

## THE SUPERVISOR AS POLICYMAKER

The strength of the office of township supervisor as a policymaking position rests largely on the image the public accords the office and the political strength of the officeholder. How the public views the office undoubtedly varies from township to township, but it seems fair to say that most township citizens consider the supervisor the chief elected township officer. To the extent that this is so, the township supervisor has the “license” to inquire into virtually all affairs of township government and make proposals to resolve township problems. It is the supervisor, too, who most often represents the township in negotiations at other levels of government – county, region, or state.

This status, for the most part, is not based on statutory statements about the office, especially in regard to the general law township. But we do find some legally assigned duties that may contribute to this image. For example, the supervisor is assigned by law to be the moderator of the meetings of the township board and annual township meetings. As such, the supervisor may decide the parliamentary questions, declare the outcomes of votes, and in general, conduct the meetings as well as remove persons who become disorderly. In the event the supervisor is absent from a meeting, the clerk presides until the members select a person to chair the meeting temporarily.<sup>29</sup>

The responsibility to preside at meetings, perhaps more than any other, gives the supervisor public recognition as the chief elected township official. But the law also accords supervisors this standing as well in that only supervisors by their sole action can call a special board meeting. The general law township clerk must call a special meeting upon the written request of a majority of the board members.<sup>30</sup> In charter townships, the supervisor or two members may call for a special meeting. The Charter Township Act, though, requires the members to be notified of a special meeting at least 24 hours in advance of the meeting.<sup>31</sup> Matters to be transacted at a special meeting must be stated in the notice of the special meeting. The board may take up no other matters unless all members of the board are present.

Other than chairing the meeting, though, the supervisor has no special authority as a member of the township legislative body. Chairing a meeting is not a minor duty, however. An effective meeting chair can have a powerful influence on the quality of the decisions the board makes. But township supervisors do not have many of the tools of powerful executives. For example, township supervisors do not have a veto power. In fact, it is questionable whether they have the legal authority to establish the formal agenda for board meetings. In some instances, township clerks have seen preparation of the agenda as their duty, at times in conflict with the supervisor who wishes to exercise that responsibility. This may appear to be a minor matter, but sometimes it can be a critical element in policymaking. (Perhaps the best way to resolve this kind of dispute is for the board to address this matter in its bylaws or rules of procedure. We discuss parliamentary procedure and board bylaws later in this chapter.)

Several other legal considerations lend the office of supervisor authority as the chief elected office. One is the fact that the law names the supervisor as the agent for transaction of township legal business. This statute identifies the supervisor as the agent through whom legal actions of the township are to be transacted and by whom suits against the township may be brought and to whom legal process notices are to be served.<sup>32</sup>

Perhaps more important in terms of real policy leadership, the Uniform Accounting and Budgeting Act names the township supervisor as the person responsible for preparing the township budget in townships that do not have a manager.<sup>33</sup> We will discuss this law in the following chapter on township administration. The budget act, of course, does not give township supervisors the entire budgetary power, but it does give them the responsibility to make the important first budget proposal. This power to propose gives supervisors a substantial platform from which to exercise policy leadership.

Most of the other statutes relating specifically to supervisors do not strengthen their role in policymaking. One important statutory task of the township supervisor is to assess the taxable property in the township. But supervisors who exercise these duties must be certified by the state assessors' board.<sup>34</sup> Moreover, individual assessments are subject to appeal at both local and state levels. And the results of this work are reviewed by the county equalization department that has the authority to recommend factors to increase or decrease township assessments if conditions warrant.

Despite these constraints, supervisors have some discretion in setting property values and therefore in determining who will pay higher and lower proportions of the property taxes. Much of this discretionary authority, though, has been removed by a law requiring equalization by class or type of property. We will discuss more fully the subjects of property assessment and taxation in Chapter 5.

Township supervisors, when acting as assessors, may also exercise policy discretion on tax-exempt properties in the township. Supervisors can either be tough on such matters or fairly easy-going. The state laws on property exemptions, of course, are rather specific, but the supervisor can either simply fail to raise questions about or carefully scrutinize applications for exemption. These decisions are subject to appeal and judicial review, but the supervisor's initial action on a request for exemption may be critical in terms of whether questions are raised at all, and by whom.

Township supervisors have a few other statutory duties. One is the authority to appoint persons to the township planning commission with approval by the township board.<sup>35</sup> The supervisor may also remove a member from the planning commission after a public hearing and with the approval of the township board. Supervisors may conduct the dog census in their townships and, if the board has not appointed some other person to do so, the supervisor must investigate claims for injuries or damages done by dogs and file the claim with the board of county commissioners. In counties that have adopted an animal control ordinance, this investigation becomes a county responsibility.<sup>36</sup>

In addition, supervisors have statutory authority to prosecute for penalties and

forfeitures incurred in the township when no other officer has been assigned the specific duty.<sup>37</sup> (Ordinarily, the board assigns this duty to the township attorney.) Other laws give supervisors charge over maintenance and installation of street lighting systems<sup>38</sup> and make them the official signatories, along with the clerk, to various township documents.<sup>39</sup> The supervisor is also a member of the township elections commission except in charter townships<sup>40</sup> and had been the officer who signed concealed weapons permits for township residents.<sup>41</sup> (We use the past tense in this sentence because the legislature, at the end of 2000, reduced greatly the restrictions on carrying concealed weapons. The law has been widely criticized and as we write some groups have promised to subject the law to a referendum. Thus, the new law may be suspended until the state electorate votes approval or rejection of the law. Should it be overturned in a referendum, supervisors would again have the responsibility to sign off on CCW permits.)

**Deputy Supervisor.** The statute permits the township supervisor to appoint a person to serve as deputy supervisor. The law permits the deputy to exercise the same duties as are accorded the supervisor in his or her absence.<sup>42</sup> However, the deputy supervisor, as is the case with other deputies, do not have a vote on the township board. While the supervisor, as is the case with other officers, may choose the person to occupy the position of deputy, the township board determines the compensation the person receives.

## GENERAL MANAGEMENT DUTIES IN GENERAL LAW TOWNSHIPS

As we shift our discussion from supervisors in charter townships to those in general law townships, we find an important distinction between the two types of townships. The Charter Township Act establishes the supervisor as an executive/administrative officer similar to a mayor in a mayor-council form of city government. The charter township supervisor carries out the many duties and responsibilities we discussed unless the township board appoints a person as the township superintendent.

Supervisors in general law townships are quite different because the law assigns many of the executive/administrative functions to the township board as a whole; the law almost completely fuses the executive and legislative functions in general law townships. Some exceptions exist, of course. As we will see later in this chapter, the laws assign numerous duties to township clerks and treasurers. Supervisors, too, have some statutory duties such as administrator of property assessment, ordinance enforcer when no other officer is assigned the task, secretary to the board of review, and some others. But aside from the few specifically named administrative duties, the township supervisors have rather limited statutory administrative duties.

If that is the case, why do many township supervisors seem to be leaders in general law townships? In part, the answer lies in public expectation; residents perceive the position as the chief office in township government. And, fortunately, this perception often enables township supervisors to accrue some political power that aids them in the leadership role. Nearly all of the remaining authority that townships generally have comes from the township board, either by direct and specific assignment, or from board members who acquiesce to the supervisor who is assertive about the job.

Supervisors in general law townships who want to provide leadership, then, must use their personal relations skills, the authority of their political office, and the goodwill of the other members of the township board because the law itself gives supervisors little legal basis for administrative/executive leadership. Nevertheless, let us review what statutory authority township supervisors in general law townships do have.

### **Budget Administration**

The Uniform Budgeting and Accounting Act gives general law township supervisors one of their more important statutory responsibilities, except, of course, for the assessment duties (discussed in Chapter 6). This act designates the township supervisor as the chief administrative officer unless the township has a township manager or the board appoints another officer.<sup>6</sup> The budgetary duties include assembling the annual budget and recommending it to the township board. The township board adopts a budget and an appropriations act which authorizes the administrators to expend the funds in conformity to the budget. In addition, the act directs the “chief administrative officer” or “fiscal officer” to administer the budget throughout the year. Such administration includes making recommendations for changes in the budget when necessary, making discretionary changes in line items

if the township board resolution permits, and overseeing spending decisions to assure that they comply with the township board's budget.

Are all of these budget responsibilities clearly assigned by the uniform budgeting act? Not quite. Except for the responsibility to develop the annual budget recommendations, the township board may assign the other budget duties to a "fiscal officer." For most townships, that person would be the clerk who maintains the accounting records. In its annual budget resolution the township board should state which officer is to be responsible for budget administration during the year. If the board makes the supervisor responsible for day-to-day administration, the person will obviously depend heavily on the clerk's financial reports and the treasurer's statements regarding township revenues. The same would likely be true if the township has a township manager. Even so, it is appropriate for the supervisor to function as the chief budget officer if she or he is generally available and is able to put in the required time. But remember, the board should decide who is responsible for budget administration if it is to avoid embarrassing conflict over these questions.

We should note here that the annual budget is both a plan for spending township resources and an authorization to spend township resources in a manner consistent with the township board's appropriation resolution or act. Therefore incurring charges against the township budget need not receive prior approval by the "fiscal or budget officer" if the proposed spending is consistent with the budget unless the township has a policy regarding purchasing procedures. But that assumes that the budget is a *plan* and that the board members understood the *plan* when they voted to approve it. Hence, in the normal course of events for most small townships, overseeing the budget does not require a great deal of time if monthly or quarterly budget reports are generated on a regular and timely basis. For township clerks and treasurers, this means that their financial reports should not only be timely; they should also point out potential trouble spots in the budget plan to other board members

### **Ordinance Enforcer**

State law does not give general law township supervisors overall responsibility to enforce township ordinances, as does the Charter Township Act. Rather, it states that "all suits, acts, or proceedings, by or against the township shall be in the name of the township" with the supervisor being the agent for the township for the transaction of all legal business.<sup>7</sup> And the statute giving townships authority to adopt ordinances regulating the public health, safety, and welfare includes a general statement saying "the township shall enforce the ordinances . . ."<sup>8</sup> The act gives the supervisor some legal standing for enforcing township ordinances or seeing to it that they are enforced. But supervisors should also be aware that they do not have a general license to do this. The board itself has the responsibility to determine who will enforce its ordinances. Township boards should be fair to their supervisors when they pass an ordinance and state whether they expect the township supervisor or someone else to enforce it. If the township has a police department, the police officers will enforce many of the township ordinances. And with respect to other regulatory topics such as zoning, construction, water or sanitary sewerage, and other such civil violations, the enforcement will likely be assigned to specific departments or contracted out. And when the township employs an ordinance enforcement officer, the board should decide whether such an officer has a special responsibility to report to the supervisor or only to the board as a whole.

**Using the Small Claims Court.** A cost-effective means for enforcing some township ordinances is use of the small claims court. Every district court has a small claims division that uses informal procedures to resolve civil claims involving \$3,000 or less.<sup>9</sup>

In general, it works like this. Upon approval of the township board, a township representative (it need not be an attorney) completes a complaint form and files it with the small claims division. The person representing the township must have direct and personal knowledge of the fact in dispute.<sup>10</sup> The court informs the defendant by mail of the complaint and instructs the person when to appear in court for a hearing. On the appointed date, the parties tell their sides of the story. At the end of the hearing, the judge decides the dispute and issues an order. Generally, if the judge decides in favor of the township, the order will instruct the defendant to comply with the township ordinance.

The key to the small claims division is that both parties must agree to waive their rights to a jury trial, the right to recover more than the amount in dispute, the right to legal counsel, and the right to appeal. The object of the statute is to “dispense expeditious justice between the parties.”<sup>11</sup>

### Other Statutory Duties

It is difficult to describe the other statutory duties of supervisors in general law townships because there are no general statements on which to pin the descriptions. For example, regarding project management, the law only states that supervisors are responsible for overseeing the installation and general maintenance of lighting on bridges under the general direction of the township board.<sup>12</sup> Even the township improvement act leaves the responsibility for general supervision to the township board although it is likely that the board would designate someone to be its agent for a project.<sup>13</sup> The supervisor’s particular responsibility under this act is to determine the special assessments for the improvement and to create a special assessment roll.<sup>14</sup>

Some township supervisors may be involved in administering the animal control laws. The extent of their involvement now depends on whether the board of county commissioners has adopted a county animal control ordinance, which many counties have done. (Townships may adopt their own ordinances if they prefer that approach to the problem.)<sup>15</sup>

Even though the statute may be somewhat outdated, and dog control problems are generally handled under a local or county ordinance, township supervisors continue to have some responsibility to investigate damage and injury caused by a dog. After investigation and sworn testimony by involved persons, the supervisor may issue a decision to have the county sheriff kill a dog. During a hearing on the matter, the supervisor may ask the district court to order the dog owner to appear and explain why the dog should not be killed. The township board may assign these duties to a township trustee or other person in place of the supervisor.<sup>16</sup> Dog owners are liable for damage to livestock, but if the owner is not known, the person may ask the board of county commissioners to compensate for the damages.<sup>17</sup> The township supervisor’s report may be used in making the claim against the county, but a supervisor does not have to follow up with the county board.

Supervisors may have one other responsibility in connection with dog licensing, although it, too, is outdated. The act is based on the idea that assessors who call on every property each year could inquire as to the number of dogs on the property. The problem, of course, is that even if the supervisor is assessing property, he or she no longer visits all the properties in the township. But when supervisors do take a dog census, the county board may pay the person an extra compensation for the work. Their dog census reports should be delivered to the county treasurer by June 1.<sup>18</sup>

Except for duties we discuss elsewhere – assessing, chairing township meetings, appointing people to various township positions, serving as secretary to the board of review, etc. – these are just about all the statutory duties supervisors in general law townships are given. Their other duties are derived from responsibilities delegated by the township board.

### **Delegated Responsibilities**

Many of the things that township supervisors do are based on tradition rather than on responsibilities specifically delegated by township boards. Popular expectations of what a township supervisor should do tend to grow out of these traditions. Where things are conducted in a more or less informal way, this arrangement may not be a problem. The board can make adjustments to fit the individual needs and abilities from one township supervisor to the next.

The informal approach, though, may be the source of some difficulty in more heavily populated townships where misunderstandings over who is responsible for doing what may have more serious consequences. In such townships, we think that the board should take deliberate action to decide which board responsibilities it wants to assign to the township supervisor. In our view, a board should handle this matter in the same way it would handle the job definition if it were going to hire a township manager. At the same time, the board might also define the duties of the clerk and treasurer and what the board expects of them.

Such a task may not be as difficult as it sounds at first, since by tradition in each of the townships, the duties may already be fairly well distributed. Such statements, though, would be helpful for persons coming into office so they could know at least a little of what is expected or not expected. A written statement might also avoid some of the difficulties that arise when someone comes into office thinking that he or she is the “boss,” only to be told that is not quite the case. One of the difficulties is that the other board members will wait awhile before expressing their concerns. At that point, the problem has been festering and the personal relationships have been growing increasingly bitter. Thus, having “job descriptions” in place before things reach this stage is the better approach.

Township boards, of course, may not unilaterally reassign those duties assigned by statute to a particular officer. Nor, by such assignment, should the board remove itself from having further responsibility over these matters. But our proposal would clear the air every now and again, when everyone is looking at everyone else because something fell through the cracks. Committees are pretty good at criticizing

but usually are not very effective at running things. Making specific administrative assignments enables a board to do what it does best – evaluate and criticize.

Our advice to general law township supervisors is to be cautious about trying to take charge where the “ice” – in terms of state law and board authority – is thin. Rather than operating on some assumptions about what residents and other board members think the job of supervisor is, a supervisor might be wise to press the board for specific responsibilities and duties they believe should be assigned to the supervisor.