Is Your Governing Resource

Executive Director's Message

On April 8, 1986, Hollywood legend Clint Eastwood was elected mayor of Carmel-by-the-Sea, a small beach city on California's Monterey Peninsula. Upon learning of his victory, Eastwood wryly commented: "Winning the election is a good-news, bad-news kind of thing. Okay, now you're the mayor. The bad news is, now you're the mayor."

Whether or not you agree with his politics or admire his skills as an actor/director, you've got to love that quote. Especially if you're one of our scores of newly elected officials across Michigan. Because we all know (or *should* know) that campaigning is a very different beast from governing.

When we're campaigning, the main—arguably *only*—goal is to win. Campaigns must convince voters that the candidate's vision and values match their own. Complex issues are simplified for easy messaging and to elicit strong emotional reactions.

But once election season is over, everyone has to settle in and get to work. Time to roll up our sleeves and tighten our belts, and get on with the business of, well, governing.

Once you're in office, you'll have to shift gears from making promises to implementing policies. You'll have to deal with budget constraints, legal frameworks, public scrutiny, and competing interests. Every decision requires compromise and communication; every change will have consequences, many of them unintended. Instead of handshakes and speeches, you'll focus most of your time and energy on the mundane day-to-day operations of running a municipality. And before your term is over, I can almost guarantee you'll face a few crises and challenges that you never anticipated.

That's why we're here. For the last 125 years, the League has served as the unified voice for our state's municipalities, and as an invaluable resource for our elected officials and their staff.

If you're new to public service, please take a moment to scan all the programs and services available to you at mml.org. We are always striving to grow and change with the changing needs of our members, so even our re-elected officials might find something new since the last time they checked—like MI Water Navigator's transition to MI Funding Hub, the League initiative to help communities capitalize on state and federal funding opportunities. (You'll read more about that elsewhere in this issue!)

Probably our most fundamental offering is our Elected Officials Academy (EOA). Local leaders have to enact policies that impact people's lives, and for the newly elected, it can sometimes be a shock to realize even the simplest decision can require navigating a maze of bureaucratic, legal, and political constraints. Our EOA is the gateway to learning all the procedures and processes of local government while helping you avoid the problems and pitfalls that so often come with the job. EOA credits can be earned through a variety of conferences, elective courses, legislative advocacy, and leadership opportunities. Over time, those credited accomplishments can serve as a valuable metric of your growing expertise and experience.

Campaigning candidates often target voters with tailored messages. But elected officials must address the diverse needs and viewpoints of their entire constituency as well as those of their staff. Our onsite workshops can help you build a leadership team capable of effectively tackling the complicated goals and interests of your municipality.

Interested in networking with your peers from across the state? Each fall, the League's Annual Convention brings together local officials for an intensive three-day conference. Each spring, our Capital Conference (CapCon) takes you inside the state's legislative process, connecting you to the issues, advocates, and legislators setting the course for Michigan's future.

From our Legal Defense Fund to our HR Consulting Services, we can assist and advise you in every aspect of local governance.

And of course, the *Review* keeps you abreast of all the latest topics of interest to our members, like this issue's articles on council rules of procedure, ethics, and managing boards and commissions.

Yep, the campaign may be over but the party's just begun. Welcome to the main event.



Dan Gilmartin

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Council Rules of Procedure: WHAT IS THE LAW AND WHAT IS LOCAL CHOICE?

By Kim Cekola

You may have heard this expressed in a League training session: the “umbrella of legal requirements.” It refers to the hierarchy of laws local governments must follow:



Council rules of procedure are local policies. City and village councils/commissions need rules of procedure to expedite business and provide fair and open deliberation. Some things in the rules of procedure are required by law, and some are up to the local governing body.

	Council Rules of Procedure
Home Rule Cities	May be required in charter
Fourth Class Cities	Required by Fourth Class City Act (MCL)
Home Rule Villages	May be required in charter
General Law Villages	Required by General Law Village Act (MCL 65.5)

Topics below are from frequent areas of concern within municipal council rules. Refer to your city or village charter and ordinances to clarify what is either required or allowed for your municipality's council rules.

	Special meeting: purpose	Special meeting: calling	Quorum	Agenda: adding items	Public participation	Public participation: speak time	Public participation: agenda	Minutes: recording discussion
Home Rule Cities	local	local	local (charter)	local	OMA (MCL 15.263)	local	local	local
Fourth Class Cities	local	local	local	local	OMA (MCL 15.263)	local	local	local
Home Rule Villages	local	local	local (charter)	local	OMA (MCL 15.263)	local	local	local
General Law Villages	local	president or 3 trustees (MCL 65.5)	4 of 7 trustees; 3 of 5 trustees (MCL 65.5)	local	OMA (MCL 15.263)	local	local	local

Special Meetings

Special meetings are handled two ways:

- The purpose of the special meeting is posted in the notice of the meeting; or
- The purpose of the meeting is not posted.

The method of calling the special meeting is also a local prerogative:

- mayor/president and three councilmembers;
- upon the written request of the mayor;
- upon the written request of the manager;
- any two councilmembers; or
- by a majority vote of the council.

In accordance with the Open Meetings Act (OMA), a special meeting notice must be posted in a prominent and conspicuous place—both at city/village hall and on the municipality's website if it maintains one, 18 hours prior to the meeting, and shall contain the date, time, and place of the special meeting.

Note: The OMA does not require the purpose to be listed on the notice of a special meeting. A provision requiring this is enacted at the discretion of the public body (e.g., in the charter or in the council rules of procedure).

Quorum

In most municipalities, four councilmembers shall constitute a quorum for the transaction of business at all meetings. In general law villages, it is four trustees not a majority of those present. If the council has been reduced by ordinance to five members, then three trustees are a quorum.

Note: This number will be set by the charter in home rule cities and home rule villages, and by the General Law Village Act in general law villages.

Agenda Items

Items can be placed on the agenda by different methods, according to the municipality's desires—by the mayor/president and clerk; the manager and clerk; or possibly three councilmembers. The agenda may be changed at the regular meeting by a majority vote.

Consent Agenda

The consent agenda is a tool to allow non-controversial items to be placed under one agenda item that can be approved with one motion and second. Some municipalities allow citizens to request consent agenda items to be moved off the consent agenda, whereas others only allow this by either one councilmember or a vote of the council.

Public Participation

Members of the public will speak only when recognized by the chair. Parliamentarians recommended a three-minute time limit.

Municipalities handle public participation in council meetings in different ways.

Possibilities include:

- Members of the public are limited to speaking during one public comment time on the agenda (each speaker will be limited to items on the agenda)
- Members of the public are permitted two speak times—once to address agenda items and another general public comment time (each speaker will be limited to three minutes and to topics not listed on the agenda or acted upon at the meeting)
- Members of the public are permitted to speak on every agenda item (not typical)

Prior to addressing the council, members of the public can be requested to identify themselves with their name and address—this time is not included in the three-minute limit.

Note: The OMA requires that the public be permitted to address the council under rules established by the council.

Minutes: Recording of Discussion

It is recommended that the clerk NOT be responsible for maintaining a written record or summary of the discussion or comments of the council or members of the public made at council meetings, unless directed to do so by the council.

Note: The OMA requires recording the actions of the council, not discussion.

Voting Duty

The issue of a “duty to vote” comes up periodically. An elected office carries both an honor and a burden to deal with difficult and controversial issues; it also excuses genuine conflicts of interests. Some municipalities adopt language like this:

No member will abstain from voting unless that member states his or her conflict of interest. Conflict of interest will be the only reason for a request to abstain from voting. See “Local Government Ethics” (pp. 10-12) for Michigan’s conflict of interest statute. [L](#)

Kim Cekola is a research specialist/editor for the League. You may contact her at 734-669-6321 or kcekola@mml.org.

League Resources

Over 80 rules of procedure from Michigan cities and villages. Contact info@mml.org for samples.

Available at mml.org:

Handbook for Municipal Officials
Handbook for General Law Village Officials

Fact Sheets:

General Law Villages:

Default—General Law Village Officials
Procedural Questions
Residency for Elected Officials

Open Meetings Act:

Calling Closed Meetings
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Definitions and Requirements
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LOCAL GOVERNMENT ETHICS

By Michael McGee

CITY HALL

So, there you were, as a councilmember, trying to do the best you could juggling competing demands—answering calls from residents, asking questions of your manager, finance director, and DPW director—trying to keep up with what’s going on. And suddenly, an angry resident jumps up at a council meeting, charges you with having “a conflict of interest” on a zoning matter, and says you are violating the state ethics law. A local reporter corners you after the meeting and asks, “Well, what about it? Are you in violation of the law?”

Who said serving on the city or village council would be easy?

Like it or not, we live in a time of unparalleled cynicism toward government at all levels. Fair or not, critics are quick to point to alleged ethical improprieties as further proof of the untrustworthiness of government officials. In this environment, even the suggestion of improper action can trigger unhappy consequences. Local officials thus need to be aware of the state laws under which they can be held accountable.

Conflict of Interest

To understand Michigan’s laws, let’s begin with what they are trying to address: What is a “conflict of interest,” and why should we care?

The second question is easy to answer: Public office is a public trust. Elected officials are merely hired hands, delegated power from the public, obliged to exercise that power as the public’s trustees. We owe a duty of loyalty to the public interest—actions or influences tending to undermine that are destructive to the public’s confidence in government. We all should care about that.

A conflict of interest is any interest competing with or adverse to our primary duty of loyalty to the public interest. A competing interest may be a personal interest, or a duty or loyalty we owe to a third party. In either case, there is a “conflict” if the competing interest impairs our ability to decide a public question objectively and independently.

Each of the statutes discussed is based upon this general concept: An influence which could impair our impartiality is a potential problem.

State Ethics Act (Act 196)

Act 196 prescribes general standards of conduct for public officers and employees by establishing seven areas of prohibited conduct. A local government official shall not:

1. divulge confidential information;
2. represent his or her opinion as that of the local government;
3. use governmental personnel, property, or funds for personal gain or benefit;
4. solicit or accept gifts/loans/goods/services, etc. which tend to influence his or her performance of official duties;
5. engage in a business transaction in which he or she may profit from confidential information;
6. engage in or accept employment/render services for a public or private interest which is incompatible/in conflict with the discharge of official duties, or which may tend to impair his or her independence of judgment; or
7. participate in the negotiation or execution of contracts/making loans/granting subsidies/fixing rates/issuing permits, certificates, or other regulation/supervision relating to a business entity in which the public officer has a financial or personal interest.

In practice, subparts (6) and (7) created a serious hardship for part-time local officials—such as elected trustees—who are usually employed full-time at other jobs. The Legislature thus amended Act 196 to provide narrow exceptions to subparts (6) and (7), enabling the official to participate in and vote on the governmental decision, but only if all the following occur:

- a. a quorum is not available because the public officer's participation would otherwise violate (6) or (7);
- b. the official is not paid for working more than 25 hours per week for the governmental unit; and
- c. the officer promptly discloses any interest he or she may have in the matter and the disclosure is made part of the public record of the governmental decision to which it pertains.

In addition, if the governmental decision is the award of a contract, the officer's direct benefit from the contract cannot exceed the lesser of \$250 or five percent of the contract cost; and the officer must file a sworn affidavit as to the amount of direct benefit, which is made part of the public record.

The exceptions are of limited use since they are available only if there otherwise would be a failure to obtain a quorum.

Prohibitions on Public Contracts (Act 317)

Unlike Act 196, which seeks to regulate the behavior of the individual official directly, Act 317 addresses conflict concerns by prohibiting local public officials from pursuing certain public contracts. Section 2 of the act provides that a local official shall not:

1. be a party, directly or indirectly, to a contract between himself or herself and the official's governmental entity.
2. directly or indirectly solicit a contract between the official's governmental entity and any of the following:
 - a. himself or herself;
 - b. any co-partnership of unincorporated association of which he or she is a partner, member, or employee;
 - c. any private corporation in which he or she is a stockholder (over certain thresholds) or of which he or she is a director, officer, or employee; or
 - d. any trust of which he or she is a beneficiary or trustee.

Act 317 further prohibits the official from either taking part in the negotiation or renegotiation of any such contract or representing either party in the transaction. As with Act 196, there are exceptions. The principal exception is that the prohibitions do not apply to officials paid for working an average of 25 hours per week or less for the governmental entity. This is a more useful exception for trustees than that found in Act 196 since the quorum issue is not a precondition.

Even if the exception is available, Act 317 imposes strict disclosure and approval requirements:

- a. Prompt disclosure of any pecuniary interest, which is made part of the public record. Disclosure must be made at least seven days prior to the meeting at which a vote will be taken.
- b. Approval requires a vote of at least 2/3 of the full membership of the approving body (not 2/3 of those present) without the vote of the official making the disclosure.
- c. The minutes must include summary information regarding the name of each party to the contract, the principal terms, and the nature of the official's pecuniary interest.

League Resources

Fact Sheets at mml.org:

- Contracts of Public Servants with Public Entities
- Incompatible Public Offices (includes a list of offices found incompatible by the Michigan Attorney General)
- Misconduct in Office by Public Officers

- Standards of Conduct for Public Officers/Employees

Sample ethics policies and ordinances from over 100 cities and villages

Contact our Inquiry Service at 1-800-653-2483 or info@mml.org.

Finally, Act 317's prohibitions do not apply to contracts between public entities, regulated public utility contracts, and contracts awarded to the lowest qualified bidder (other than the public official) upon receipt of sealed bids pursuant to published notice.

Incompatible Public Offices (Act 566)

Local officials should also be aware of Act 566, which generally prohibits a public officer from holding two or more "incompatible offices" at the same time. Act 566 is based upon general principles of conflict of interest by prohibiting a public official from serving in two public offices whose duties are directly adverse to one another. "Incompatible offices" is defined to mean public offices held by a public official which, when the official is performing the duties of either public office, results in:

1. subordination of one office to another,
2. supervision of one office by another, or
3. a breach of duty.

The Michigan Supreme Court has said that a breach of duty occurs if the two governmental entities in which the official holds offices are parties to a contract.

Conclusion

Local officials should be mindful of the relevant laws governing ethical issues. Adhering to the provisions of these statutes will give you the comfort of knowing, when a reporter pulls you aside, that you will be giving the right answers. 

Michael McGee is senior counsel at the law firm Miller Canfield. You may contact him at 313-496-7599 or mcgee@millercanfield.com.



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TOP 10 Legal Things that Make a Municipality Different from a Business

By Roger Bird and Eric Scheske

Because most people who seek public office have spent their careers employed in the private sector, they often assume that the same rules apply to operating a local government as to running a business. This is a dangerous assumption. Many activities that are acceptable in the private sphere are unlawful in the public sphere. Such unlawful activities can subject the individual and his or her municipality to various forms of punishment, including fines, penalties and, for the individual in extreme situations, jail time. Here are ten important distinctions between a business and a municipality that an elected official should remember.



Municipal Finance Act

The methods by which a municipality may borrow money are greatly restricted. In particular, a municipality cannot obtain conventional bank financing and instead must rely on unconventional financing methods such as installment purchase arrangements, capital leases, and public bond issues. Businesses can borrow money however they please.



Governmental immunity

The municipality has immunity from a variety of legal causes of action; businesses do not. This does not mean that a municipality can never be held liable for its actions, but as a general rule, it is more difficult to hold a municipality liable for torts (e.g., slip and fall accidents) than a private business.



Open Meetings Act (OMA)

The municipal public body (usually the council or commission) must generally conduct its meetings in public pursuant to the OMA; businesses are not required to do so. The council may close a meeting to the public for a handful of specific purposes, but the closed meeting must clearly fall within the purposes and no other business may be transacted during the closed meeting.



Freedom of Information Act (FOIA)

Subject to limited exceptions, the municipality must disclose its documentation pursuant to FOIA; businesses are not required to do so.



Michigan and U.S. Constitutions

The municipality is generally subject to the Michigan and United States Constitutions (including the Bill of Rights). This includes free speech, freedom of religion, and civil rights provisions of the Constitutions. Businesses are not subject to constitutional restrictions. [L](#)

Roger Bird and Eric Scheske are attorneys for the City of Sturgis. You may contact Eric at 269-651-2445 or bsbs@charter.net.



Restrictions on profit endeavors

The municipality is restricted with regard to making profits; businesses are supposed to make profits. This does not mean that a municipality can never engage in profit activities, but there are political, prudential, liability, and legal reasons why a municipality should be careful before undertaking a project solely because it will improve a municipality's bottom line.



Potential restrictions on selling real estate

The municipality often cannot sell real estate without a public vote due to charter restrictions that require a vote when certain types of land (e.g., parks) or land of a certain value is being sold. In addition, some lands may have been gifted with restrictions on sales.



Public Employment Relations Act

The municipality's collective bargaining employees are subject to different procedures than private employer collective bargaining units.



Power of eminent domain

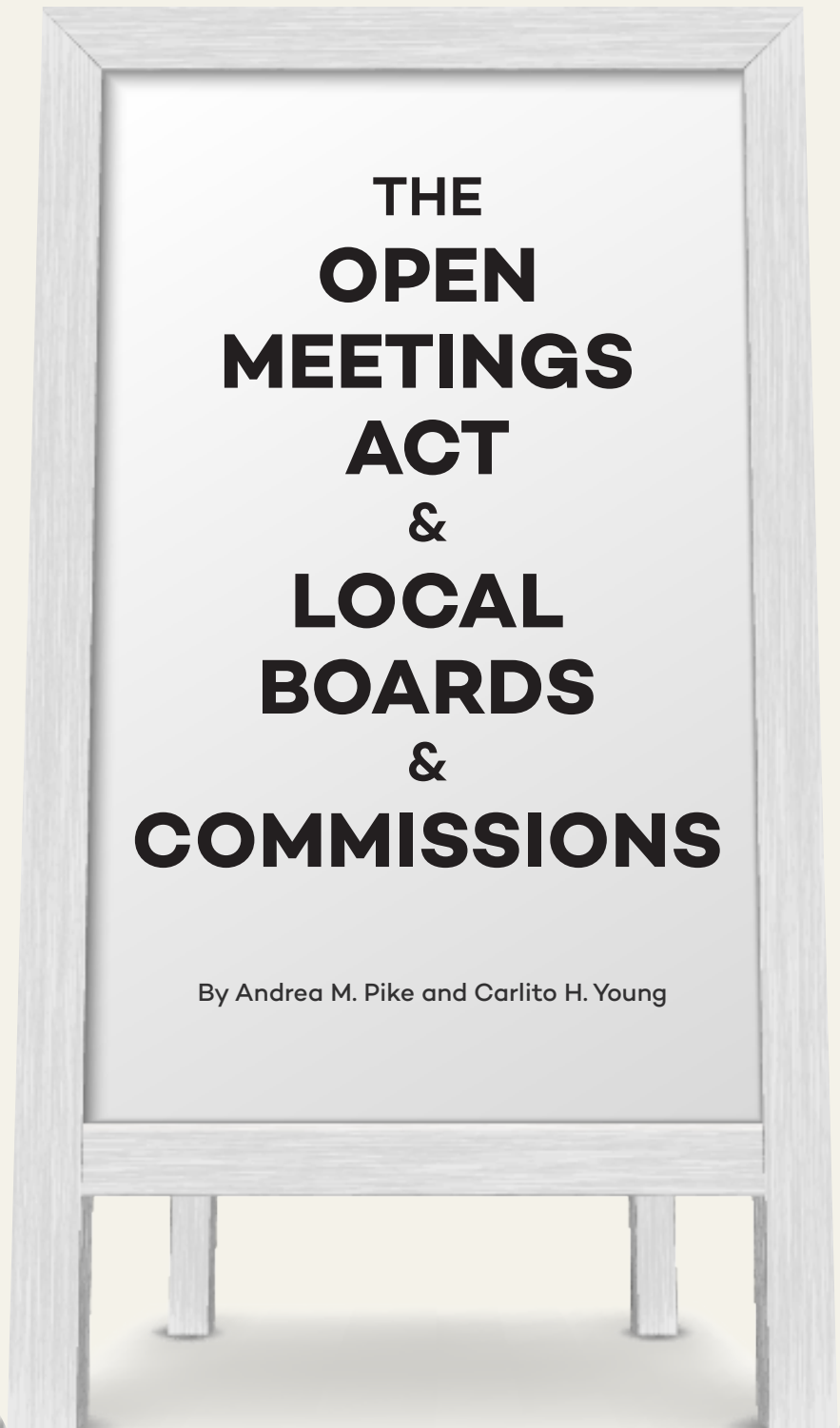
The municipality can take private property for fair compensation; businesses can only negotiate. It must be noted, however, that though the power of eminent domain is often tempting to exercise, the actual procedure can be quite complicated and can lead to costly litigation.



Charter

The municipality is subject to a charter which is difficult to amend; businesses are subject to articles of incorporation and bylaws that are much easier to amend.





THE OPEN MEETINGS ACT & LOCAL BOARDS & COMMISSIONS

By Andrea M. Pike and Carlito H. Young

All meetings of local government boards, committees, and commissions (both statutory and non-statutory) should conduct themselves as a public body under the Open Meetings Act, MCL 15.261, et seq. (OMA), because they may be legally obligated to comply with the OMA. If the body is doing work for the legislative body, it can be subject to the OMA because it is acting in the public interest and acting on behalf of the legislative body. Based on a recent court decision, it is better to comply now than be forced to do it all over again in compliance with the OMA later.

Creating the Committee

It is advisable to have every local government board, committee, and commission defined by an ordinance or have the committee create bylaws or rules of procedure to avoid future problems. It is important to define the committee and explain why it was created and what it is tasked to do. The legislative body can create an ordinance that defines the member, duties, the terms (years), how often to meet, and the basis for removal. The length of a committee and how often it meets will depend on whether its tasks are temporary, permanent, or periodic.

In lieu of an ordinance, the committee could create bylaws or procedures, but it would be beneficial to have the legislative body approve it to set parameters, so the committee is not acting outside of the scope of its duties. It is important to check the municipality's charter for guidance about creating committees. It is advisable to put in any documents creating the committee that the committee shall comply with the OMA and that it cannot allocate funds, which is a task reserved for the legislative or governing body. The committee will need to appoint members, a chair, and a recording secretary so there is someone in charge of running the meetings, posting notices, setting the agenda, taking minutes, etc.

Committee Membership

The committee could be a subcommittee comprised of less than a quorum of the legislative or governing body, but it is still advisable in that circumstance to still comply with the OMA. To obtain members of the public, a municipality will want to post a notice of open membership for a committee and accept applications. The municipality shall choose an applicant that has the appropriate background and experience for the duties the committee is tasked with. The applicants can be chosen by an individual, such as the city/village manager, mayor/president, or the governing/legislative body.

It is important to state the reasons for removing a member of the committee, other than expiration of the term. It is common to state that removal can be for malfeasance, misfeasance, or nonfeasance. The removal of a member prior to the expiration of a member's terms should be decided at a hearing before the legislative or governing body. The hearing is a chance to explain the wrongdoing or issues of a member and provide the member with an opportunity to defend the reason for removal. If you have an existing committee that does not have an ordinance, bylaws, or procedures to look for guidance, you can still create them. However, if you are looking to remove a member of a committee and there is no procedure set forth, do not simply kick them off or remove them since that could result in legal issues. You can let the member know that he or she can resign or have a hearing before the legislative or governing body.

“It is advisable to put in any documents creating the committee that the committee shall comply with the OMA and that it cannot allocate funds, which is a task reserved for the legislative or governing body.”

Open Meetings Act (OMA) Compliance

The purpose of the OMA is to promote government openness by providing greater public access and input into decision making and governing processes. The OMA requires public bodies, which can include committees, to conduct open, public meetings so there is transparency. The committee must provide notice of their meetings to comply with the OMA. The Notice must contain the name of the public body to which the notice applies, its telephone number if one exists, and its address. MCL 15.264(a). The notice must be posted at the municipality's principal office and any other location considered appropriate by the public body, including but not limited to the municipal's public website and meeting location. Meetings shall only be held, in a place available to the public, after proper notice has been given. MCL 15.263(1); MCL 15.265(1).

The committee must keep minutes of each meeting showing the date, time, place, members present, members absent, any decisions made at a meeting open to the public, and the purpose or purposes for which a closed session is held. The minutes shall include all roll call votes taken at the meeting. MCL 15.269(1). The committee shall make corrected minutes available at or before the next subsequent meeting after correction. The corrected minutes shall show both the original entry and the correction. MCL 15.269(1). There are exceptions to conducting everything in public, such as consulting with an attorney regarding trial or settlement strategy in connection with pending litigation, which can occur in closed session after a motion is passed, at a public meeting, to go into closed session. MCL 15.263; MCL 15.268(e).

OMA Implications

If the OMA is not followed, the work of the committee can be invalidated, even if it was just advising or making a recommendation to the legislative or governing body. Although the OMA discusses decisions and deliberations, the courts have recently expanded what is considered to be a decision. On July 31, 2024, the Michigan Supreme Court held that the City of Warren medical marijuana review committee was a public body because it was a governing body that was empowered by the city's

marihuana regulatory ordinance to score medical marihuana provisioning center license applications. *Pinebrook Warren LLC v. City of Warren*, ___ NW3d ___ (2024). The Michigan Supreme Court, in *Pinebrook Warren*, ruled that the actions of the review committee must be considered in addition to the language in the ordinance. *Id.* The Court held that it was the review committee, not the city council, that “did the work.” The Court held that the scoring was exercising a governmental function, and as a result, the review committee was a public body that was subject to the OMA. The Court explained that the de facto work was scoring and ranking the applications, explaining that the scoring was not advisory because the review committee decided who would obtain dispensary licenses. *Id.* at 7. The Court reasoned that “the ordinance empowered the Review Committee to perform work that was integral to the licensing selection process.” *Id.* at 9. Based on this ruling, the licenses originally issued by the Warren city council, based on the recommendation of the review committee five years prior were invalidated.

A decision made by a public body may be invalidated for the following reasons:

- It failed to meet open to the public and held in a place available to the general public;
 - It did not allow all people to attend (including the right to record the meeting);
 - It did not make the decision at an open meeting; or
 - It failed to deliberate toward a decision at an open meeting unless it was permitted to be closed.
- MCL 15.270(2).

The committee’s work may also be invalidated if the public body has failed to give notice as required by the OMA and the court finds that the noncompliance or failure has impaired the rights of the public under this Act.

MCL 15.270(2). A person or entity can file a lawsuit to compel compliance and if they succeed in obtaining relief in the action, the person shall recover court costs and actual attorney fees for the action. MCL 15.271(4). There is a criminal aspect too. A public official who intentionally violates this act is guilty of a misdemeanor punishable by a fine of not more than \$1,000.00. A public official who is convicted of intentionally violating a provision of this Act for a second time within the same term shall be guilty of a misdemeanor and shall be fined not more than \$2,000.00, or imprisoned for not more than one year, or both. MCL 15.272.

Historically, it has been our experience that judges have been tough on public bodies when it comes to an alleged OMA violation. Like the State’s other transparency statute, the Freedom of Information Act, MCL 15.231 et seq, a reviewing judge generally focuses on the obvious pro-transparency language in the OMA when analyzing a claim. Thus, it is imperative for public bodies and committees to err on the side of transparency when conducting their work for the municipality. [L](#)

Andrea M. Pike and Carlito H. Young are attorneys at Rosati Schultz Joppich & Amtsbuechler PC in Farmington Hills. You may contact them at 248-489-4100 or apike@rsjalaw.com or cyoung@rsjalaw.com.



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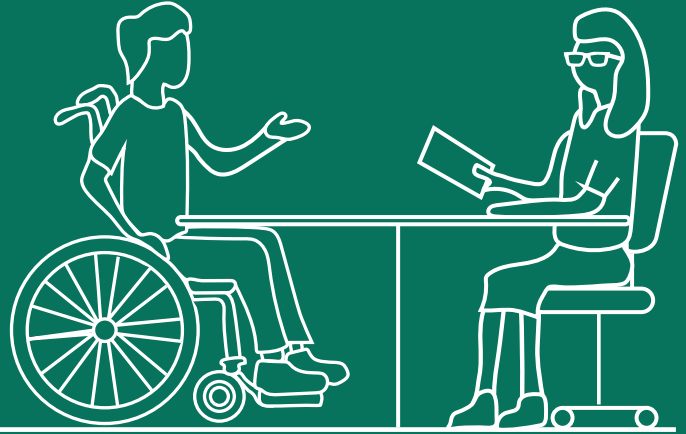
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MI Water Navigator Celebrates Three Years,

Transitions to

MI Funding Hub

By Grace Carey

MI Water Navigator quick stats

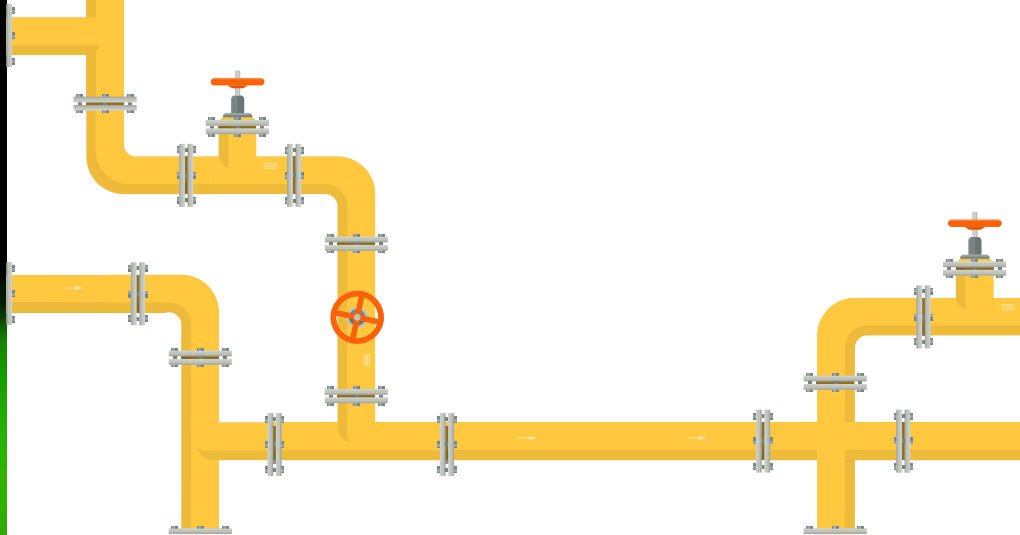
65+ communities were provided in-depth technical assistance

1,000+ people attended MI Water Navigator workshops and webinars

\$20M+ leveraged in state grants and funding for Michigan communities

\$40,000 granted for lead service line replacement

\$390,000 in predevelopment assistance

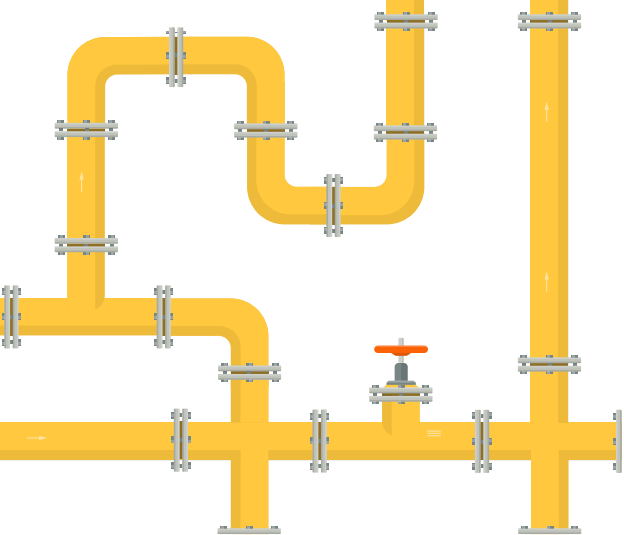


The Michigan Municipal League Foundation launched the MI Water Navigator in 2022, and as the program comes up on three amazing years of service, we look now toward the future of infrastructure technical assistance for League communities. When we first imagined the MI Water Navigator program, Michigan communities were facing a race against the clock to fix aging water infrastructure and meet new Michigan Lead and Copper Rule standards, and the American Rescue Plan Act (ARP) was just emerging. We knew our communities needed support leveraging the generational funding ARP provided to meet these standards and together with partners at the MI Department of Environment, Great Lakes, and Energy (EGLE), the Joyce Foundation, the C.S. Mott Foundation, and Masco Corporate Giving, we were able to bring together a top-notch team of engineering experts (OHM Advisors) and provide application technical assistance to communities across the state. We also created and launched the first-ever centralized database of water infrastructure grants and funding in the state of Michigan to make finding and applying for funding easier than ever before.

As communities' needs changed and new federal funding opportunities came down the pipeline (e.g. Bipartisan Infrastructure Law (BIL) and Inflation Reduction Act (IRA)), we knew we needed a program that adapted to the occasion. In response, we co-organized the MI Technical Assistance Providers Network with EGLE to ensure that we had the most up-to-date information and partnerships with state and federal partners who could provide additional assistance. Likewise, when state legislators approved changes to the State Revolving Loan Fund (SRF) in 2022—which created new categories for priority funding and an entirely new scoring matrix—we personally reached out to all 128 communities who fell under the new definition of “significantly overburdened,” helped over thirty communities submit Intent to Apply forms, and prepared twelve SRF applications for overburdened communities.

Ultimately, MI Water Navigator leveraged over \$20 million in ARP grants for Michigan communities, awarded \$40,000 in lead service line replacement grants, and provided over \$390,000 in predevelopment technical assistance. Over sixty-five overburdened communities, both large and small, received assistance preparing things like capital improvement plans, engineering plans, and application materials for drinking water and clean water state revolving loan funds, Community Block Development grants, USDA Rural Development grants, Source Water Protection grants, and many others.

So now, as we approach three years of service we ask—what's next? Michigan communities need support accessing water infrastructure funding more than ever, especially following October 2024 updates to federal Lead and Copper Rule standards which have shrunk Michigan communities' timelines for lead service line replacement from twenty to just ten years. We also know that communities need help accessing more than just water



“As communities’ needs changed and new federal funding opportunities came down the pipeline (e.g. Bipartisan Infrastructure Law (BIL) and Inflation Reduction Act (IRA)), we knew we needed a program that adapted to the occasion.”

infrastructure funding—tearing up roads to install new pipes is a great opportunity to also do road improvements if communities are able to secure funding for both at the same time. And additional funding through the BIL and IRA could enable communities to make significant investments in energy efficiency, parks and recreation, placemaking, and more.

We are very excited to officially announce that in an effort to better serve the multiple infrastructure needs of our members, the MI Water Navigator is becoming a part of the new MI Funding Hub! Starting January 1, 2025, MI Water Navigator’s resources and much more will be available at www.mifundinghub.org.

Modeled on the successful MI Water Navigator Program, the MI Funding Hub was launched in January 2024 with funding from the Michigan Department of Labor & Economic Opportunity (LEO) to assist local communities in accessing the billions in available state and federal funding. Like its predecessor, MI Funding Hub provides a robust online resources portal (including a searchable database of state and federal grants), regular webinars, a newsletter to provide funding updates and tools for grant navigation, and one-on-one coaching for communities for finding and developing competitive grant applications.

The League and MML Foundation look forward to continuing to help communities navigate the sometimes overwhelming process of finding and managing grants. Visit mifundinghub.org to learn more or request Help Desk assistance! <https://www.mifundinghub.org>

Grace Carey is a program officer for the MML Foundation. You may contact her at 734-669-6331 or gcarey@mml.org.

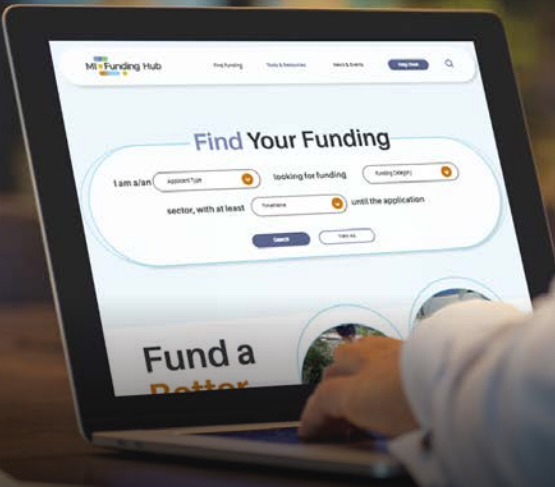


MI Funding Hub

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MI Funding Hub is a robust online resource that provides information on grants and funding opportunities, as well as tools for municipalities to successfully execute projects.

Learn more at Mifundinghub.org



The MI Funding Hub is a joint venture of The Michigan Municipal League and The Michigan Department of Labor and Economic Opportunity.



NEW LEAGUE PRESIDENT HAS EXPERIENCE AT THE CITY, STATE, AND FEDERAL LEVELS

By Liz Foley

SAULT STE. MARIE
pop. 13,337





“Service is the price you pay for the space you occupy.”

No one really knows who first said it, but it’s a quote that Sault Ste. Marie Mayor Don Gerrie has lived by since youth, and the creed he brings with him now to his newest role as Michigan Municipal League President for 2024-2025.

“It stuck with me as kind of a personal philosophy,” said Gerrie. “I learned from an early age that to make a community sustainable, you must give of your time, talent, or treasure, and you need to shop locally and support small business.”

Born and raised in the Sault, Gerrie returned home to pursue a career in banking after earning a degree in business administration at Alma College. He is now area director for USDA Rural Development, overseeing financing support for infrastructure and housing in all fifteen Upper Peninsula counties. His wife Jaimee is an associate professor of nursing at Lake Superior State University.

Right from the start, public service was his parallel commitment.

“When I returned to the Sault to work, I immediately became involved with service clubs and nonprofits to network and also give to my community,” he said, including the Rotary Club, United Way of the Eastern Upper Peninsula, Sault Area Chamber of Commerce, Sault Historic Sites, and the Sault Area Convention and Visitor’s Bureau. “The service to our city government really came almost by accident and as an extension to my volunteerism.”

Gerrie served twelve years on the city commission before being elected mayor in 2019. Now, this lifelong public servant is taking his sense of service to a new statewide level as the League’s president.

“I have been involved in our city’s government for seventeen years, have attended as many League training events and conferences as possible, and have twenty-one years of experience helping local rural communities with technical assistance and financing,” Gerrie said of his simultaneous roles at the city, state, and federal levels.

Wearing multiple hats provides a unique vantage point, he said.

“I have a good working relationship with all of our elected officials and their staffs from both perspectives,” he explained. “I work most frequently with our federal representatives on constituent issues for USDA, and most frequently with state representatives for our city . . . it helps me to see both sides of the situation and understand a bit of both views.

“When a lender looks at a proposed project, it is simple to tell the community you will just need to raise rates and do these particular things to pay for it, while on the community side, I understand it takes outreach, education, and ultimately the political will to embrace a project.”



“I learned from an early age that to make a community sustainable, you must give of your time, talent, or treasure, and you need to shop locally and support small business.”

In his new role as League president, Gerrie is excited to help promote the concepts of community wealth building that were born from the League’s placemaking initiative.

His own community has embraced placemaking for many years, he said, through two mayors, many commissioners, and three city managers.

Thankfully, we have had the leadership of the League to keep us in focus and on track for many years and the results, which do take time, are starting to show more prominently,” he said. “In recent years we have completed a downtown placemaking project which helped to transform downtown streets, an alley, and many parking lots with improved infrastructure and spaces for personal use.”

The city’s largest placemaking project is nearly complete: a multi-faceted waterfront area consisting of a boardwalk, fishing area, cruise ship docking capabilities, and a commercial/industrial component to service the shipping industry as a transportation hub. The reimagined waterfront will complement the University’s existing Center for Freshwater Education.

In order to make it all happen, the city spent time building relationships with legislators and other financing agencies for their support, but some smaller communities might need more guidance to do the same.

“I work with rural communities that often don’t have the same resources available to them and (also) look forward to learning the challenges of our larger communities, and to see how we can continue to bridge the gaps between all communities and resources,” he said. “We need to continue

to reinvigorate our communities and continue to be creative in ways to reach and help them.”

He also hopes to promote the League as an all-encompassing resource to help members deal with everything from housing shortages to revenue-draining factors like dark store tax loopholes.

“I cannot imagine trying to serve in a community without having the support of League training events and conferences. We need help and guidance throughout our service life cycle and the League helps us to keep abreast of current and future policies, trends, and opportunities,” he said. “In addition . . . it is the direct relationships that are formed at the conferences—it is personally recharging to be able to see that you are not alone in your challenges and there are peers to support you.”

He sees a future of both promise and challenge.

“In some ways, the pandemic changed our participation level and modes of working—and the League should continue to work on ways to continue to serve communities that have not yet fully re-engaged or are not capable of returning to the same levels of participation,” he said.

“Like many other members, I am also worried about the impact that the lack of civility today can have on the decisions of potential future generations of local community leaders to enter public service. I will support continued efforts to advocate for improving civil discourse.”

Liz Foley is a freelance writer. You may contact her at 810-287-8549 or lizfoley2@gmail.com.

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The background of the entire page is a photograph of the Michigan State Capitol building in Lansing. The building features a large, ornate dome with a spire. The image is split diagonally from the bottom left to the top right. The upper-left portion is a solid blue color, and the lower-right portion is a solid red color. The text 'CAP CON 2025' is centered over the image, with 'CAP' and 'CON' in large, white, sans-serif capital letters, and '2025' in a slightly smaller, white, sans-serif font below them.

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INCORPORATION FROM A VILLAGE TO A CITY

By Don Beavers

In Michigan, cities and townships are the primary local units of government and perform the basic functions of local government: assessing property, collecting property taxes, and conducting elections. Michigan villages—both home rule and general law—are a part of the township. Village territory remains part of the township territory; village citizens vote in township elections and pay township taxes. Village officials do collect the village property tax. The League publication *Impact of Changing from a Village to a City* outlines the effect of the incorporation of a village as a city.

Reasons for Change of Legal Status

Over the years, villages have changed to city status for a number of reasons, including but not limited to, inequalities in

- 1) road millage sharing;
 - 2) joint funding operations;
 - 3) assessing practices; and
 - 4) township spending priorities.
- And as villagers continue to pay township taxes, they often cite double taxation as a reason for incorporating as a city.

Recent Village to City Incorporations

2004 Chelsea

2004 Douglas

2009 Caro

2009 Grosse Pointe Shores

2010 Caseville

2014 Dexter

2014 Jonesville

2015 Ovid

2023 Manchester

Starting the Process

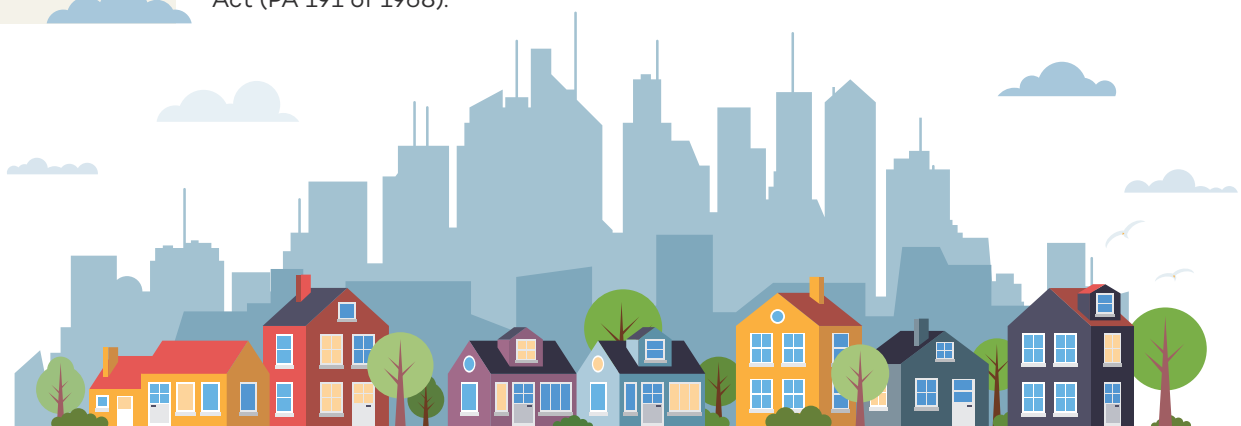
If a village has a minimum population of 750 and a density of 500 residents per square mile (or is the county seat) it can consider incorporating as a city. The process for changing from a village to a city is outlined in the Home Rule City Act (PA 279 of 1909) and the State Boundary Commission Act (PA 191 of 1968).

The process can originate either with the village council or with village residents. A grassroots citizen committee has the advantage of community ownership. The disadvantage of a committee is that citizens may not be familiar with governmental operations. The council has the advantage of familiarity with the issues causing the desire to incorporate as a city. The disadvantage of council initiation is the public perception of a politically motivated council which could cause public resistance.

A village wishing to become a city must be able to demonstrate to the State Boundary Commission (SBC) that good faith efforts have been made to resolve issues with the township. The SBC assumes a mutual agreement, or an Act 425 Conditional Transfer Agreement, has been discussed by the village and township to no final conclusion. It is also assumed by the SBC that any proposed boundary adjustment already abuts the village boundary. Other matters considered by the SBC are efforts to share resources; and consideration of special authorities (e.g., parks and recreation).

Before spending any public dollars investigating the incorporation process, it is a good idea to consult the village auditor and attorney regarding restrictions on the use of government funds. To avoid missteps and assist in the public education of the incorporation procedure, proponents may desire to hire an outside consultant or legal counsel who is familiar with the SBC process.

There should be agreement amongst the proponents of city status of what the proposed boundaries will be. The committee or the council must act in good faith to inform the citizens of the proposed benefits and disadvantages of becoming a city. There should be community-wide support for moving from village to city. Without that support, the eventual outcome of a referendum and/or approval of a city charter question before the electorate could be uncertain.



State Boundary Commission Requirements

The first step in the incorporation process is to submit a petition for incorporation to the State Boundary Commission who is responsible for administering the procedure.

The petition process consists of three separate meetings of the SBC:

- A legal sufficiency meeting for the state-appointed SBC members to review the petition to determine if the adjustment is appropriate based on the merits of questionnaire responses and the facts. This meeting is to be held in Lansing, Michigan.
- A public hearing held in the general area of the proposed adjustment to listen to the comments of the general public from the affected city/village and the township.
- A recommendation meeting of the full SBC where commissioners deliberate and make one of three potential decisions. This meeting is also to be held in Lansing, Michigan.
- Recommend to the LARA Director the denial of the petition.
- Recommend to the LARA Director the approval of a modified petition.
- Recommend to the LARA Director the approval of the petition.

Neither the League nor SBC staff can provide legal advice. All parties are encouraged to consider consultation with legal counsel on questions of law. A municipality, petitioner, or their legal counsel may be asked by the SBC chair for a specific perspective to help clarify issues within the commissioners' minds. Keep in mind, however, that the proceedings are fact-finding in nature.

For details of the process to incorporate as a home rule city, visit the LARA website at <https://www.michigan.gov/lara/bureau-list/bcc/sections/land-survey/commission/state-boundary-commission-petitions>.

Potential Referendum Vote

Within forty-five days of the LARA Director's decision, incorporation opponents could force a referendum vote on whether the process should continue.

Charter Commission Writes City Charter

If the LARA Director finds in favor of incorporation, the electorate of the proposed city elects a city charter commission either at a regular or special election or at the same election as the referendum on whether to incorporate. The charter commission shall be responsible for submitting a proposed city charter to the governor after review by the attorney general. The proposed city charter is then presented to the electorate of the proposed city to approve or reject. Approval of a proposed city charter must be obtained within three years, or the process must start over. Additional information on charters can be found on the League's website at www.mml.org or by emailing info@mml.org.

Don Beavers is a retired city and village manager. You may contact him at 517-285-2s157 or gilesbea2@yahoo.com.

Jonesville Citizen's Committee

The Village of Jonesville provided police, fire, public works, water, and wastewater treatment services. In 2011, the village council appointed a nine-member Citizen's Advisory Committee to examine the potential benefits of becoming a city. After soliciting public input and expert opinions, the committee concluded that city incorporation would streamline government, residents would be able to obtain all services from a single unit of government, and property taxes would be reduced.

There was one overriding message from residents: they liked government in the Village of Jonesville and asked that the incorporated city operate as similarly as possible as it had as a village. On November 16, 2011, the committee made a unanimous recommendation to village council that steps be taken to incorporate as a home rule city.

After a three-year process, the village became a city in August 2014. See the full article by Manager Jeff Gray and Assistant Manager Tim McLean, including lessons learned, in the *January/February Review* at mml.org.

BECOMING THE CITY OF JONESVILLE

By Jeff Gray and Tim McLean

brought on early to advise the advisory committee and assisted us throughout the process. One important lesson towards the end of the process was use of specialized legal counsel for your proposed charter review. Your legal counsel of choice must also participate in the review with the attorney general's office.

Likewise, you will want specialized legal advice to address the division of assets with your township, as these negotiations can be a do-or-die situation. Charter negotiation is a difficult process.

STEPS TO INCORPORATION-SIMPLIFIED

Petition submitted to State Boundary Commission (SBC)

SBC holds a Legal Sufficiency Hearing to accept or reject for non-conformity (may or may not be successful)

SBC holds an Adjudication Hearing to approve or deny petition

Charter commission elected OR Referendum on incorporation is for referendum action, not for charter commission action

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Is Your Social Media Page Truly Personal?

By Bill Mathewson

This column highlights a recent judicial decision or Michigan Municipal League Legal Defense Fund case that impacts municipalities. The information in this column should not be considered a legal opinion or to constitute legal advice.

In *Lindke v. Freed*, Freed had a Facebook page which was public so anyone could follow it. As a city manager he posted personal information and professional updates, including directives and policies he initiated in his official role. Lindke saw the page and disapproved of how Freed was handling the pandemic and posted criticisms of it. Freed deleted the critical comments and ultimately blocked Lindke. Lindke sued, claiming that his First Amendment rights were violated.

The issue is when does a public official's social media activity constitute "state action." Federal law provides that a person can sue a person "who, under color of any statute, ordinance, regulation, custom, or usage, of any State" deprives someone of a federal constitutional (here First Amendment) or statutory right. The plaintiff must show the actions are "state actions," not those of a private person. Whether the action is private conduct or state action is often not clear. Municipal officials have their own First Amendment rights to speak about their positions or jobs as private citizens. But where is the line drawn—when they are no longer speaking as private citizens?

In a unanimous decision, the Court set out a two-part test to determine when the public official is engaging in "state action" when the official, for instance, prevents someone from commenting on the official's social media page. It is state action only if the official both (1) possessed actual authority to speak on the State's behalf on a particular matter, and (2) purported to exercise that authority when speaking in the relevant social media posts. Although the case has been returned to the lower court(s), there is much in the decision of the Supreme Court that is useful to municipal officials.

The Court said that the determination will be a fact-intensive inquiry and cautioned lower courts not to rely on "excessively broad job descriptions" to conclude that

authority to speak on behalf of the government exists." The appearance of the account is important but "cannot make up for a lack of state authority" regarding the first test. Regarding the difficulty in drawing a line, the Court noted that the nature of some public officials' work can make it seem like "they are always on the clock." The Court emphasized that public officials have their own First Amendment rights, including rights to speak about their employment, that they do not relinquish simply by becoming public officials. The burden is on the plaintiff to show the official is "purporting to exercise state authority in specific posts." The Court also differentiated between deleting posts the public official finds objectionable and blocking the person making them. The Court said the latter is a blunt instrument, with a greater potential to expose oneself to liability as the court should analyze the entire social media page of the official. In contrast, deleting is more precise and the only relevant inquiry for First Amendment purposes pertains to those posts for which the comments were deleted.

Analyses of the decision can be very helpful. In particular, Erich Eiselt, deputy general counsel of the International Municipal Lawyers Association, provided the following practice pointers.

- Merely sharing public information available elsewhere is unlikely to be "state action."
- Use of labels and disclaimers will create a "heavy (though not irrebuttable) presumption" that the page is personal.
- Have a policy and train officials and employees on it.
- Separate accounts are the gold standard. But officials have First Amendment rights so this cannot be mandated.
- Prohibit the use of government logos, email addresses and websites on personal accounts.
- Prohibit the use of government staff or resources to run private social media pages.
- Discourage employees/officials from identifying themselves as employees of the municipality in private accounts (but again, cannot be mandated). If they do so identify, require disclaimers. [L](#)

Lindke v. Freed, 144 S. Ct. 756 (2024).

Bill Mathewson is a legal consultant to the League. You can contact him at wmathewson@mml.org.



Artisan Village in Long-Vacant Building Revives Downtown Grayling

By Rick Haglund



Downtown Grayling “was very sad for a long time,” City Manager Erich Podjaske said. “You could roll a bowling ball down the street and not hit anyone.” That’s no longer the case, thanks in great measure to the AuSable Artisan Village, which Podjaske credits for boosting foot traffic and investment downtown. “They’re a huge economic driver,” he said.

The art center, which has operated for the past 14 years from a single storefront in a former Ben Franklin store on Michigan Avenue downtown, acquired a long-vacant building across the street in 2023 by raising more than \$60,000 through the Michigan-based crowdfunding platform Patronicity. The 6,000 square-foot building, built in the early 1900s, now features a 165-seat performing arts center, a clay and ceramic studio, called “The Mud Room,” and a fine arts retail gallery. It continues to operate its original location, a combined coffee shop and retail art gallery featuring works from mostly local artists.

“We were speechless when we found out the results (of the crowdfunding campaign) at the end, said Radel Rosin, AuSable Artisan Village’s executive director. The community went up to and beyond what we believed we could accomplish.” The campaign blew past its \$50,000 goal by raising \$67,200 from 225 donors. That qualified the organization for a \$50,000 match from the Michigan Economic Development Corp. The match is a key component of “Public Spaces Community Places,” a combined placemaking effort of the Michigan Municipal League, the MEDC, and Patronicity.

“I couldn’t say better things about the outcome. They took one of largest vacant buildings downtown and turned it into a vibrant arts center. It’s really impactful to the community to have that space active again,” said MEDC Regional Prosperity Managing Director Paula Holtz. “It’s just the right vibe. It’s a really cool space.” The building’s success represents somewhat of a transformation for Grayling, long known as an outdoors recreational playground for its location on the banks of the majestic AuSable River. “Grayling has become an arts destination,” Holtz said. “Highly renowned artists came out of the woodwork,” a result of the AuSable Artisan Village’s expansion.

“We were speechless when we found out the results (of the crowdfunding campaign) at the end. The community went up to and beyond what we believed we could accomplish.”

—Radel Rosin, AuSable Artisan Village’s executive director

The performing arts center, with a standing capacity of 225 people, has been an especially big draw in this northern Michigan city of just under 2,000 people. A variety of shows, including blues singers, comedians, and theatrical performances, play to sold-out crowds. One popular act at the center is “Gits and Shiggles,” a local comedy troupe that puts on free shows but asks for donations to support local schools and nonprofits. “At every show they raise \$500 to \$1,000 for charity,” said Rosin, a musician who grew up in Grayling. Podjaske said he attended a “Gits and Shiggles” show last fall, which he described as jam-packed. “The performing arts center is a huge presence in downtown,” he said.

AuSable Artisan Village was founded in 2010 by Terry Dickinson, who served as its executive director until retiring in November of 2023. Dickinson is a former math teacher who left the profession to paint murals in Bay City commemorating the nation’s 1976 bicentennial. He has also painted more than 200 murals in Frankenmuth. “He was a true visionary who saw the need for art and culture in our community, and it just grew from there,” Rosin said. Although retired, Dickinson is still involved in the arts center’s operations. Its board of directors includes accomplished artists, including Chairwoman Colby Chilcote, a marketing executive who holds a Master of Fine Arts degree from the University of Notre Dame.

Rosin said he believes AuSable Artisan Village is unique in northern Michigan for the breadth of arts programming it offers, including art classes for people of all ages.



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—MEDC Regional Prosperity Managing Director Paula Holtz

In addition, its volunteers teach art classes for fourth-grade students at Grayling Elementary School. The Artisan Village also sponsors an annual two-week-long “Great Northern Art Explosion,” an international juried fine art exhibition offering \$8,000 in prizes to winning entrants. The MEDC credits AuSable Artisan Village with generating more than \$2 million in investment in downtown Grayling, including new retail shops, craft breweries, and a second art gallery, the Main Branch Gallery that features nature-inspired works. Most of its revenues, Rosin said, come from commissions it earns on art sales, memberships, and grants from arts funding organizations.

The MEDC’s Holtz said the opening of AuSable Artisan Village Performing Arts Center and Artists Studio last year coincided with the 10th anniversary of the Public Spaces Community Places program, which finances new public spaces and revitalizes existing spaces. In 2023, the program began offering an additional \$25,000 match for projects that provide the highest level of accessibility to all users, including those with disabilities. Since 2014, 375 projects across the state have raised a combined total of \$13,825,945 in Patronicity crowdfunding campaigns,

qualifying for \$12,029,568 in MEDC matching funds, according to the latest Public Spaces Community Places annual report.

These crowdfunding campaigns nearly always succeed, even though many communities and nonprofits fear they’ll fall short of their goals. “Almost without fail in the beginning they think they couldn’t possibly raise that much money,” Holtz said. “But 97 percent of them are successful. It demonstrates that if you have a vision and well-thought-out plan, the community will support your passion.” In fact, the average Patronicity campaign over the past 10 years has raised 109 percent of its goal.

Rosin said his aim for the AuSable Artisan Village this year is to expose a wider swath of rural northern Michigan to the arts through its programming. “We’re not only speaking to the Grayling community. In 2025 we want to reach out to a wider variety of communities. We really want this to be a showcase for Michigan artists.” 

Rick Haglund is a freelance writer. You may contact him at 248-761-4594 or haglund.rick@gmail.com.



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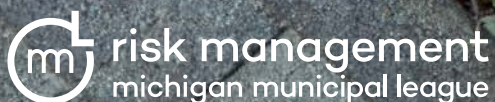
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Local Government Funding

By Rick Haglund

Local governments in Michigan depend mostly on property taxes, state revenue sharing, and fees to provide services to residents, such as police, fire, and a variety of other functions. Many experts have long said the system is inadequate to meet the needs of strapped cities and villages, particularly in a state dependent on the highly cyclical auto industry.

What's more, local government revenues are suppressed by the complex interplay of two tax limitation measures: the 1978 Headlee Amendment to the state constitution, which limits the revenue a local taxing unit can receive from a millage, and a second constitutional amendment, 1994's Proposal A school finance reform that prevents property assessments from rising above inflation or 5 percent, whichever is less. In many cases, cities and villages are forced to put "Headlee override" millage proposals to voters to raise the millage rate back to the original authorized rate before it was forced to be rolled back because of increases in property values. Many communities also have asked voters to approve millages to fund specific public safety services.

"Since the late 1990s Michigan local governments have experienced significant fiscal setbacks in their ability to provide critical public services to the residents of Michigan," Eric Scorsone, a former deputy state treasurer and local government finance expert, wrote in 2023. "This shortfall in public services has real impacts on people's lives, from deteriorating roads and infrastructure, a lack of public safety in some communities, and even extreme events like the Flint water crisis."

Scorsone determined that any community with a taxable value of less than \$20,000 per resident faces potential financial distress, and that 10 percent of Michigan cities fall into that category. "These communities cannot afford to offset state cuts with local purchasing power and thus are at risk of fiscal distress. It requires extremely nimble leadership to manage these difficult structural constraints." An analysis of local government finances by the Citizens Research Council of Michigan last November concurred with Scorsone's findings. "The primary source of revenue

for Michigan's cities, villages, townships, and counties—property tax revenues and state revenue sharing payments—do not offer the growth and stability needed to address local governments' future fiscal needs," the report said.

Local governments lost \$8.3 billion in state statutory revenue sharing between 2000 and 2022, Scorsone wrote. Adjusted for inflation, the shortfall ballooned to \$13 billion. Not all communities fared equally, though. Michigan's property tax system for financing local government favors suburbs that are seeing new construction growth and penalizes older communities such as Flint and Hazel Park that are either fully built out or losing residents.

Local governments receive two types of revenue sharing—constitutional and statutory. Cities, villages, and townships receive 15 percent of the old 4 percent state sales tax in the constitutional formula. While the sales tax is now 6 percent, 2 percent of that is constitutionally earmarked for the school aid fund. Cities, villages, and townships are expected to receive \$1.07 billion in the current fiscal year, down slightly from \$1.09 billion last year, according to the state House Fiscal Agency. Counties do not receive constitutional revenue sharing.

Statutory revenue sharing is based on a complex formula that has shifted over the past several decades. The money, which then-Gov. Jennifer Granholm and lawmakers began slashing in 2000 to balance the state's budget as Michigan's economy cratered—known as "the lost decade"—has been on the upswing in recent years. Statutory revenue sharing has risen from \$261.1 million in fiscal 2021 to \$333.5 million in the current fiscal year, a 31 percent increase over the period. Michigan Municipal League Executive Director and CEO Dan Gilmartin praised the Legislature and Gov. Gretchen Whitmer for the revenue sharing hike, saying it "aligns with Michigan's goal for growth and supports prosperity for every community in our state." But "full funding" of statutory revenue sharing over the past 25 years would have resulted in cities, villages, and townships receiving more than \$1 billion in the current fiscal year, according to the House Fiscal Agency.

"The primary source of revenue for Michigan's cities, villages, townships, and counties—property tax revenues and state revenue sharing payments—do not offer the growth and stability needed to address local governments' future fiscal needs."

— Citizen Research Council November 2024 Report

The [revenue sharing trust] fund would earmark revenue sharing money in a sort of “lockbox” designed to prevent the Legislature from raiding revenue sharing money and ensure a consistent revenue source for local governments.

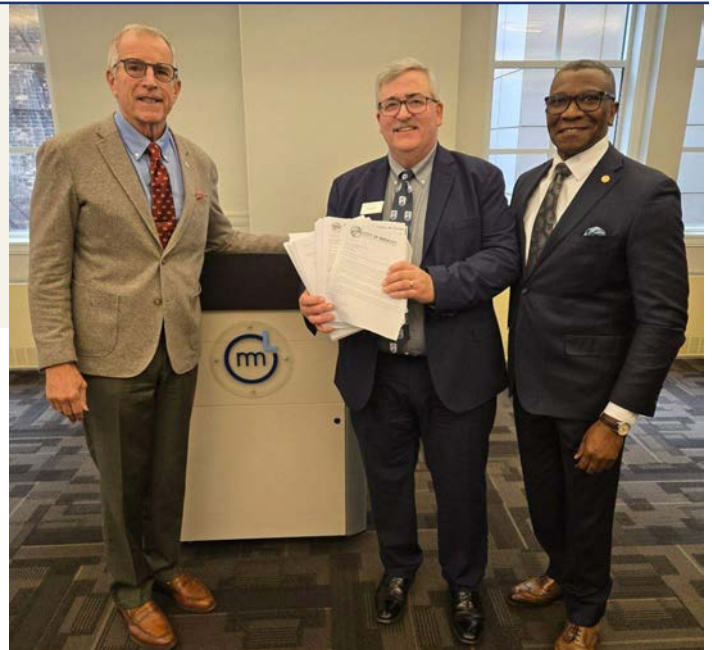
Fixing what many see as a broken municipal finance system won't be an easy task. The Municipal League, the Michigan Townships Association, the Michigan Association of Counties, and the Southeast Michigan Council of Governments are backing bipartisan bills that would create a Revenue Sharing Trust Fund. The fund would earmark revenue sharing money in a sort of “lockbox” designed to prevent the Legislature from raiding revenue sharing money and ensure a consistent revenue source for local governments. “By supporting this legislation, we can help protect sustainable funding for vital services, economic opportunities, and our local infrastructure,” said John LaMacchia, the League's director of state and federal affairs.

While a revenue sharing trust fund is “not an unreasonable strategy for Michigan's local governments,” the Citizens Research Council study said protecting revenue sharing funds doesn't go far enough; local governments need more money. Michigan should explore empowering local communities to enact taxes locally on such things as retail sales, alcohol, gasoline, and gaming, the study said. Twenty-four Michigan cities levy a local income tax and others assess taxes on hotel rooms and other tourism-related businesses.

The Citizens Research Council said an expansion of local-option taxes offers “a desirable revenue-raising opportunity for local governments that captures local economic activity and gives agency to their own residents to determine the level of services they wish to receive.”

The alternative to a revenue sharing trust fund or implementing local-option taxes is likely to be a continued unstable municipal finance system that can't support the level of services needed to build vibrant, desirable communities. 

Rick Haglund is a freelance writer. You may contact him at 248-761-4594 or haglund.rick@gmail.com.



The Revenue Sharing Trust Fund legislation was in the spotlight at a press conference held in our Capital Office on Tuesday December 3, 2024 where advocates urged Governor Whitmer to support House Bills 4274 and 4275. Rep. Mark Tisdell (R-Rochester Hills, left) and Rep. Amos O'Neal (D-Saginaw, right), sponsors of the legislation, provided comments as did the League's Board President, Mayor Don Gerrie of Sault Ste. Marie (center).



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Handbooks

Updated in 2024

These handbooks are essential reading material for new and veteran elected and appointed officials in cities, general law, and home-rule villages.

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- Structure and Function of Local Government in Michigan
- Roles and Responsibilities of Municipal Officials
- How to Select and Work with Consultants
- Running Meetings
- Personnel and Human Resources Issues
- Special Assessments and User Charges
- Planning and Zoning Basics

Numerous appendices include:

- Open Meetings Act
- Freedom of Information Act
- Sample Council Rules of Procedure
- A Glossary
- Frequently Asked Questions
- A Sample Budget Ordinance





Q. We are getting our ordinances codified and the codification company asked for a copy of our charter. We are a general law village—what should we give them?

A. General Law villages use the General Law Village Act (Act 3 of 1895) as their charter. The word charter in this instance means the foundational governing document for the village that spells out qualifications for office, authority for actions, and the duties of the council and officers, among other things. General law villages do not have a home rule charter in the same sense that cities have individualized charters written by a charter commission. There are 206 general law villages in Michigan, and they all use Act 3 of 1895 as their base governing document.

The General Law Village Act is available on the Michigan Legislature website at: legislature.michigan.gov.

Q. Our village residents pay double taxes: taxes to the village, taxes to the township. We have our own police department, but our residents pay for the township police service, too. Is there anything we can do about this?

A. What you are describing is the situation for every village in Michigan. A township is a primary form of government. Like cities, townships perform the duties required by the state:

1. Assessing property as a basis of county and school taxes.
2. Collecting taxes for the counties and schools.
3. Conducting county, state, and national elections.

Accordingly, the entire state is divided into non-overlapping cities and townships. A village is not a primary local unit of government because it does not assess or collect taxes (except its own village tax) or conduct elections. Village territory remains part of a township, village residents are township voters and taxpayers, and the township government provides village residents with the legally required duties imposed by the state. Although the township government may perform certain local services for village residents, this is perhaps the exception rather than the rule. The purpose in organizing a village is to furnish local services, such as water and sewer utilities, streets and roads, and police and fire, to residents in built-up area in the township. However, village taxpayers pay for such local services, and, in addition, help support the township government. The extent of this double burden varies considerably from one township to another.

Villages with a minimum of 750 residents and density of 500 residents per square mile (or are the county seat) can incorporate as cities. The other option is to disincorporate and revert back to the township government.

See the League's Municipal Report: *The Impact of Changing from a Village to A City* and Incorporation from a Village to a City fact sheet at mml.org.

Q. We are amending our parking ordinance and it references the Uniform Traffic Code from 1989. Has it been updated?

A. The Uniform Traffic Code (UTC) underwent major revisions in 2002 to avoid duplication of provisions in the Michigan Vehicle Code (MVC) and enabled municipalities to adopt the UTC in their ordinances. You would need to adopt the 2002 UTC and check to see that you adopted the MVC as well. These can both be adopted by reference.

See the League's Fact Sheet Adopting the MVC and UTC, available at mml.org.

The League's Information Service provides member officials with answers to questions on a vast array of municipal topics. Call 1-800-653-2483 or email info@mml.org.



Upcoming Trainings and Events

JAN 23, 2025
Farmington Hills

Newly Elected
Officials Training

FEB 8, 2025
Virtual

Newly Elected
Officials Training

FEB 21-22, 2025
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Elected Officials Academy
Winter Summit

MAR 18-19, 2025
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CapCon

MAY 16-17, 2025
Bay City

Elected Officials Academy
Spring Summit

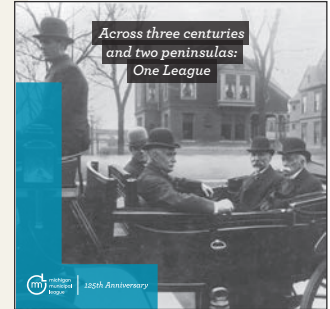


Maximize Your Membership

By Margaret Mooney and Kim Cekola

League Membership Overview

For 125 years, the Michigan Municipal League has provided advocacy, education, and assistance to its city and village members and their local officials. By virtue of a municipality's membership, the elected and appointed officials of the community have access to the wide range of training programs and services, leadership opportunities, publications, and other resources that the League has to offer. A number of these offerings are outlined here:



Inquiry Service

The League works hard to stay informed on local government issues so that we may provide quality assistance and resources to our members. We supply critical information on core topics, helping to steer our member communities through the complexities of local governance. To do this, we have built an extensive library of sample ordinances, policies, contracts, employee handbooks, and more, on key municipal topics. Any staff member, elected official, or appointed official in a member city or village may contact the League for information.

As one of the League's original services, the Inquiry Service has been used by 100 percent of our members. The most frequently asked questions relate to parliamentary procedure, requests for sample policies and ordinances, charter information, the Open Meetings Act (OMA), and the Freedom of Information Act (FOIA). In addition, we provide custom research on an array of other municipal topics upon request.

Contact: 734-662-3246 or info@mml.org

Publications

The *Handbook for General Law Village Officials* and *Handbook for Municipal Officials* include basics of public service; the structure and function of municipal government in Michigan; roles and responsibilities; running meetings; writing ordinances; financial operations, personnel and human resources issues, labor relations, and risk management.

The *Planning Commissioners Handbook* includes preparing for meetings, meeting the public, and how knowledge of the zoning ordinance and applying ordinance standards will help you make effective decisions.

The *Zoning Board of Appeals Handbook* includes how to interpret a zoning ordinance; types of variances; preparing for and conducting meetings; and guidelines for making tough decisions.

The *Artificial Intelligence Handbook for Local Government* provides concrete guidelines, best practices, sample applications, and risk assessment strategies to help AI adoption in local government.

Fact Sheets

Over the years, the League has created and compiled a catalog of Fact Sheets offering condensed information on a variety of common municipal topics. To assist with practical application, many of them contain sample policies, forms, or ordinances. We have over 80 titles on topics including the Open Meetings Act (OMA), the Freedom of Information Act (FOIA), ethics, and budgeting. We also have several that pertain specifically to General Law Villages (GLVs). The League's Fact Sheets are updated regularly to remain up-to-date and are available online.

Fact Sheets



Publications



Elected Officials Academy (EOA)

The Elected Officials Academy (EOA) is a voluntary, continuing education program for elected officials currently serving in League member communities. The EOA aims to provide local leaders with learning opportunities to ensure they stay informed on the issues impacting their communities throughout their careers in public service. With four levels for participants to complete, the EOA recognizes elected officials for their commitment to learning and the work they do to be the most effective leaders they can be. With the new League Portal, elected officials are now automatically enrolled in the EOA and can view the credits required for each level in the EOA section of their profile. Eligible activities can be submitted for credit and will be approved in the Portal as well. Participation in League programming is tracked automatically.



Newly Elected Officials (NEO) Training

Upon being elected, the League highly encourages members to attend a Newly Elected Officials (NEO) Training session. Held both virtually and in-person, attending a NEO session will help educate newly elected officials on the primary functions they need to know in their new role as a public leader. Seasoned officials are always welcome to attend as well, to refresh their knowledge. The League also invites a panel of experienced officials to participate in each NEO training to share their insights and answer questions from attendees.



On-Site Training Programs

In addition to the League's standard calendar of events, we are proud to offer on-site training programs for our member communities. With several topics to choose from, the League's expert presenters can provide individualized training and support based on the specific needs of a community. Topics to choose from for an on-site training include parliamentary procedure, essentials of local government, effective leadership, and more. Members may also choose to design a custom on-site training that further meets their needs.



League Affiliate Organizations

For additional training, networking, and leadership opportunities, the League has several affiliate organizations that members may choose to be involved in. The five core affiliate groups the League works most closely with are:

- Michigan Association of Mayors (MAM), michiganmayors.org
- Michigan Association of Municipal Attorneys (MAMA), mama-online.org
- Michigan Black Caucus of Local Elected Officials (MBC-LEO), mbc-leo.org
- Michigan Municipal Executives (MME), mme.org
- Michigan Women in Municipal Government (MWIMG) 

Margaret Mooney is a membership associate for the League. You may contact her at 734-669-6324 or mmooney@mml.org.

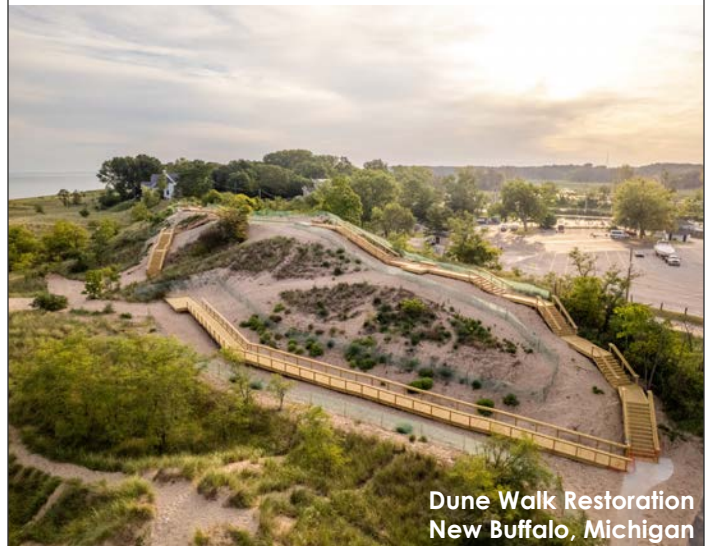
Kim Cekola is a research specialist/editor for the League. You may contact her at 734-669-6321 or kcekola@mml.org.

Affiliate Organizations



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