



Michigan County Road Commissioners Handbook



County Road Association
OF MICHIGAN

What is a county road commission?

Michigan's 120,000-mile road system was primarily developed and is maintained at the county level. This was a compromise many years ago that kept decisions about road priorities close to home, yet still brings transportation unity across Michigan's 1,242 townships.

Michigan's 83 county road agencies are responsible for 90,000 miles of roads – 75 percent of Michigan's road system – and 5,700 bridges. Michigan has the nation's 4th-largest network of local roads, which has been the key to developing our powerful manufacturing, agriculture and tourism industries, among many other sectors.

Six Michigan counties have opted to have their county commission take over the road functions – a decision that may be reversed at will. All others have maintained road commissions as self-governing entities with distinct statutorily-assigned responsibilities.

Details may be found in the County Road Commission Act (*PA 283, 1909, as amended*).

What is a road commissioner?

Michigan is unique among all states in having oversight boards that govern a road commission. **Road commissioners** are essentially officials and representatives of the county road commission board, comparable to township board members and county commissioners. The scope of concern for road commissioners is limited to issues related to road rights-of-way.

Depending on the county's choice, road commissioners are either elected or appointed by the county commission. A county may have three or five commissioners, who as a group provide policy and future vision, fiscal oversight and an access point for the general public.

County road commissioners are generally paid a very modest stipend.

County road commissioners have a term of six years, which is longer than some other offices. This is due to the very complex nature of road funding which takes time to learn, as well as the wide range of public safety concerns, and the long timeframes in which projects are planned through completion.

The Michigan County Road Commissioners Handbook provides some basic information that commissioners need to serve effectively.

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WELCOME & INTRODUCTION

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FOREWORD

If you're a newly-elected or newly-appointed county road commissioner: Congratulations! You hold an incredibly important leadership position in your local community. Michigan's 90,000 miles of county-run roads and 5,700 bridges are the foundation for quality of life and economic prosperity here.

Michigan residents rely on locally maintained roads to get children to school, address medical needs, access emergency services and to get to our jobs. Our economy depends on good, safe roads to harvest Michigan's natural resources and turn them into products that service people in the state, across the US and around the world.

Most of the time, Michigan residents don't even think about the road system; we just expect it to be there. That said, the deteriorated condition of Michigan roads keeps county road agencies – including yours – in the spotlight.

More broadly, road commissioners are responsible for the entire right-of-way, which includes up to 33 feet or more from the road center. This land is just as vital as the road because it is what allows public and private utility services to reach all of our homes. Specifically, electricity, natural gas, water, sewer and telecommunications infrastructure all run through the road commission permitting policy. The right-of-way will continue to be important in the years ahead.

Michigan road commissioners are an important contact point for local elected officials, state legislators and the general public – all of whom need to understand the what, when, where and why about roads, bridges and rights-of-way.

We hope this Handbook will help educate you as a Michigan road commissioner about your responsibilities as an important public officeholder in the state. We hope you take advantage of it and every other learning opportunity from the County Road Association (CRA) of Michigan.

We all need to pitch in and help the public understand Michigan's large, complex and underfunded road system!

Thank you for serving.



Denise Donohue, CAE, APR

Denise Donohue

Director, County Road Association of Michigan

WHAT DOES IT MEAN TO BE A ROAD COMMISSIONER?

Duties of Road Commissioners

Quite simply put: Road commissions have a governing responsibility to see to it that their commissions achieve what they should and avoid unacceptable situations. This governance responsibility encompasses a wide range of activities in which you, as a member of the board of road commissioners, will engage.


The concept of governing extends far beyond oversight of the budgeting process and setting policies. It is truly about working as a team to shape the future of roads in your county. Serving as a road commissioner, you are called to be a leader, a communicator and an advocate.

You will lead as a collaborative group to set the direction for your county roads. You must strategically communicate with your county board of commissioners, township boards, county residents, neighboring communities and legislators. You absolutely must talk about your county's need for adequate funding, which is ultimately decided by the Michigan Legislature.

To shape the future of roads in your county, you must anticipate what the demand for roads will be in the future of your county. And as stewards of the right-of-way (ROW), road commissions develop ROW permitting policy to control placement of electricity, water, sewer and telecommunication lines, and residential and commercial property access for your county residents and businesses. Governing at this level includes strategic planning for the future of success and economic prosperity of your county.

 **Note:** For more ROW information, see Chapter 4 (p. 74).

The agencies that manage the services that pass through your ROW also want to control it. This creates the potential for a very political situation, which has increased in recent years. In this highly volatile climate of politics, road commissioners need to be politically savvy and engaged. You must work to protect and preserve the legal county road commission (CRC) rights to be stewards of the established ROW space into the future.

 **Note:** “CRC” will be used throughout this handbook to denote both road commissions and road departments.

Finally, today’s road commissioners need expanded perspective. No longer can a commissioner simply focus on internal efficiency and budgeting of your individual CRC.

Today’s road commissioner must be an external communicator, not only within your communities, but also with current and prospective legislators, leveraging your websites, social media and face-to-face interactions. Today, road commissioners must work at building relationships with all the players who have a stake in transportation decision-making. This requires that your CRC strategize on how and with whom to build relationships and ensure this happens.

• **County Road Commission Act.** The County Road Commission Act (PA 283, 1909) specifies that a CRC “shall act as an administrative board only and the function of the board shall be limited to the formulation of policy and the performance of duties imposed by law and delegated by the board of (county) commissioners.”

Road Commissioner Code of Conduct*

Road commissioners will conduct themselves lawfully, with integrity and high ethical standards. In addition, a Commissioner...

- Will attend as many Board meetings as possible and be informed of concerning issues;
- Will inform the manager/superintendent of any impending absences;
- Shall exercise his/her obligation to vote upon issues at hand unless a conflict of interest is present;
- Will not personally direct any part of the operational organization and will refer any such matters that come to his/her attention to the manager/superintendent or other appropriate staff;
- Will work with other commissioners to establish effective policy and delegate authority for administration to the manager/superintendent;
- Shall support the employment of those individuals best qualified to serve as employees and insist on regular impartial evaluations of employees;

- Shall avoid indicating he/she represents the board on a position unless the issue has truly been discussed at the board meeting and a position has been taken by the board;
- Will maintain confidentiality appropriate to sensitive issues and information that otherwise may tend to compromise the integrity or legal standing of the organization, especially those matters discussed in a closed session that is privileged under applicable law; and
- Will adopt policies and programs that do not discriminate on the basis of religion, race, color, national origin, age, sexual orientation, gender identity, height, weight, marital status or disability.

* See Legal Considerations, p. 21.

Policies and Practices of the Board

What does it mean to formulate policy? Creating policy is different than making decisions. Note the contrast in the table below.

Decision Making	Policy Making
Reactive	Proactive
Specific	Global
Based in the majority's opinion	Based in values and what is important; based on mission and what is ethically and prudentially impermissible that we all agree on
Has no impact beyond the specific question decided	Has long-term impact for the organization
Applies to only one situation	Applies to many situations in the organization
Usually about an operational concern	Establishes a consistent value system for the association

- **Decision Making vs. Policy Making.** Developing policy for your CRC includes formulation of high-level operations policies such as personnel policy, policy on union negotiations, and it might include defining a shared philosophy around relationship-building with Michigan Department of Transportation (MDOT) personnel, other government agencies and linking with county commissioners. It might also include your philosophy about funding education for workers, compensation and benefits, and the CRC's approach to prioritizing projects and budgets.

There are decisions you have to make as a road commissioner as you “see to it” that high-level actions are taken. Specifically:

- Hiring and/or firing the **chief administrative officer (CAO)**. All other employees are accountable to the CAO and serve at the pleasure of that individual.
- Adopting a position classification and description schedule.
- Adopting a high-level compensation and benefits approach for CRC employees.
- Adopting the annual budget with priority projects identified.
- Acting on bid recommendations and awarding contracts, unencumbered by conflicts of interest.
- Authorizing the purchase of equipment and facilities.


When a board makes decisions, it does so through administrative resolutions. These are explained in detail below.

- **Conflicts of interest.** The law states that “a member of the board of county road commissioners shall not be employed individually in any other capacity by, or for other duties with, the board of county road commissioners.”

This means that commissioners must participate in CRC board meetings without conflicts of interest. Board members must serve with a singular loyalty to the good of the whole of the organization.

If contractors and employees were to serve on the board, it would be nearly impossible to review issues and vote with objectivity. The law anticipated this dilemma.

In Michigan, conflicts of interest come into play when a commissioner, a close relative, friend or business partner have a financial gain at stake in the decision. The possibility of money pulls people out of their loyalty to the whole of the organization. When that happens, a commissioner can no longer be objective as the role of a commissioner demands.

 **Note:** More information on conflicts of interest is found in Chapter 3 (p. 29).

- **Collaborative dialogue.** To be successful as a board, it’s important to note that a CRC board operates as a unit – members do not act alone. The members of a CRC board are collaborators, thinking together to create effective strategies to obtain and allocate funding, communicating with

critical decision-makers, and also linking with county residents to hear their concerns and share your vision for roads and ROW in the county.

The CRC board accomplishes its work through official board actions. In a well-run CRC, the process permits each item to come to the CRC board for presentation and explanation by the CAO, other top-level administrative personnel of the road commission or external consultants. CRC board members may ask questions and discuss, debate and amend, if necessary, draft resolutions. The matter is finally decided by a recorded vote of the CRC members.

Acting as stewards of the rights-of-way is serious business and it requires a few things from the people who are appointed or elected to serve.

Policy and Administrative Resolutions

All resolutions of the CRC involve policy, but some have broader policy implications than others. That is why CRC members should be aware of a distinction between policy and administrative resolutions. Administrative resolutions typically deal with narrow actions such as approving a personnel appointment, awarding a contract, or perhaps purchasing new equipment.

Administrative resolutions generally are operational, instructing the CAO to follow a particular issue. If the board addresses these types of issues from a broader perspective, then the CAO can be empowered to make smaller decisions so long as they are within the scope of the administrative resolution.

Below are examples of administrative resolutions addressed by CRC boards. Please note that these topics generally address an overall state and not a specific situation.

- CRC purchasing procedures or requirements for competitive bidding;
- Employee qualifications and recruitment practices;
- Nepotism policy (the hiring of friends and relatives);
- Seniority and promotion;
- Disposal of outdated equipment; and
- Financial policies.

Policies on these and other matters have broad implications for top CRC administrators. It is through such policy resolutions that a CRC board directs and influences the way the organization does its business. It is through policy development that the CRC board minimizes exposure to risk while empowering the CAO to get the work done.

Finding the proper balance between the decision-making authority of the board and the CAO is an important consideration. When the board gets too deep in the weeds, the CAO can be paralyzed in operational decision-making. This is micro-management. When the board gets too broad, it doesn't have any control.

One rule of thumb about the proper balance is to say what you need to say, but stop making policy when you can accept any reasonable interpretation of your CAO.

Board policies, of course, cannot direct every aspect of the administration and operation by a CRC. That's why the board hires professional and skilled operational personnel who have the capacity to exercise discretion and judgment as they apply policies to specific circumstances.

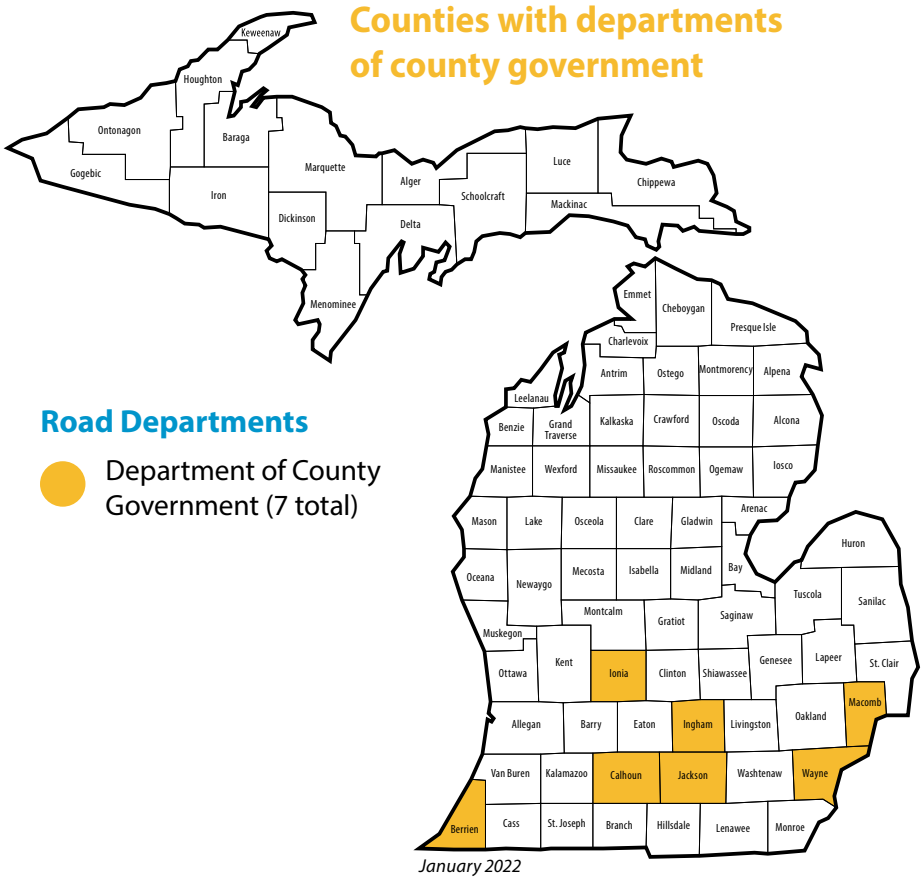
When the CRC board wants to change the way such individuals are responding to particular conditions, it adopts a policy resolution to amend the policy and thus gives new instructions to the personnel. It is through policy changes such as these that the board guides the conduct and decisions of the employees.

- **Keeping up on change.** Commissioners should be alert to the potential impacts on their own CRC from changes in state or federal law or policy, and court rulings. The County Road Association (CRA) of Michigan, the Michigan County Road Commission Self-Insurance Pool (MCRCSIP) and the County Road Association Self-Insurance Fund (CRASIF) offer training and bulletins on many of these changes.

Networking with other CRCs, including by attending CRA's regional council meetings, is also helpful in staying abreast of statutory and legal changes, and how other CRCs are adjusting policies and practices accordingly.

Informal Qualities of a County Road Agency

In practice, there are many qualities not prescribed in law, but that are common across Michigan's 77 road commissions. (Six counties had road departments under the control of the county government as of January 2022.) First, the **informal relationships** between local government agencies are interwoven. For example, many road commissioners were once county commissioners, township supervisors/board members and their informal



connections remain intact. Because of this history and other existing relationships, when county commissioners (and others) receive road- or road agency-related complaints they often contact a road commissioner to see what can be done.

In the other direction, road commissioners may also find themselves requesting assistance from the county commission. Because a CRC is an agency that has no authority to levy a tax, the CRC must usually ask the county commission for funding/bonding assistance for new buildings or for approval to put a road or bridge millage proposal on the ballot, as examples.

Road commissioners should provide planning assistance to township boards by incorporating township road millage improvement funds as part of township funding for local road improvement strategies. As mentioned in the Code of Conduct, only act when the issue has been decided among your road commission peers; don't step out too far on your own.

It's important that the CRC be intentional about building sound working relationships with county commissioners. Keeping the county board informed of road improvement plans, providing an annual report to the county board, sharing your vision or occasionally simply attending a county commission meeting are good ways to build relationships and keep each body aware of what the other is doing.



COUNTY BOARD RELATIONS

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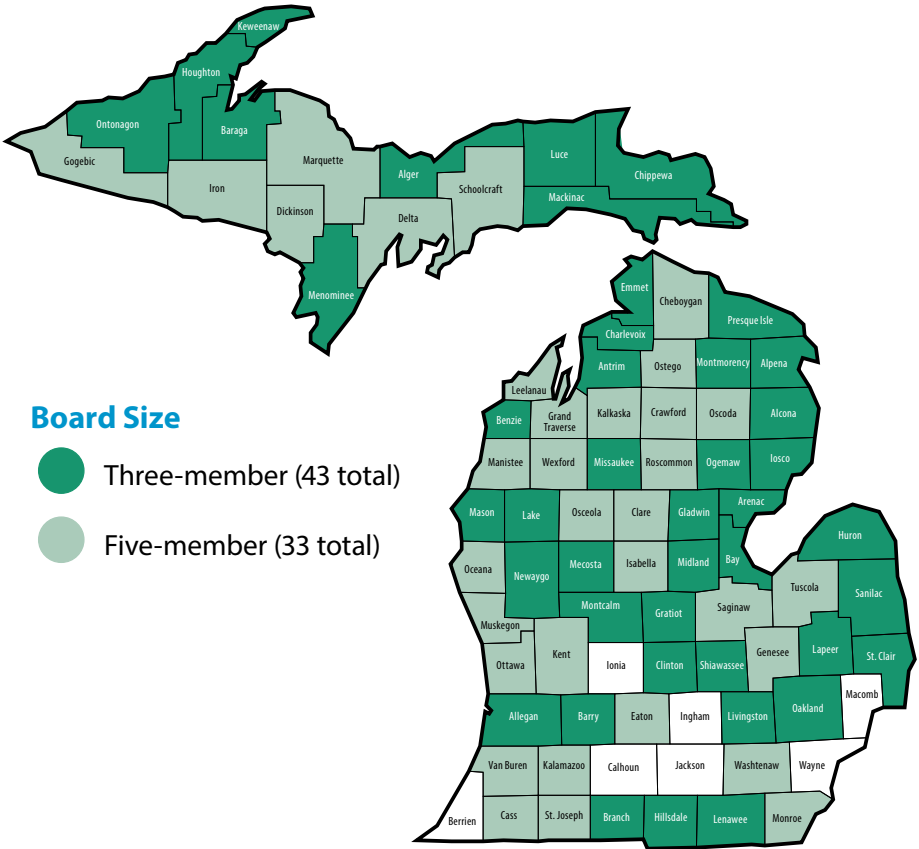
Relationship to Board of County Commissioners

As noted, many county commissions appoint members to their CRCs. In counties that elect road commissioners, the county board holds the authority to appoint a road commissioner to fill a vacancy for the remainder of a term.

The county board also establishes compensation and benefits of road commissioners.

The county commission holds the legal authority to remove a road commissioner from office under certain circumstances. The law states that a road commissioner can be removed for cause after a hearing on the charges, usually for misfeasance or malfeasance.

Counties with three- or five-member boards



January 2022

A road commissioner removed for cause may appeal the county board’s decision to the circuit court. The courts, however, tend to interpret the law to give county commissions great and broad discretion in making such a decision.

This is the extent of the *statutory relationship* between the county commission and the county road commission, as established by the County Road Commission Act.



BETTER TOWNSHIP RELATIONS

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Relationship to Township Board

Road commissioners need to intentionally develop **“ambassador” relationships** with all of the county’s intra-jurisdictional entities (cities, villages, townships, drain commissioner, etc.). This means being prepared and actively representing the interests of the county road agency in dialogue so as to build these partnerships.

Special attention should be given to developing relationships with your townships. With much of your road agency’s budget funding local roads in the township – and with local funds being the 2nd-largest source of CRC funds – it’s important to nurture these relationships.

How you connect with township boards and keep them informed of your projects and the CRC’s future plans is directly related to their support for funding advocacy for Michigan’s local roads.

CRCs cannot act as isolated governmental entities. Just as CRC roads connect local jurisdictions, so must you, as the road commissioner, intentionally create a communication plan that connects the CRC with decision-makers in those townships, cities and villages.

Simply put: Road commissioners must work at developing a positive relationship with all local governments to the extent possible.


Township boards and residents have an important voice and a role in how the road system develops. This role includes cooperative and collaborative township planning; setting standards for subdivision and land division administration; and township financial contributions including general funds, special road improvement taxes or special assessments.

The roads themselves, of course, are the statutory responsibility of the county road agency.

Relationship to Other Elected Officials

Being an ambassador doesn't stop at the county line. While no formal or statutory relationship is required with city and village representatives, Michigan residents and industries are best served when the CRC also has strong, positive relationships and regular communication with them.

The public does not see their streets, roads, bridges and highways as state-owned or county- or municipal-owned. The public wants one seamless infrastructure system in good repair and expects the respective road owners to work out their differences and manage the assets accordingly. The road commissioner is a key player in bringing everyone together as harmoniously as possible.

 **Note:** *More information on inter-governmental relations may be found in Chapter 11. (p. 95)*

NOTES:

DEVELOPMENT AND FUNCTIONS OF THE COUNTY ROAD COMMISSION

Relationship to Township Board

Few residents really stop and think about transportation infrastructure – until there is a closed bridge, a car crash or other disruption to safe driving. But every Michigan resident is involved in transportation and benefits from good roads and rights-of-way.

Even residents who don't drive buy goods from stores that were serviced by trucks or get home delivery from internet purchases. They depend on police, fire and ambulance services that utilize the roads. And most everyone gets electricity, natural gas, water, sewer service and telecommunications utilities through the right-of-way spaces along Michigan roads.

All of these activities depend on safe, efficient roads.

Safe, efficient transportation is critical to our way of life throughout Michigan. Safe, efficient local roads and bridges are important to placemaking and economic development of our cities and villages, and the quality of life we enjoy in Michigan.

Those who govern and manage our transportation systems have a great responsibility, indeed.

• **Early transportation in Michigan.** Early in the history of the US and Michigan, transportation depended largely on waterways. Key factors related to navigable rivers and harbors where sailing vessels could be sheltered. Rivers and harbors were influential in the location of early settlements, which grew into modern cities and villages.

In the early 1800s, as the Northwest Territory (Ohio, Indiana, Michigan, Illinois, Wisconsin) was being settled, the federal government helped connect roads from Detroit to other water ports and early settlements in Chicago, Port Huron, Grand Rapids, Saginaw and Monroe.

These same roads also gave settlers access to the farmlands that eventually provided the impetus for cities and villages to grow along these major routes. Those original routes are still with us, as major connectors between our current urban centers and the rural communities in between.

CHAPTER 2

Traveling the early roads was a chore accomplished by foot, horseback or rocky carriage rides. The steam engine emerged about the time Michigan was admitted to the Union. But after the state experimented with operating railroad and road systems, voters forbade the state from funding “internal improvements” such as on roads in the state’s second Constitution (ca. 1850).



From the 1850s through the 1920s, state law permitted townships to exercise responsibility for building and maintaining local roads. A highway commissioner in each organized township had the duty to oversee the road system. A tax equal to 50¢ for each \$100 of property value generated money to finance roads. Residents were able to substitute their personal labor for taxes by working on the roads!

However, by 1893 the Michigan Legislature was developing an alternative model that would have long-lasting effects.

The Stone Road District was organized in Bay County and given the task of constructing three stone or “macadamized” roads across the district. The Legislature extended the approach in 1909 to other counties by allowing them to establish a county road system, if county residents voted one in.

The legislative action in 1909, the year after Michigan’s third Constitution was adopted, created the county road commission. It took some time for all the counties to hold a referendum on adopting a county road system, but by 1931 all 83 counties had an established county road commission.

Shortly thereafter, as the US suffered economic woes from the Great Depression, the Michigan Legislature passed the McNitt Act (PA 130, 1931). The Act was primarily intended as a property tax relief measure, but it brought with it major reforms in local road administration.

The effect of the McNitt Act shifted the administration of the local roads from the townships to the 83 counties. Additionally, funding was cut dramatically to maintain those roads. Counties responded by curtailing improvements on primary roads in favor of maintaining local roads.

In 1938, a constitutional amendment was approved by Michigan voters and every county in the state. It required that motor vehicle tax funds be used exclusively for highway purposes.

And, of course, mass production of the automobile and its growing popularity became the impetus for creating a comprehensive road and bridge system that united Michigan.

For an interesting history on the evolution of MI county road agencies, visit CRA’s website under the “About” and “Commissioners Resources” tabs for an interesting article by Dorothy G. Pohl, CPA, long-time managing director/clerk of the Ionia County Road Department.

Legal Basis of the Road Commission

In 1909, the Michigan Legislature enacted the law enabling road commissions. It has been amended several times since. Following are some key points of the County Road Commission Act (PA 283, 1909, MCL 224.1 et. seq.) as it currently stands.

Elected or Appointed Commissioners and Terms

Early versions of the County Road Commission Act stated that road commissioners were to be elected. That was in keeping with the times when most public officials were elected rather than appointed.

The current law governing county road commissions (CRCs) permits road commissioners to be elected by the voters of a county or appointed by the board of county commissioners. Each county board has the authority to determine whether its road commissioners will be elected or appointed.

Elected or appointed, the road commissioner term of office is six years. Every other year, at least one road commissioner on a three-person board, or two on a five-commissioner board, is elected or appointed. All terms begin January 1st, although an appointed road commissioner may continue to serve until the County Board of Commissioners has appointed a replacement.

Views vary as to whether election or appointment of road commissioners is preferable. A change from elected to appointed road commissioners, or vice-versa, won't immediately affect the sitting road commissioners. As the individual terms expire, the change is implemented. The decision to elect or appoint also doesn't directly affect the authority or duties of the road commissioners; their responsibilities remain the same. Nor does the process of selection change their compensation.

- **Swearing in.** Regardless of the length of term or appointed vs. elected status, the road commissioner must be sworn in to his or her term of public office by the county clerk within 10 days of certification of the election results or appointment by the County Board (PA 283 of 1909, MCL 247). The commissioner must complete an Oath of Office with the county clerk for

- **Appointed.** Most non-chartered counties have **appointed road commissioners**. County commissions that have chosen to appoint road commissioners usually invite interested individuals to apply. A county commissioner may also directly nominate a person for appointment to the road commission. The person receiving a majority of the votes cast by county commissioners will serve as the county road commissioner.

There are two exceptions to the election or appointment of road commissioners:

- **County Executive Form or Government.** First, Macomb and Wayne counties operate under charters that permit the county to assign road management responsibilities to a department under the county executive.
- **County Commission Assumption.** Second, there are counties where the Board of County Commissioners has assumed road commissioner duties.

County Road Commission Officers

Annually, each CRC officially organizes itself in January with the election of a member to serve as **chair** at the pleasure of the board. Each road commission board has its own rules governing the election of the chair and the length of the term of office.

CRC boards also customarily select one of the members to serve as **vice chair**. That position, however, is not statutory. The law directs the county clerk to serve as CRC **clerk**, but it also permits a CRC to appoint a staff member to work as board secretary when the workload is too great. It is common to appoint a staff member to work as board secretary.

Other than saying “annually,” the law is not specific as to when the term of the board chair begins and ends. Thus, the time for electing the officer should be specified in the CRC Board Rules – ordinarily at the first or second meeting of the year.

While not stated in the law, the CRC should ask the board secretary to preside at the initial meeting until the chair is selected. (The County Board of Commissioners also follows this pattern.)

- **Individual Commissioner Recommendations.** To best carry out the responsibilities of your public service, following are recommendations shared by experienced road commissioners.
 - Prepare by reading the materials in advance of the meeting. Remain abreast of email and other technology.
 - Develop a perspective, goals, questions and opinions ahead of time.
 - Take the meeting seriously; stay involved; show up on time.
 - Be an active listener.
 - Keep comments relevant and to the point. Avoid story-telling.
 - Help chair keep meeting moving.
 - Obtain recognition from chair before speaking.
 - Avoid making any divisive action and commentary.
 - Limit remarks to issue being considered.
 - ✓ Ask questions for clarification.
 - ✓ Respect your colleagues.
 - ✓ Explain reasons behind your significant decisions.
 - ✓ Raise concerns and objections at the meeting.
 - ✓ Articulate any disagreements respectfully.
 - ✓ Don't spring surprises.
 - Make your criticisms constructive, tactful and fair.

* See Legal Considerations, p. 21.

Best Practices for Road Commission Chairs*

Being chair of the county road commission is a special responsibility and should be approached that way. Remember, the chair serves at the pleasure of the board and should help lead good governing practices. The following best practices were developed by the CRA Commissioners Committee.

- Stay neutral.
- Exhibit high energy.
- Be assertive without being abrasive.
- Listen well.
- Recognize when the meeting veers off-course and bring it back.
- Dedicate self to serving the group's needs; ensure members are satisfied.

- Encourage participation by all.
- Maintain a safe, open, trusting and supportive relationship among board members.
- Deal with hidden agendas, disruptive behavior, and divisive actions and comments.
- Remember that a sense of humor can reduce tension.
- Be efficient in running the meeting.
- Avoid partisanship during discussions and in decision making.
- Identify and avoid conflicts of interest for oneself and other board members on items being discussed and decided.
- Follow your adopted version of parliamentary procedure.
- Keep public comment separate from board discussion and decision-making.
- Maintain dialogue with CAO.
- Limit public comment fairly.

* See Legal Considerations, p. 21.

• **Highly-effective chairs don't do these things.** Another way to look at best practices, is what you should *not do*. Chairs should not:

- Fail to relinquish gavel when your own position is too emotional or conflicted.
- Treat board members unevenly.
- Cut off discussion prematurely.
- Fail to close discussion in a timely fashion.
- Let the meeting drift off-topic.
- Allow meeting to become too informal.
- Neglect to explain the process.
- Forget to restate audience questions before answering them.
- Fail to apply time limits consistently to speakers.
- Fail to recognize, deal with procedural objections.
- Fail to protect members, staff from verbal attack.
- Lose track of amendments to motions.
- Fail to restate motions before voting.

- Forget to call recesses during long meetings.
- Neglect to reconvene at specified time.
- Allow any road commissioner or public attendee to engage in divisive actions and comments.

* See Legal Considerations, p. 21.

***Legal Consideration on Best Practices**

The best practices shared in Chapters 1, 2 and 3 may be considered as a sample of the content and subject areas that county road commissioners should discuss and if deemed appropriate, adopt. Some of these practices may need to be modified for your specific road commission. Prior to adoption of any board rules, policy or practice, consult your attorney.

Divisiveness is defined as actions or comments intended to cause disagreement or hostility between people based upon issues of religion, race, color, national origin, age, sexual orientation, gender identity, height, weight, marital status or disability.

Questions or comments on these sample policies and practices can be directed to the CRA Commissioners Committee.

NOTES:

Basic Guidelines for Road Commission Meetings

Each CRC develops its own culture and way of handling its meetings. Aside from requirements in the Open Meetings Act (OMA), the law makes few specifications about CRC meetings. The following, therefore, are suggestions.

Schedule

The law does not say how frequently the CRC must meet. All CRCs meet at least monthly, and many meet twice a month.



OPEN MEETINGS ACT

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Open Meetings Act

The Michigan Legislature adopted the Open Meetings Act (PA 267, 1976 as amended; MCL 15.261 et. seq.) to set standards so that the public may observe its public agencies at work. The following are among the key rules of the Act that apply to CRCs:

- The board must set and publish its regular meeting schedule annually;
- A special meeting requires public notice of at least 18 hours;
- Emergency meetings, without public notice, are permitted under certain circumstances; and
- Members of the public must be permitted to address the CRC. The written rules of the CRC can regulate the amount of time a person speaks and when. It is advisable to have the public comment segment early in the meeting with a time limit of three to five minutes per person.

Best Practices for Meetings

Each CRC should officially adopt a set of board rules. In the US, *Robert's Rules of Order* have become the default mode for all meetings. People pass motions, second those motions and vote 'yea' or 'nay.' Agendas include Old Business and New Business. All of this comes from *Robert's Rules*, which are very helpful in creating a consistent process for public boards.

Most organizations modify the rules to match the level of formality needed in its decision-making settings. A CRC board should periodically discuss how it will operate during meetings.

In addition, *Robert's Rules* allows for local rules to supersede its standards. *Robert's Rules* may serve as a guide for developing the full CRC rules. Having a specific CRC-set of rules will help CRC meetings be business-like and orderly. Written board rules practiced with integrity will help produce sound policy, resolve disputes that arise in meetings and create clearer accountability of the CAO for operational performance.

Which *Rules* will the board follow? Make a decision, then write them down as an administrative resolution and follow those rules.

• 8 Rules for Constructive Engagement. The best road commission meetings are characterized by commissioner interactions that are...

1. Relevant to the meeting purpose.
2. Agreed to by all.
3. Efficient.
4. Fair and void of divisive comments concerning religion, race, color, national origin, age, sexual orientation, gender identity, height, weight, marital status or disability.
5. Respectful of the public.
6. Lawful and ethical.
7. Conducted using your selected form of Parliamentary Procedure (e.g., Roberts Rules of Order).
8. Transparent during the meeting.

* See Legal Considerations, p. 21.

• 10 Rules for Road Commission Board Meetings

- 1) Hold only one meeting – avoid side conversations and off-track discussions.
- 2) Respect all viewpoints as valid; intervene with tact.
- 3) Generate and record all ideas first; evaluate them together later.
- 4) Reach consensus; majority vote is a last resort.
- 5) Agree that all members will support board decisions, and not disparage the result.
- 6) Provide meeting materials in advance.
- 7) Consider time limits for each agenda item and for each member to speak.
- 8) Be transparent to the greatest degree possible, only going into closed session when allowed by law.
- 9) Adopt the agenda before meeting begins.
- 10) Agree upon a form of parliamentary procedure for your board and use consistently.

* See Legal Considerations, p. 21.

What Should be on the Meeting Agenda?

Where does the content of a CRC meeting come from? This is an important question that sets the tone for the type of governance a road commission will follow.

Much of the agenda will be matters for which the CAO needs approval. If those matters are required to be approved by the board and they are non-controversial, they should be placed in a **Consent Agenda** where the board can approve routine and non-controversial matters without discussion in a “batched” manner – several items approved with one vote. Consent Agenda items might include personnel issues and monthly/quarterly financial statements.

Items that are not routine and have potential impact on the CRC should be included as **action items**. These might include purchasing and project contracts, financial matters relating to the approval of claims, annual budgets, annual audit reports, public hearings and similar items.

Periodically, the CAO will seek counsel on upcoming labor negotiations and later draft a contract that he/she is recommending for adoption. In

addition, issues relating to the current contract may have arisen or have gone to arbitration.

Some of the meeting agenda will come from contacts commissioners have had with township officials, developers and residents of the county. Townships, of course, do not have direct responsibility for roads and so look to the CRC for assistance and direction. Developers may want assistance in linking roadways with their projects or improving roads that tie into the various projects. Similarly, residents may want improvements and may approach the CRC for assistance. The county drain commissioner may also approach the CRC regarding financial obligations for drain improvements.

The CRC may have policies relating to some of these matters. Townships, for example, may be asked to contribute a portion of the cost of improving a local road. Residents and developers may have to be part of a special assessment program to finance a project, or someone may ask about road abandonment. The CRC may have a policy on some of the issues, and a road commissioner can respond directly. A commissioner may need to bring other matters to a CRC meeting to craft a response.

On an annual basis, the CRC should develop its annual plan of work. What does the CRC need to grapple with and address that will make a difference to the future of the county's roads? This could be thought of as, "What big, complex issues do we have or see coming that we need to tackle?"

Once the CRC board identifies a single topic, define what you need to learn about the issue first. Then tackle that issue bit by bit at successive meetings until all commissioners understand the issue from multiple perspectives. Then determine the CRC's position on it. This type of exploration occurs in the **future positioning** section of the agenda.

Examples of future positioning topics include:

- Formulate a mission statement for the agency;
 - Develop a capital improvement plan; or
 - Develop a long-term road improvement program.
- **Setting the CRC Meeting Agenda.** Each CRC has its own pattern of running its meetings, which will likely be similar from meeting to meeting. For most meetings the CAO and board secretary will prepare

the list of action items to be considered and send the agenda and supporting materials to the road commissioners several days before the meeting. CRC members may add other matters during the meeting by mutual consent.

• **Sample Agenda.** Rather than an agenda built on the standard items of “Reports,” “Old Business” and “New Business,” consider the following style of agenda:


- I. Call to order; roll call
- II. Approval of agenda.
- III. Identify conflicts of interest with agenda items.
- IV. Approval of Consent Agenda.
- V. Citizen comment.
- VI. Action items. (Decisions that need to be made today.)
- VII. Future positioning. (Discussion about a future issue/concern that will not be voted on today.)
 - a. Education on a future issue
 - b. Discussion
- VIII. CAO Report
- IX. Communication from the external environment. (What are we hearing from residents, townships and other external sources?)
- X. Announcements
- XI. Agenda items for next meeting
- XII. Adjournment

Closed Session, Executive Meetings

Under certain conditions, the OMA allows public bodies including CRCs to exclude the public and hold a closed or executive meeting to:

- Consider discipline or to evaluate an employee, but only if the employee requests a closed meeting. The employee can change his/her request one time;
- Consider matters related to collective bargaining;
- Consider buying or leasing real property until an option on the property is received;
- Consult with the attorney regarding pending litigation;

- Consider the contents of an application if the applicant requests confidentiality. Interviews of applicants by the commission, though, must be open to public attendance;
- Consider material exempt from disclosure under federal or state law.

 **Note:** *Motions to act upon the above considerations must be done in open session, after the closed session or executive meeting has concluded.*

To hold a closed meeting, the CRC must approve a motion by roll call vote to close a meeting and state the purpose in an open meeting. The closed meeting agenda is limited to purposes stated.

Separate minutes are kept for the closed meeting and are not to be released except upon the order of a judge. One year and one day after the date when the closed meeting minutes are approved, the board secretary may destroy the minutes unless they are relevant to pending litigation.

Except for the reasons noted, each CRC meeting must be open to the public. The OMA imposes particularly high standards on CRCs because it specifies that a “meeting” occurs whenever a majority of the members is present and the members are discussing “business” of the organization. For those CRCs having only three members, a quorum is present whenever two of the members are discussing business in any location.

CRC members must take special care to comply with the requirements of this OMA provision.

At the same time, however, CRC members should know that the OMA does not apply to social or chance gatherings or workshops and conferences. Commissioners should not use such occasions to deliberate their CRC’s issues.

Conflicts of Interest/Incompatible Offices

Like other public officials, CRC members must also be alert to the issue of conflicts of interest and incompatibility of office. A conflict of interest is a situation where a CRC member could potentially use the office to benefit his/her own interests.

The law governing **incompatibility of office** generally provides that it is improper for a person to occupy two offices when:

- One office is subordinate to another;
- A person “supervises” himself/herself in one office from another office;
- Holding the two offices leads to a breach of duty.

The Incompatible Offices Act (MCL 15.181, et. seq.) exempts certain activities in governmental units that have a population <25,000. The idea is that some governmental units may not be able to fill all their positions if the standard is enforced in small units. One should note that common law, that is court decisions, suggests that a person holding two incompatible offices automatically relinquishes the first office when legally challenged.

A township trustee has no authority over a CRC and is not subordinate to the CRC or a county road commissioner. In determining whether the offices of township trustee and county road commissioner are incompatible, the issue is whether the officeholder breaches a duty of one or both of the offices by holding both offices. If the township and road commission have a contractual relationship, a person cannot serve as a township trustee and a county road commissioner simultaneously because he or she would have a duty of loyalty to both entities on both sides of the contract.

Incompatibility arises when the performance of the duties of the two offices results in a breach of duty of a public office. Incompatibility of the two offices does not occur until the two entities actually enter into contractual negotiations with each other.

The public officer (or employee) may not avoid breaching his or her duty of loyalty simply by abstaining from considering a contract. Abstaining from any official actions in an attempt to avoid the incompatibility does not remedy a breach of duty. Under the Incompatible Offices Act, the only solution to the problem is that the officeholder must vacate one of the offices.

Conflict of interest also relates to stockholding and being a beneficiary or trustee of a trust. The law permits this form of conflict of interest to be resolved by disclosing publicly the conflict and then requiring the public body to approve the action by a two-thirds vote—excluding the person making the disclosure.

Road commissioners should consult with the CRC legal counsel when such situations arise. It is always better to let such conflicts become public prior to the action rather than having the issue come to light after the CRC board has acted on the matter. Being proactive in disclosing the potential conflict can decrease accusations and negative publicity for the CRC.

NOTES:

ADMINISTERING THE CRC

In the early years, as county road agencies were being formed, the practice was to have commissioners serve in both administrative and policy capacities. Road commissioners served together as a policy board. And, as individuals, they also assumed certain administrative duties such as overseeing the maintenance and construction for regions or districts in the county.

As road construction became more comprehensive and more complex, organizational patterns evolved to follow the city manager model in which the city council works as a policy board and the city manager serves as the CAO and is accountable to the council. The Michigan Transportation Fund Act (PA 51, 1951) encouraged this change by providing an annual grant to each CRC that employed a professional engineer the prior year.

This state policy led to greater professionalism at the CRC.

While some smaller CRCs rely on the professional engineer to provide both engineering and administrative expertise, the larger road agencies look to an administrator to provide administrative leadership. (CRCs assign various titles to their chief administrative officers. Some use the title of manager, manager-director, engineer-manager, managing director-clerk or managing director-clerk, or superintendent.)

Referring to the top executive staff position at a CRC, this manual will employ the title of CAO.

Management Considerations

As noted previously, CRCs designate a person to exercise the responsibility for managing and administering the agency. The title of this position varies by CRC and describes the duties assigned.

Whatever duties are assigned to a CAO, the CRC board looks to this individual to coordinate CRC activities. The CAO may have several top administrative staff to achieve the necessary coordination across the CRC, and these positions may include individuals responsible for:

- Engineering (if the CAO is not the engineer);
- Fiscal management, including accounting and budgeting;

- Administrative management including personnel management and purchasing;
- Equipment and facility maintenance;
- Operations; and other positions.

There may be other key reports including a person responsible for safety considerations and general monitoring of the system. However, the various administrative or coordinating responsibilities are assigned to managers in the agency, they will include those mentioned and be delegated in numerous ways.

Qualities of the CAO

Selecting a person to serve as CAO is one of the key CRC board actions. This is the person with whom the board will have a very close working relationship and one on whom the board will rely heavily. The person will be representing and speaking for the board in a variety of contexts and will be directing the agency on behalf of the board on a daily basis.

- **Education.** The board should seek a college graduate. The person should have training or experience in public policy and public affairs, and a good sense of the political dimensions of the agency. Equivalent experience may substitute for a college degree.
- **Experience.** The person should have training or experience as a manager, including the ability to formulate short- and long-range goals; to assemble the plan and resources needed to bring goals to reality; and to motivate both inside and outside interests to support the goals.
- **Leadership.** The board will want a person who can provide leadership and bring a vision to reality over time. Finding or recognizing such talent is seldom reduced to a formula, but some factors are important to consider.
- **Personality.** This is important, yet can prove difficult to assess. Effective management qualities involve a variety of characteristics such as being patient, determined, articulate, thoughtful and motivated. Verifying the prospective CAO's experiences and checking references are very important in assessing this quality.

CRC members should be aware that choosing the best CAO from a roster of candidates requires mixing and matching the candidate's talents with those of other CRC employees, to assure a strong combination of talents is available.


CAO relationship to the CRC

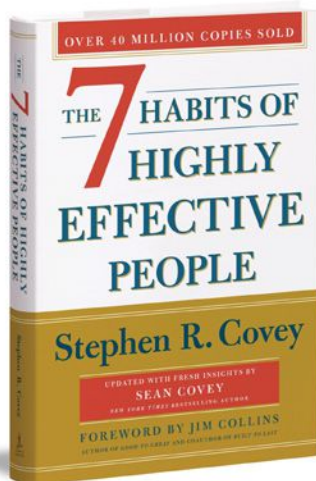
The CAO and CRC board members have a great deal of interaction both in relation to the board meetings and between the meetings. However, it is a complicated relationship.

The CAO holds that position at the pleasure of the CRC board. He or she is the CRC board's agent in both the internal and external transactions of the agency. At the same time, the CRC board has the role of evaluating and critiquing the actions of the CAO as they consider the resolutions that are up for adoption, amendment or rejection.

To make the relationship work effectively over time, all the parties should have a clear understanding of what they want the agency to achieve and how. Next, the parties should be candid with each other and communicate their goals and objectives. Finally, the parties should be good listeners.

In his book, *Seven Habits of Highly Effective People*, Stephen Covey says "Seek first to understand, then to be understood." This can mean that commissioners and CAOs must listen before speaking, and that each party seeks to make sound decisions rather than to win arguments.

 **Note:** *The Seven Habits of Highly Effective People is recommended reading for road commissioners!*



Annual Budget

The CAO has several general areas of responsibility through which he/she carries out the CRC duties. One of these is the preparation, recommendation and implementation of the annual budget. While the CAO will have a strong interest in the annual budget, the CRC likely has a budget officer or finance director reporting to the CAO.

The annual budget is, in effect, the annual plan regarding the sources of the agency revenues and the projects or purposes for which it will use the CRC's resources.

Road commissioners with experience serving on county commissions or township boards will find road commission budgets a little "strange." That's because the budgeting of CRC expenditures differs from that of many other public agencies that budget on the basis of inputs – how much to spend on teachers or police officers, for example.

CRC budgets involve some input budgeting, but for the most part they are output oriented: How much will project A or B cost? Or how much will snow removal cost next year? How much shall we reserve for maintenance and construction? The costs of labor, materials, internal services and other items must be attributable and chargeable to the various projects and services.

This doesn't mean the agency doesn't consider input because it must have a plan for distributing or allocating the costs of personnel, supplies and equipment to assure that the fixed financial obligations are supported by the proposed program activities.

A CRC budget is subject to a few unpredictable factors. A major factor is the annual snowfall and snowfall removal costs. Heavier-than-expected snowfall will likely mean that some tentatively planned maintenance projects can't be done. Lower-than-expected snowfall may mean that more projects can be done. The CRC budget will also be impacted by spikes or dips in prices of key products, such as road salt or fuel.

When a CRC finds that winter conditions won't require as much money as was budgeted, they must have projects planned on which they can expend the available funds wisely. And because PA 51 requires CRCs to expend not less than 90% of their annual resources on preservation or

maintenance projects, CRCs may be restricted from using available funds on capital improvement projects.

Consequently, CRC board members should expect to find themselves grappling with changes in budget and project plans in many of their meetings. All public agencies experience uncertainty in annual fiscal plans. Few, though, experience such uncertainty as do road commissions.

State Law on Public Budgets

In 1968 the Michigan Legislature passed a law (PA 2, 1968) covering the budget practices of local governments. The essential requirements are that the budget must:

- Show revenues for prior year, current year, and budget year;
- Show expenditures for prior year, current year, and budget year;
- Display surplus/deficit for the three fiscal years;
- Identify principal and interest needed for current debt;
- Summarize revenues and expenditures for non-general fund monies;
- Budget for capital outlay projects and method of paying the costs;
- Publicly announce a public hearing on the budget and conduct the hearing.

Once the CRC board adopts the budget, it becomes the board's directive regarding the expenditure of funds. As a general rule, the agency may not expend resources in ways that are not consistent with the "budget plan."

The CRC board may authorize its CAO to make limited transfers without prior approval and report them to the board periodically. Road commissioners are encouraged to use the "boilerplate" of the annual budget to direct the agency in the use of the revenues and expenditures.

Providing a "contingency account" in the annual budget facilitates making changes in the budget and being responsive to changing conditions. Combining an adequate contingency account with a grant of authority to shift up to an agreed-upon maximum amount without prior road commission approval facilitates the management decisions and operating actions.

However, from a board perspective, it means that the board has delegated authority to the CAO. This should not be a problem because any board

should trust its CAO to make such decisions. At the same time, the board should keep the CAO accountable as it carefully examines and evaluates such fund transfers.

Underfunded Liability

In 2017, the Michigan Legislature passed the Protecting Local Government Retirement and Benefits Act (PA 202, SB 686) which required local units of government, including county road commissions, to meet certain financial thresholds with their pension funds and other post-employment benefits (OPEB). This occurred because a few large municipalities were in fragile fiscal positions and the state feared having to bail out their promises to retirees as had happened with the City of Detroit.

Road commissions were required to have pensions funded at 60% or greater, and OPEBs funded at 40% or greater. (Constitutional forms of government were also allowed a 12%-of-revenue trigger, but this does not apply to CRCs.)

Road commissions must file reports annually with the Michigan Department of Treasury (MDT). Those not meeting either the pension or the OPEB fundedness levels must file a corrective action plan, which documents the CRC moving toward the proper percentages of funds in reserve. As of 2021, all CRCs were in compliance with PA 202 with either reserve funds or a waiver/corrective action plan.

While it may be frustrating to have these funds in a bank account when roads are in poor condition, the State of Michigan has determined this is the fiscal policy that local units of government must follow.

Steps in the Budget Process

The budget process is largely one that the administration prepares for consideration and approval by the CRC board, and it has several steps.

A key step is developing a schedule to let all those involved know when their contributions to budget planning must be completed. The budget process planner can plan the schedule by working back from the first day of the new fiscal year and determine when the various stages should begin and end.

Delivery of the schedule to heads of operating departments should include revised budget forms and perhaps statements of policy and instructions regarding priorities for the upcoming fiscal year.

With this information, department directors can prepare their proposals and requests for funding. Department heads typically present these to the finance director or CAO, for discussion and evaluation relative to the goals and priorities for the coming fiscal year.

Some budget plan contributions that begin very early in the cycle are the development and pricing of heavy maintenance projects that may or may not be included in the budget of a specific year. The specification and costs of such items as routine maintenance, operating equipment, highway safety devices and other elements may be proposed during the budget planning period.

Together these budget requests and proposals become the product that the finance director and CAO consider and evaluate against designated priorities and anticipated available funding.

At this stage, usually after meetings with individual department heads, they decide which proposals to accept, modify, postpone and whether any items have been left out. The outcome of this process is the CAO's budget recommendation that goes to the CRC board for evaluation and action.

The CAO's budget recommendation is published and made available to the public, and is the document on which the board holds public hearings. CRC budgets usually are not high on the radar screens of ordinary citizens. But sometimes other stakeholders may participate in the hearings and their input can be helpful to the CRC board's deliberation. Board members may lean toward supporting the CAO's recommendations, but they might also come to the table with some concerns that differ from those of the CRC administration.

The public and internal debate can provide the stimulus for thoughtful consideration and decision making.

CRCs that have jurisdiction for non-road functions (such as parks or airstrips) make separate budgets for each function and submit them to the board of county commissioners for approval because the county typically funds these operations.

Accounting for CRC Finances

The perspective in budgeting is reflected in the futuristic questions: “Where is the money we need coming from? What are the priorities?” and “What are we going to do?”

On the other hand, financial accounting takes a historical look back to answer questions such as: “Where did our money come from? How much did we get?” and “What did we spend it on?” The Uniform Budgeting and Accounting Act (PA 2, 1968) requires all local units to address these questions as they seek to account for the financial resources and expenditures the agency made.

Local units of governments’ accounting systems must comply with Generally Accepted Accounting Principles (GAAP) standards. These standards provide consistency in annual reports from one year to the next, as well as a pattern against which auditors can evaluate the reliability of the transaction data. GAAP standards also provide the framework for CRC annual reports and comparability between years and between other CRCs.

The **annual financial reports** of the CRC will include the kinds of information included in local government reports: Revenues by source and expenditures by type, such as salaries, wages, employee benefits, various types of supplies and services. CRCs, however, have an added responsibility. It is one of attributing a large proportion of their expenditures to various projects and services. This complicates the accounting processes because the time of non-administrative personnel and the use of equipment must be reported, translated into dollars, and assigned to projects and services.

Road commissioners, then, as they review the financial reports, can evaluate CRC operations in terms of the perspectives of “What kinds of things did we buy for our money?” “What did we spend it on?” and “What did we get for the money?”

Road commissioners should spend some time each month comparing the monthly financial reports with the budget plans and the anticipated costs of various projects. Examining these data will provide the basis for a thorough understanding of financials, including raising questions when necessary. This gives the CRC board member a basis for carrying

out the multiple roles as evaluator, critic and communicator to outside stakeholders.

CRCs have a second set of standards to meet with respect to the annual reporting process. Public Act 51, or PA 51 (Michigan's collective law on disbursing transportation funding) requires MDOT to establish a format for CRCs to report on how they have used the funds received.

PA 51 requires CRCs to use the following set of financial schedules in their state-required annual reports:

- Long-term debt;
- Equipment expense;
- Distributive expense – staff benefits;
- Other distributive expense;
- Analysis of construction and maintenance;
- Analysis of accounts receivable;
- Capital outlay and gain/loss on disposal;
- Maintenance expenditures;
- Qualified expenditures for non-motorized improvements;
- Indirect equipment and storage expense;
- Administrative expense;
- Forest road projects; and
- Construction and heavy maintenance.

In addition to these schedules, MDOT prescribes the overall format of the annual Act 51 Report. It begins with the presentation of a balance sheet showing the assets and liabilities along with the fund balance at year-end. The Act 51 Report requires revenue detail on:

- Taxes;
- Federal sources;
- Michigan Transportation Fund (MTF);
- Transportation Economic Development Funds (TEDF);
- Local contributions and service charges;
- Interest and rents;
- Other sources (e.g., special assessments);
- Other revenue sources; and
- Total revenues.

The Act 51 Report requires expenditures details on:

- Construction;
- Heavy maintenance;
- Maintenance;
- Other expenditures;
- Total expenditures; and
- Changes in fund balance.

The law also requires each county road agency to share a copy of the report with each township for informational purposes.

The Public Audit

The final element of annual reporting by the CRC is having the financial reports and “books” reviewed by an independent auditor or the MDT.

State law requires CRC records to be audited annually unless the county has a population of <50,000. In that case, the audit must be done every two years. The law directs the state treasurer to establish the standards, which it has done in cooperation with accounting professionals. The purposes of the public audit are to:

- 1) Provide an overseer for accounting practices and to ensure that each unit follows the established policies; and
- 2) Eliminate the need for all the agencies that contribute funds to the CRC having to examine the CRC’s expenditures of those funds.

The public audit has at least one other important purpose: To establish confidence in the system. CRC board members may not always appreciate the need to have a contract with independent auditors, but the practice should give board members and the public confidence that the agency has properly accounted for the funds placed in its care for use on the public road system.

Public officials, including road commissioners, may also question the value of the annual audit report which comes months after the new fiscal year has begun. However, CRC board members should make time to examine the trends evident in the numbers reported. Also, they should take note of the exceptions at the end of the report and ask the CAO how the staff has changed its practices to comply with the auditor’s critique.

- **Selecting the Auditing Firm.** The County Road Law (PA 283, 1909) directs “each county road commission [to] contract with a certified public accountant (CPA) or the MDT to perform the audit.” The proposed contract shall be confirmed or approved by the board of county commissioners: That the audit is a public record, and that copies are to be sent to the county commission, the county treasurer, and the state treasurer.

If a CRC fails to provide for an audit, the MDT is to conduct the audit or cause it to be conducted by a CPA, with the costs being charged to the CRC.

How should the CRC select a CPA firm to conduct the audit? In the same way the CRC recruits contractors for other professional services. The process involves soliciting proposals from CPA firms, screening proposals, interviewing the firms most familiar with governmental accounting, checking references, and preparing a contract for the preferred firm.

The relationships of a CRC with its professional contractors (auditors, engineers, lawyers, et. al.) should be based on confidence and sound performance. The firms, however, should not be led to believe that the relationship is permanent. The contracts should run for a period of five years or so and then be reviewed.

Applying the expertise of a new professional contractor to a particular CRC takes time before the contractor becomes familiar with agency practices. Auditor contracts that are too short, therefore, may not be efficient. On the other hand, neither party should take the terms of the contract for granted. Evaluate the performance, services and price at least every five years.

Purchasing Process

A function related to finances is purchasing. In fact, the purchasing department may be asked to manage the contracting of professional services, such as the audit. But CRC purchasing goes well beyond that function, because each county road agency expends a great deal of resources in acquiring supplies and services.

A key element in the purchasing process is the CRC board policy on purchasing practices and how it directs the process. That policy should ask:

- Who is responsible for purchasing? Is it centralized or dispersed among several positions?
- Under what circumstances are competitive bids required?
- When does the CRC board get involved in approving purchases?
- To what extent does the agency utilize cooperative purchasing, such as with the state, the county, or other local municipalities?
- What is the policy on local provider preference?

The answers will vary between CRCs, if for no reason other than the size of the CRC staff and the nature of market conditions in various parts of the state. Some CRCs may be in areas where the providers of services and materials are limited and competitive bidding is limited. Such conditions may make competitive bidding unproductive in some categories. In such cases it may be necessary to negotiate the arrangements instead.

Conflict of Interest Policy

A CRC's purchasing policy should include guidelines about conflicts of interest in the purchasing process. The problem relates not only to the staff personnel making purchasing decisions, but to CRC board members as well because they will approve some contracts.

State law forbids a "public servant" from having a direct interest in a contract with the agency. The law states exceptions for people who work less than 25 hours per week and who own less than one percent of the stock of the public corporation with which the CRC is dealing.

Board members or employees not meeting these standards should abstain from voting. As is always the case with CRCs, members may vote if it is necessary to attain a two-thirds vote. However, these members may vote only if their benefit from the contract is less than \$250 and their interest in the contract is less than five percent. A statement of their interests must be made part of the public record.

Such rules often appear to be a nuisance, but complying with them is important because it sets standards for employees throughout the agency and maintains the public's confidence in the CRC.

Disposition of Equipment

A related matter is disposal of equipment or merchandise no longer needed. The agency should seek to obtain the maximum compensation for the salvage material to maintain organizational integrity. CRC board policy should spell out standards for the disposition of such property.

Records Management

Another important dimension of the CRC administration is retention and storage of agency records. The board need not adopt a detailed policy on records management, but having a system that identifies records to be retained and a filing system that makes records recoverable is very important.

How long must records be kept? Michigan's Office of State Archives, a division of the Department of State, has identified 44 CRC records that must be retained for specified time periods. Some must be kept as little as one year after an audit, while others are designated for permanent retention. In some instances, the records must be sent to the state for storage.

CRCs may also wish to retain records for historical reasons. The difficulty of this policy is that the records eventually tend to crowd the office spaces, and must be protected from fire, water destruction or other damage. As more offices move to become paperless, an option to mitigate this risk of loss is to store the records digitally, on microfilm, or both.

The Office of State Archives prefers microfilm storage because it fears that technological changes will render digital formats inaccessible at some point. Because some firms can now convert microfilm to digital format and vice versa, the CRC may wish to store documents digitally for use in the office and on microfilm for permanent and offsite storage. Then, in the event of some form of disaster with the digital records, the microfilm records can serve as failsafe records.

Freedom of Information Act

As part of transparency in government, CRCs must abide by the Freedom of Information Act (FOIA)(MCL 15.231-15.246), which was adopted in the early 1970s and amended significantly in 2015. FOIA begins by saying:

“It is the policy of this state that all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and public employees, consistent with this act. The people shall be fully informed so that they may fully participate in the democratic process.”

To administer FOIA, the CRC board must designate a staff member as the FOIA coordinator to ensure compliance with all requests for information and documents. In general, all documents in possession of the agency must be made available to the requester unless the law permits otherwise.

The agency may impose a modest charge for copies of the records and may require an advance deposit if the volume of records requested is large. Violations of the law are subject to financial penalties.

Legal Counsel

Most CRCs retain a lawyer to counsel the commission and staff on legal issues the agency encounters in the course of its business. Because so many aspects of CRC activities have legal ramifications, and because the circumstances of each situation are often unique, seeking legal advice is often prudent.

CRCs should work out a way for their attorney to stay abreast of their key deliberations and actions. With some CRCs, the attorney attends most, if not all, of the board’s meetings. For others, the attorney remains current by reviewing the CRC agenda and minutes and contacting the CAO if the proposed action involves some legal uncertainty.

In some agencies, officials may be reluctant to take actions without the benefit of a legal opinion. This is a sound approach when the issues are new and no one on the board or staff has experience with the question. Still, members should place some confidence in what they have learned from their own experience and that of staff.

STAFF ADMINISTRATION RESPONSIBILITIES

Personnel Administration: The CRC Board's Role

The CRC board has only one employee: The CAO. The board delegates personnel management and administration to the CAO. In this delegation, the board holds the accountability to see to it that the CRC achieves what it should and avoids the unacceptable situations regarding personnel management.

As you may know, there is a great deal of legal liability exposure as it relates to personnel administration. As a result, the CRC board needs to ensure that the CAO has certain documents and practices in place. The board does this by creating high-level policy defining the expectations.

For example, the board might want to have a policy mandating that it is not acceptable to operate without having a written personnel manual that meets the standards of a human resources attorney, aligns with current employment practices and minimizes legal exposure.

The board may also want to have a policy that requires the CAO to conduct regular personnel evaluations to assure optimal performance among the CRC staff. You may also want to have a policy that encourages ongoing education of staff to enhance the performance capacity of the CRC.

The CRC board addresses personnel issues by defining its own policies about what good personnel administration requires. Then you delegate to the CAO to get the job done in compliance with the board's policies. Checking to assure compliance on an annual basis is most important.

What Personnel Administration Includes

CRA of Michigan recommends that the CRC board should address personnel administration from an arm's length relationship. However, you may want to understand the context of personnel administration design so that you can better assess whether your CRC is achieving what it should and is avoiding unacceptable situations. To that end, the following section is a review of administrative concerns to serve as background information.

Employees and employers do not always recognize the goals each group of people seeks from the work relationship. Employees seek first to fulfill their biological needs—food and shelter. Next, employees seek to fulfill social and psychological needs such as: recognition, respect, acceptance, companionship, achievement, personal growth and accomplishment.

Employers often view the relationship as simply an exchange of labor for money. However, employers who ignore employee needs are likely to experience stressed employee-employer relationships, high rates of absence and employee turnover.

The CRC has two instruments for dealing with these needs. One is the CRC personnel policy; the other is the union contract. These two may overlap or be strictly separated, depending on the local culture.

Personnel Policies

All road commissions have personnel policies – some written, some traditional and customary. Today, it's essential that personnel policies and job descriptions are in writing. Labor contracts are written, but most do not cover management and professional employees. Consequently, there is a **need for personnel policies** for these staff. While some top management or professional employees may have individual employment contracts, those contracts do not address the personnel policies that define expectations and the culture of the organization.

Typical personnel policies would address pay grades, working hours, overtime conditions, vacation leave, sick leave, military service leave and holiday leave. Other topics may include retirement benefits and rules, insurance benefits, hiring practices, performance evaluations, promotions, and policies that relate to federal and state laws, such as the Americans with Disabilities Act (ADA), Family and Medical Leave Act (FMLA), laws that relate to gender and race discrimination, sexual harassment, and other federal and state policies that govern conduct in the workplace. The policies may also address dispute resolution such as mediation and arbitration.

The agency's employee handbook should describe all of these and other personnel policies and rules. Each employee should have a copy of the handbook and receive updates as changes are made.

Additionally, each employee should sign an affidavit that they have received the personnel manual and/or its revisions and understand its contents. These affidavits should be kept on file to provide for legal defense in case of an employee lawsuit. The affidavits can dispute certain claims of employment liability.

- **The Board’s Role in Employee Contracts.** Because the CRC board has only one employee, the CAO employment contract is the only employee contract with which the board should have direct involvement. All other employee contracts are under the management of the CAO. If the board wishes to address its philosophy around employee contracts to the CAO, it may create an administrative policy that expresses its shared parameters on what would/would not be acceptable in a contract.
- **Employer Liability Regarding Immigration.** Eligibility to work legally in the US is a major political issue. Every employee must complete an I-9 Employment Eligibility Verification Form. Form I-9 is used to verify the identity and employment authorization of individuals hired for employment in the US. All US employers must ensure proper completion of Form I-9 for each person they hire in the US. This includes citizens and noncitizens.

Both employees and employers (or authorized representatives of the employer) must complete the form. On the form, an employee must attest to his or her employment authorization. The employee must also present the employer with acceptable documents evidencing identity and employment authorization. The employer must examine the employment eligibility and identity document(s) an employee presents to determine whether the document(s) reasonably appear to be genuine and related to the employee, and then record this information on the Form I-9.

Employers are also required to keep the I-9 Forms on file and in a separate file (not in individual personnel files). These forms must be made available at the request of officers of the US Customs & Immigration Service (USCIS).

Collective Bargaining Policies

Collective bargaining is another approach to forming the policies of an employer. The state law that governs collective bargaining of public employees is the Public Employment Relations Act (PERA) (MCL 423.201 et. al, 1947). It permits groups of public agency employees to form a union; prohibits an employer interfering with the effort; requires employers and employees to bargain in good faith; and forbids public employees from striking.

Key Issues:

- The management rights clause essentially states that issues which are not addressed in the agreement remain the jurisdiction of management. This clause is not fiercely contended, but it is important to have it included in the agreement.
- The strike issue is a key ingredient in collective bargaining. The law forbids public unions from striking, but courts usually do not issue injunctions ordering striking unions back to work. Usually, they try to reconcile the differences through the use of mediation, fact finding and arbitration. These are progressive actions designed to resolve disputes.

Role of the Board in Collective Bargaining

During the early years of PERA, county road commissioners believed it essential that they participate as members of the bargaining team. As CRCs gained experience with collective bargaining, however, more came to understand that county road commissioners could play a more important role if they did not participate directly on the bargaining team.

Collective bargaining is a negotiation and can be an adversarial process. However, it doesn't necessarily mean the two sides must get bogged down in long drawn-out negotiations or that good personnel relations are no longer possible. Both sides should recognize that bargaining is only the first step and that a firm, fair and equitable administration of the agreement is equally important.

In that respect, employers and employees want fair and equitable treatment in their work environment. The bargaining process is an

indication that they also want a voice in shaping the policies that govern their working lives.

CRA encourages CRC board members to keep an arm’s length relationship with collective bargaining to assure objectivity in contract review and approval.

There are several good reasons why road commissioners should not sit on the bargaining team.

- **Dual role.** Being a member of the bargaining team and a member of the board puts the commissioner in a dual role. One role is administrative in helping to form a draft contract. The other incorporates policy evaluation in reviewing and evaluating the proposed contract. It is very difficult to objectively evaluate a document that you helped create.
- **Relief valve.** Serving in both capacities eliminates a possible “relief valve” that may be needed to break a deadlock. If management gets into a deadlock, the board may intervene and get things back on track. To do so is much more difficult if the board members were themselves part of the “problem.”
- **Political considerations.** Having an elected road commissioner on the bargaining team may impose a high cost on a commissioner who is up for election! “Holding the line” on a contract dispute may be very unpopular.
- **Skill set.** Also recognize that not every commissioner has the very special skills needed in the bargaining process. Understanding, negotiating and agreeing to language that assures the intended provision is clear and precise requires expertise. That expertise is critical to assure the words in a contract will hold up in arbitration or the courts.

Other Personnel Issues

The CRC deals with other personnel matters as well. As noted previously, the CRC board should delegate personnel matters to the CAO. The following information is presented to expose commissioners to the complexity of personnel issues. CRC board members are discouraged from designing these plans.

Beyond collective bargaining, there are other matters of policy that are not necessarily negotiated. One of the reasons they may not be included in the bargaining agreement is that they are part of the “agency culture” that management and the CRC have shaped over the years.

A second reason is they may apply only to administrative employees who may not be part of a collective bargaining unit. We review these briefly below.

Classification Plan

Position descriptions and the position classification plan are intertwined. The **position description** specifies the duties and responsibilities assigned to a position the employee is expected to perform. A **classification plan** is a schedule of positions to which employees are appointed and has several purposes.

One purpose is to classify the duties and responsibilities the person in a particular position is expected to perform. Placing a position in a certain class does not imply that all positions in the same class are the same. Rather, it is an indication that they are similar and that the contributions the employees in such positions make are of similar importance.

A second reason for having a position classification plan is to ensure people who perform similar duties and responsibilities (those of positions in a single class) are compensated similarly.

A third reason is to clarify the minimum education, training and experience that candidates for employment in the same classification should have. These requirements or standards are based on the specifications contained in the position descriptions for the respective positions. Positions with similar requirements should be classified similarly.

It should be noted here, too, that the qualification standards in the position descriptions should be seen as minimum requirements. If a candidate for a vacant position has higher qualifications than those required, the person hired should be compensated within the range of the position. Giving the person a higher-rated position just because of his or her experience defeats the purpose of a position classification plan.

In addition to accounting for fair compensation, and stating education/training/experience requirements, the classification plan should consider:

- Any form of certification or apprentice certification that may be essential to performing the tasks of the position in a class.
- The extent of the decision-making responsibility in that position.
- The degree of discretion required by that position.
- The extent of supervision that position must receive.
- The extent of supervision that position provides to others.
- Danger and risk associated with a position and physical conditions involved such as snow, ice, heat, dust and equipment operation.
- Communication skills a position may be required to perform.

Depending on the CRC's scope, its number of positions and the complexity of duties, a CRC may need a specialist in position classification to help create this document. If the differences among positions are relatively narrow, the classification plan may be done "in house," especially if it can be modeled on another similar CRC's plan.

Compensation Plan

With the position classification plan in place, a CRC can begin assembling a compensation plan. The compensation plan links each position class with compensation ranges and steps within the ranges. As an example, Step 1 in a range indicates the hourly or annual compensation rate for a person just beginning in a position of the class.

The plan will include additional steps in the class to recognize the experience a person has and how the person's contributions to the organization are growing. These steps enable the supervisor or manager to evaluate an employee's performance and to reward him or her with a "step increase."

When an employee reaches the top of the position class, he or she is not entitled to further increases except when 1) the overall scale is increased to recognize inflationary or competitive conditions, or 2) the person is promoted to a position with greater responsibilities and expectations.

How many steps should a position classification have? Positions that don't require a great deal of skill and may be learned quickly should have just a few steps that relate primarily to experience or seniority in the position. Those that are more complicated and require more time to learn should have more steps, perhaps as many as seven.

Some of the factors in the position classification and compensation plans relate to the building of a career ladder. The plans, over time, should enable the effective employees to take positions that require greater responsibility and also earn greater compensatory rewards. The goal is to retain effective employees by permitting the best to grow in their careers, service and compensation.

The CRC will likely experience greater turnover in the lower-paying positions and will have to evaluate whether employee turnover is too high or about right. However, if the agency has difficulty filling vacant positions, it may be that compensation levels for the "difficult-to-fill" positions are too low and not competitive with the region's marketplace. It could be that employees in your organization are seen as well-trained workers, whom other agencies or companies are recruiting away from you.

Evaluating Employee Performance

A related matter is evaluating employee performance. Other than evaluating its CAO, the board should not be involved in evaluating individual employees. That is the CAO's responsibility, or his/her manager's responsibility.

To assure performance accountability of the CAO when it comes to managing staff, the CRC board may want to establish some overall policy on the matter, such as requiring that the CAO assure employee evaluations are fairly and objectively conducted on a regular schedule.

Legal Policies on Personnel Matters

Road commissions, like other governmental agencies, are subject to some federal and state personnel regulations.

- **Americans with Disabilities Act (ADA)**

The ADA, as it's popularly known, states that "...no qualified individual with a disability shall by reason of such disability, be excluded from participation or denied the benefits of the services, programs, or activity of a public entity or be subjected to discrimination . . ."

ADA does not require a CRC to employ every person with a disability who applies. At the same time, the law does not permit a CRC to reject otherwise qualified employees because of a disability or because of accommodations the CRC might have to make.

A CRC must make "reasonable accommodations" if a person can perform most of the duties of a position, even if not all of them. An employer may not require physical examinations as a means of screening out applicants who can do the work of a position. The law places the burden of ADA on employers and permits individuals to file claims or lawsuits to enforce its provisions.

- **Discrimination and Harassment**

Discrimination or harassment on the basis of race, gender or other factors not only relates to actions of administrators and supervisors, but their inaction or refusal to act on such issues. That is, the law imposes an obligation on employers not to permit (knowingly or unknowingly) discriminatory or harassing behaviors at work.

Details on discrimination and harassment are found in publications from the Michigan County Road Commission Self-Insurance Pool (MCRCSIP). The state law that governs discrimination and harassment is the Michigan Elliot-Larsen Civil Rights Act (PA 453, 1976).

• **Family and Medical Leave Act**

Public agencies, including CRCs, are covered by the Family and Medical Leave Act (FMLA) regardless of the number of employees. Employees are eligible if they worked for the agency at least 1,250 hours during the preceding 12 months before beginning leave, at a site where the agency employs 50 people within a 75-mile radius. This federal law gives employees the right to take a leave of 12 weeks, without pay, to care for a new child in the family or to care for a family member who is ill. The employee must give a 30-day notice of intent to take a family leave.

FMLA has several other provisions. One is that the employee's health insurance continues during the absence. Second, the employer must post notices to inform employees about the law. Third, an employee has standing to sue in federal court or the US Department of Labor for alleged violations.

• **Other Personnel Statutes**

CRCs must comply with several other personnel-related statutes including:

- ✓ Equal Employment Opportunity Law*
- ✓ Fair Employment Standards Act
- ✓ Michigan Elliot-Larsen Civil Rights Act
- ✓ Michigan Health and Safety on the Job Law*
- ✓ Michigan Right to Know Act*
- ✓ Polygraph Protection Act
- ✓ Wage and Hour Rules*
- ✓ Whistleblowers' Protection Act
- ✓ Workforce Opportunity Wage Act (formerly the Minimum Wage Law)*

*These laws and rules are administered by the Michigan Department of Licensing and Regulatory Affairs.

NOTES:

FINANCING COUNTY ROAD AGENCIES

As previously noted, CRCs do not have any taxing power. All CRC revenue comes from taxes levied by another unit of government in the form of grants, special assessments on benefiting property owners or fees for services.

The federal government also taxes fuel and allocates the receipts to states annually. They are “user fees” in the sense that only users of the roadways pay them. Non-drivers do not pay the taxes directly.

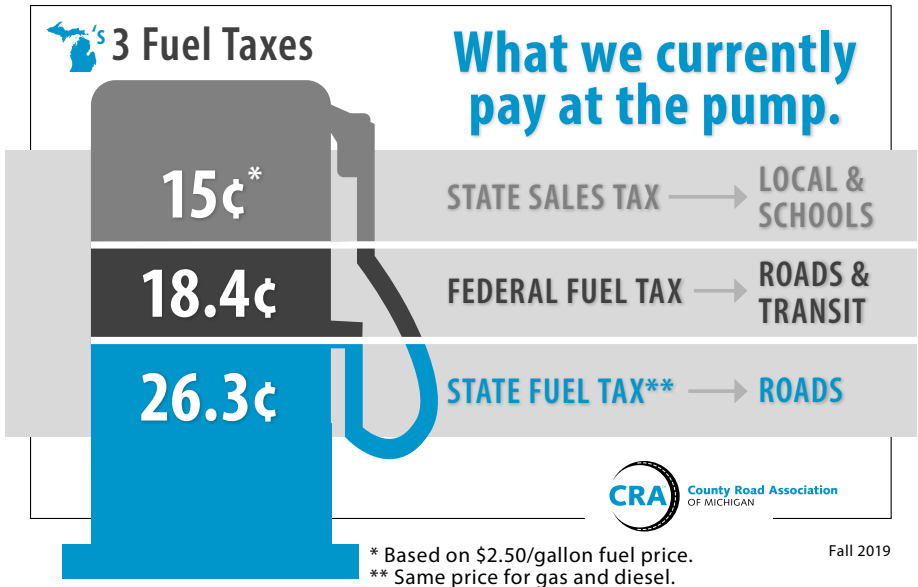
The main categories of funding local roads – and Michigan has the nation’s fourth-largest system of local roads – are described here. The largest and most predictable sources of revenue comes from state taxes on fuel and vehicle registrations (license plates). These two sources have been nearly equal over the years.

They are both deposited into the Constitutionally-protected MTF where they are distributed by formula as described below. State fuel taxes and vehicle registration fees must go to the roads and are not subject to other uses by the Legislature or Governor.

Both fuel tax and registrations were increased in the Transportation Package passed by the Michigan Legislature in 2015, with the first new dollars coming to CRCs in Spring 2017.

State Motor Fuel Tax

The state first imposed a fuel tax in 1927, and it has been adjusted periodically since then. From 1997 through 2017, the state tax rate was 19¢ per gallon for gasoline and 15¢ for diesel fuel. In addition, Michigan levies a sales tax of 6% on fuel – something done by 10 states. Hawaii and Michigan provide a very small portion of their sales tax for transportation purposes. This sales tax revenue is constitutionally directed to the School Aid Fund, revenue sharing and the Michigan State General Fund – and not to roads or bridges.



In 2019 (the last full year before COVID skewed the numbers), the state motor fuel tax generated \$1.2 billion, while the diesel fuel tax produced about \$222 million. Since the 2015 Transportation Package, diesel has been taxed at the same state tax rate as motor fuel.

Fuel tax increased to 7.3¢ per gallon in 2017; and is now adjusted by MDT at the rate of inflation or 5% annually, whichever is less. These funds are Constitutionally protected and are deposited into the MTF.

Other revenue not included in the MTF receipts but distributed to local transit and road agencies by MDOT, comes from auto-related sales tax and certain driver license fees, which are deposited and distributed to the Transportation Economic Development Fund (TEDF) Programs within the MTF.

Altogether, the MTF collected about \$2.86 billion a year in 2019. (Federal funds are not included in that amount.)

State Vehicle Registration Fee

Under the Michigan Vehicle Code (MVC), vehicle registration fees vary with the purchase price/value of the vehicle (ad valorem) or by weight. As part of the 2015 Transportation Package, the vehicle registration (license plate fee) went up 20% and now ranges from \$30 for a car valued at \$6,000-\$7,000 to \$148 for a car with a list price of \$35,000-\$45,000. The fee increases \$5 for each \$1,000 of additional value. Also, since 2015, vehicle registration fees no longer decrease for three years as the vehicle ages but remain fixed based on the new vehicle price.

Registration fees for other vehicles, such as trucks, vary according to the weight of the vehicle and can go as high as \$3,117 per year. However, Michigan discounts the fees of most trucks that haul wood products or farm commodities based on the word of their owners. Busses also are discounted.

Michigan's vehicle registration fees generated about \$1.35 billion annually in 2019 (the last full year before the pandemic). These funds are also Constitutionally protected and are deposited into the MTF.

Federal Fuel Tax

The fuel tax levied by the federal government on gasoline is 18.4¢ per gallon. **That brings the total fuel tax paid in Michigan to 37.4¢ per gallon plus the sales tax.** (Taxes on diesel and liquid petroleum vary from that on gasoline.)

The federal tax on diesel fuel is different, at 24.4¢ per gallon. The trucking industry pays additional taxes in the form of excise taxes on the purchase of trucks, trailers, and tires as well as the use of the vehicles.



Getting It Right! *At one time, Michigan was a “donor state,” sending more federal fuel tax to Washington, DC, than we received back in federal aid for roads. This is no longer true and has not been true for a decade because Congress has supplemented federal fuel taxes collected with their General Fund revenue and/or allowed special projects to be inserted in the federal transportation budget.*

Michigan Re-directed Income Tax Revenue for Roads

The \$1.2 billion 2015 Transportation Package included a law that for the first time directed funds from the State of Michigan's budget be put into roads. Previously, the state did set aside funds to match federal aid for highways, but only for MDOT. County and municipal road agencies were (and are) required to match their own federal aid.

This \$600 million of re-directed income tax was fully achieved in the state's 2021 budget. It is legislatively appropriated annually according to law **and is not Constitutionally protected**. It will not be adjusted for inflation.



Getting It Right! *When discussing dollar needs on the roads, it's common for residents, reporters and local government officials to say Michigan has one of the highest US gas tax rates, yet some of the poorest roads. The "highest tax rate" claim is driven by the fact that Michigan charges 6% sales tax on gas that doesn't go to roads. Also, remind people of the much-higher costs to maintain roads in the northern tier of states due to freeze-thaw cycles.*



Getting It Right! *Recreational vehicle (snowmobiles, ORVs (off road vehicles)) owners often say they are entitled to use the road and right-of-way (ROW) because they pay fuel tax on their recreational fuel. While true, 2% of all gas tax annually is returned to the Michigan Recreational Fund and distributed by the Michigan Department of Natural Resources to their recreational programs – which do not contribute to roads or snowmobile crossings.*

Local Revenue

When Michigan's counties, cities, villages and townships contribute to the cost of building and maintaining roads they do so by drawing upon their own revenue sources – mainly property taxes or state revenue sharing receipts. Cities that levy income tax may also use some of these revenues to pay for street improvements.

The law authorizes both counties and townships to levy a special property tax for road purposes if the voters approve it, which is a **millage**. As of January 2022, 29 Michigan counties have at least one county-wide millage; there are hundreds of township-wide road millages. Millages are increasingly popular and, once established, are usually overwhelmingly approved at the polls as local voters have seen the return on their investment.

Local jurisdictions in Michigan also fund some improvement projects from **special assessments**. Special assessments are payments from owners of property adjacent to streets and roads being paved, repaved or improved in other ways.

Distribution Formula

- **Off-the-top deductions.** Not all of the revenues collected are available for distribution to road agencies. PA 51 permits “service” agencies such as the Departments of State; Treasury; and Great Lakes, Environment and Energy to be compensated for the services they provide, such as collecting vehicle registration fees and issuing permits for certain road projects. (This is about \$24.4 million annually.)

In addition, the Michigan Department of Natural Resources (MDNR) Recreation Improvement Fund receives 2%, or \$24.3 million, of the receipts in the recognition that some fuel sales are used for recreation purposes rather than roadway travel.

After the deductions mentioned above, the balance is restricted to transportation use but not all of it is for roads and bridges. As the definition of transportation expanded to include multi-modal interests, this budget was adjusted for transit, rail, non-motorized purposes and more.

- **Transit.** Since 2015, the amount transferred to the Comprehensive Transportation Fund (CTF) has averaged close to its 10% cap. CTF funds are dedicated to providing public transportation services, and \$253.3 million is allocated to rail and bus agencies.

Over \$50 million is committed to some of MDOT's debt service; \$41 million is reserved for local road projects related to TEDF categories that CRCs can access; up to \$3 million for state rail crossing improvements; \$3 million for local railroad crossings and up to \$2 million annually for the Michigan Local Wetland Mitigation Program (also known as the Michigan Wetland Board or MiWB). MDOT also collects \$33 million annually to administer CRC and municipal federal aid projects and other local services.

The law also dedicates at least \$3 million for local bridge debt service; 1/2¢ of the gasoline tax (\$25 million) for repair of local bridges; and 1/2¢ for bridges under MDOT jurisdiction.

Of the funds left after all these deductions, Michigan CRCs received about \$1.2 billion in 2019 (the last full year before the pandemic), or about 38% of the MTF after CTF and miscellaneous "off-the-top" items just described are subtracted. The main element of the "external formula," in place since 1985, allocates 39.1% to MDOT, 39% to CRCs, and 21.8% to cities and villages. The reason CRCs aren't getting the full 39.19% is some off-the-top funds are deposited directly into MDOT's 39.1%.

This is the much talked-about 39:39:22 split in road funding, which is authorized by Public Act 51 (PA 51). As you can see in this passage and the next section, it's anything but that simple!



Getting It Right! *When confronted with the complexity of MTF/PA 51, the media and some elected officials may comment that Act 51 – originally passed in 1951 – is archaic and should be rewritten. PA 51 is comprised of 86 sections that have been amended >300 times over the years. The funding formula itself has been amended at least five times. PA 51 has kept up with the times and CRA's Legislative Priorities recommend keeping it intact. The true problem is lack of dollars flowing into the MTF/PA 51.*

“Internal Distribution Formula”

Of the 39.1% that goes to CRCs, yet another series of “internal” formulas and distributions from PA 51 apply to determine the funds that each county receives. Following is a summary of the factors.

First, an amount equal to 1% is transferred to the **Snow Removal Fund** and distributed to counties according to a predetermined annual snowfall amount. Of the top 10 counties receiving “snow funds,” seven are in the Upper Peninsula recognizing the significant burden that heavy snowfall adds to their budgets.

The next internal distribution portion is reimbursed to counties that employed or retained a **professional road engineer** the prior year. The amount for a CRC meeting this standard is \$10,000.

The next internal distribution is 10% for **urban road area use** calculated on mileage of local roads, plus a factor of six for primary roads in urban areas. This should be increased to 13% at some future date. The next distribution is 4% allocated for miles of local roads and county population as a share of total Michigan local road mileage and population.

Of the remaining chunk of CRC dollars, 75% is distributed to support each county’s **primary roads** according to these factors:

- The proportion of vehicles registered in a county vs. the statewide total (75%).
- The proportion of primary road mileage vs. the statewide total (10%).
- An allocation of 1/83 with each county receiving an equal share (15%).

And finally, the remaining 25% of CRC funds are distributed for **local roads** in a formula that compares the county’s local road mileage and population vs. the total of county local road miles and population statewide.

To complicate things just a bit more, several “off the top” deductions noted above are distributed to CRCs in this final “internal distribution:”

- The “local road program” distributes \$33 million to counties and cities-villages, with the CRCs receiving about \$21 million.
- The six TEDF categories generate about \$41 million in distributions and competitive grants to MDOT, counties and municipalities.

- The Local Bridge Program provides at least \$3 million, which rises to about \$31 million with federal bridge funds (\$15 million) and the 1/2¢ of gas tax.
- The Rail Grade Crossings Program is another competitive grant deducted “off the top” that may be part of a CRC’s total revenue.

All these distributions carry some restrictions. One is that a CRC may not transfer >30% of its primary road revenues on local roads, and not >15% of its local road allocation on primary roads. A CRC must also spend <20% percent on snow and ice removal and construction or reconstruction on a new roadway. A CRC may not spend more than 5% of its state funding on roadside parks and motor parkways. CRCs must also spend at least 1% on non-motorized transportation projects.

Restrictions on Local Road Dollars for Roads

In the Local Revenue section (p. 61), there is discussion of the Michigan General Fund, special assessments and millages as revenue sources that may be directed to roads. However, townships, cities or villages have some significant restrictions on the dollars they may direct to roads.

- **Headlee Amendment.** One restriction local governmental units must consider when setting aside dollars for roads comes from the 1978 voter-approved **Headlee Amendment** (*MI Constitution of 1963, Article IX, Sect. 37*). It requires taxing units to reduce their authorized tax rate each year to the extent that the equalized value of the continuing tax base exceeds the rate of inflation.

Thus, a county that was authorized to levy 5 mills in 1978, may now find its authorized rate reduced to 4.75 mills or so. New construction added to the tax base in any given year does not require an adjustment in the rate for the year the increased value is added to the tax base.

- **Proposal A.** A second factor limiting the productivity of a county’s property tax base results from the 1994 voter-approved **Proposal A** (*MI Constitution of 1963, Article II, Sects. 3,5,8*). It established what is known as “taxable value” or the property value on which the millage rate is levied. Previously, the rate was levied against the State Equalized Value (SEV).

The taxable value comes from the Prop A provision that limits the annual increase in property assessment to the rate of inflation or 5%, whichever is less. Proposal A does restore the taxable value to the SEV when the ownership of a land parcel changes hands – and the process begins again.

- **Number of Property Tax Exemptions.** A third factor limiting the uses of property tax is the **number of property tax exemptions** permitted for economic development activities including industrial development authorities, downtown development authorities (DDAs) and brownfield development authorities (BDAs). These units operate under a Tax Increment Finance Authority (TIFA), a legal mechanism that permits them to retain tax revenues generated by the increased property value in their designated areas – meaning they cannot be directed towards roads or bridges.

In addition, many expansions of industrial properties are partially exempted for up to 11 years under Industrial Facility Tax (IFT) provisions. **All of these lessen the productivity of the property tax – and may make it less available for roads.**

Township property tax bases are affected by these factors, although to a lesser extent because most townships have less industrial development, fewer IFTs, DDAs or BDAs. It's worth noting that county road tax revenues collected in cities and villages accrue to them, and do not become part of the CRC treasury.

- **Helping fund, finance township road projects.** Many CRCs have a policy to pay some portion of road improvement costs if the township contributes the remaining portion. This is often a sufficient incentive to encourage township boards to appropriate a set sum of money for road improvements. It also gives township board members a more direct voice in improving roads in their township.

Some CRCs also allow the township to pay for a project over a few years, if the CRC's budget permits it. This can help a township get a project underway with a small cash flow.

Federal Funds for Roads

The federal government has always had an interest in developing a national road system. Perhaps the most important federal action came in 1956 when Congress began financing the National Defense Highway Act to pay for the national expressway system Congress had authorized in 1944.

The 1956 Act created the **Highway Trust Fund** (HTF), of which 90% was federal funds for financing freeway construction. State participation required a 20% matching contribution. Large portions of the HTF are still used to expand and improve the freeway system, and also to preserve and maintain it. Some funds are available for the non-freeway federal highway system.



Getting It Right! *This is why toll roads are generally a non-starter as a way to improve highways. The federal government paid for these highways, specifically designating them as “free-” ways. Turning them into toll roads begins with purchasing them back from the federal government. There are no federal toll roads.*

As previously noted, the federal gas tax is 18.4¢ per gallon, which is transferred to Washington, DC. Most of the receipts are re-distributed to states on the basis of Congressional policies and after deductions for such things as mass transit and leaking underground storage tanks.

The Federal Highway Program (FHP) apportioned to Michigan totaled just over \$1.2 billion in 2015, and it flows through MDOT.

The apportionment and allocation of federal funds in Michigan is complex because state and federal laws do not entirely coincide. Michigan law stipulates that 25% of federal aid be provided to local road agencies. The amount for local units, however, is actually somewhat higher because some of the federal aid is specified for local use.

The federal funds are apportioned into program categories. Most of the federal aid is restricted to the federal highway system, and that excludes most of the local road systems which are classified as “local access roads and streets” and as “rural minor collector” roads. Thus, only about 22% of

Michigan county roads qualify for federal funds. A small number of miles of major county roads qualify for National Highway System (NHS) funds.

Of most relevance to CRCs, is the **Surface Transportation Program (STP)**, which directs some federal funds by population formula and to urbanized areas. STP also includes some aid for transportation enhancement projects, for which CRCs may apply, including bicycle paths, water runoff mitigation and highway beautification.

Two factors are involved in STP allocation. One is coordinating projects in a manner that relates to the priorities and other conditions involved in a project. The second requires a 20% local match for each federally-funded project. CRCs, cities, villages or transit authorities that do not have sufficient matching funds at a particular time may have to “take a pass” on their targeted dollars that year, delay the project and develop a written agreement with their Rural Task Force (RTF) partners to obtain favorable consideration in a future year.

The matching fund requirement means the CRC’s CAO and finance director must plan ahead 3-5 years. Occasionally, unexpected events occur such as land acquisition, and environmental or engineering concerns that throw plans askew. But planning for the federal match should be a high priority for all CRCs.

Also, a county could utilize the Local Federal Exchange Program to trade its allocated STP dollars to another county for MTF dollars, which no longer fall under the requirements of federal aid. Typically, these trades are urban counties – which are well-equipped to meet all federal aid requirements – purchasing or exchanging the federal aid with state dollars at a negotiated rate. MDOT reports on this process find 20-25% improved efficiency for the federal aid seller. Recent improvements allow the urban CRCs to use these purchased dollars on boundary roads or as “flex funds” on urban roads.

- **The MPO.** Federal road aid directed by state law to local agencies (the mandatory 25%) comes primarily from STP apportionments. Some of these dollars run through Metropolitan Planning Organizations (MPOs), which include an “urban center” in a county or adjacent counties that meets the “urban” standard. Michigan has five MPOs, each with both a Technical Committee and a Policy Committee.

- **The RTF.** And some of the state-mandated federal STP funds are allocated to one of Michigan's 22 Rural Task Forces (RTF) in areas outside the MPOs. In 2020 that amount was \$45 million. Each RTF encompasses three or more counties and includes transit agencies, cities, and villages <5,000 population in the county.

The RTFs were developed to encourage dialogue and collaborative decision making among "federal eligible neighbors" about sharing STP dollars, guided by spending targets. Contracted regional planners represent MDOT in an advisory capacity to each RTF, and a MDOT local agency coordinator may attend RTF meetings.

The representative policy bodies in each MPO or RTF approve the recommendations. Ordinarily, one might consider this process of allocating funds to be highly competitive. For the most part, the process is one of planned sharing of resources and cooperating to meet regional transportation goals.

In late 2015, MDOT, CRA and the Michigan Municipal League came together to create the **Rural Task Force Advisory Board** to improve logistical processes. CRA has two seats on the RTF Advisory Board and CRA staff serves on its Education Subcommittee. The Advisory Board works to improve fairness and transparency, establish annual spending targets as a percentage of the federal RTF allocation and accomplish educational objectives for all parties.

One of its biggest accomplishments in 2016 was creating policy that all complete biddable packages submitted by a local road agency by each August 1st would be guaranteed funding in that fiscal year. If federal funds are not available, the annual late-summer RABA (revenue aligned budget authority, or unclaimed funds by other states) awarded to Michigan are used. It is also possible that some funds would need to be borrowed from the next fiscal year, hence the RTF Advisory Board's role in establishing the annual spending target. More details on the Rural Task Force are found on its website.

Special Assessments for Roads

The special assessment process provides yet another way to finance local road improvements. While the law authorizes both townships and counties to finance public improvement projects, since 1931 the law has authorized county road commissions to establish and administer special assessment projects as a means of financing certain road and sidewalk improvements. CRCs are prohibited from using MTF revenues for sidewalks.

The law governing the **special assessment district process** involves several administrative procedures described here. Road improvements financed by special assessments are largely limited to roads in subdivisions and those that have a substantial degree of adjacent development.

Implicit in the special assessment petitioning process is the expectation that the benefiting property owners will pay all or a portion of the improvement costs. What portion property owners pay depends on the policies of the township board, the CRC or the board of county commissioners. Property owners are given several years to pay the assessments plus an annual interest charge.

Bridge and road improvements such as resurfacing local roads or reconstructing drainage systems, may be financed in whole or in part by special assessments. In general, a special assessment is an appropriate financing mechanism when the benefits of a particular improvement are direct and identifiable.

Paving a local road or even a subdivision street may have a “spillover” benefit to roadway users beyond the property owners on the road or in the subdivision. In that sense, it is appropriate for a portion of the costs to be paid from the general fund of a township, county or CRC. A number of townships and CRCs budget “matching” funds for local road improvements to be financed primarily from special assessments.

Basic procedure. The basic steps in a special assessment (*PA 246, 1931*) are:

- 1) Owners of adjacent property initiate the process by filing a petition with the CRC. The petition must contain signatures of owners representing at least 51% of the land adjacent to a section of the road where at least 75% of the land is divided into parcels 300 lineal feet (ft.) or less. An alternative standard is that the adjacent lands have buildings at least every 300 ft., on average.

The purpose of these standards is to avoid the imposition of financial burdens on owners of open land or large parcels. Signatories who are in default on their property taxes or other assessments are disqualified. Alternatively, a township board may adopt a resolution petitioning improvements on roads meeting the standards in the above paragraph.

- 2) The CRC board or agent must hold a Hearing of Necessity on the petition. It is also an opportunity for the CRC to inform the property owners of the petition filing, cost implications and payment method.
- 3) Owners have 45 days in which to overturn a petition filed by the township board by filing signatures of 51% of the frontage owners on the road of the proposed improvement.
- 4) CRC engineering staff examine the proposed project and produce an estimate of the project costs. If the CRC still considers the project to be necessary and in the public interest, it may issue an order of determination and conduct a hearing to learn of any objections the property owners may raise. The CRC must publish a notice of the hearing in a newspaper at least twice during the two weeks preceding the hearing, and also post the notice in five public locations. The final order must be acted on not more than 30 days after the hearing.
- 5) If the improvement district is not expanded and if the CRC does not increase the estimated costs by more than 10% as shown in the order of determination, the CRC may adopt the order without further hearing. The final order must specify the total costs, the amount to be apportioned to the affected landowners, the amount to be apportioned to the township at large and the amount the CRC will assume.

These apportionments are to track a determination of the benefits, although the CRC may not assign more than 25% of the cost to townships. The CRC may not impose an obligation on a township board without approval of the township board. The CRC board must also specify the number of annual payments in which property owners are to pay the assessment. The number may not be >10 years.

- 6) The CRC prepares the bid specifications and advertises for bids. Financing for the project may be obtained by issuing special assessment bonds.

PLANNING THE COUNTY ROAD SYSTEM AND ITS CARE

County road agencies have a three-fold role in planning the county road system: First, to increase the capacity of the road system; second, to make the roads safer; and third, planning preservation of the system.

Expanding the Road System Capacity

The demand for county road capacity is affected by many factors. Most of them are not within the direct control or authority of the CRC. In many instances, CRCs are placed in reactive and responsive roles rather than proactive and directive.

In some cases, the demand for increased capacity occurs over a short period due to significant new site development, such as construction of a shopping center, a new manufactured home complex or a new industrial plant.

Ideally, a CRC is consulted as the plans for such a project are initiated and finalized, allowing the agency to plan ahead for the anticipated increase in traffic. CRCs often learn about planned development projects in the local media or from sources in the community. The local planning commission may contact the CRC about the road aspects of the projects.

In other instances, increased traffic results from groups of independent projects over several years as an entire area is developed for housing, stores and other uses. While the CRC will be aware of new subdivisions in a township, the traffic often grows slowly over time. New traffic from one or two subdivisions may not even be noticeable.

And, while new subdivisions in cities may not involve a CRC, they may still increase traffic volume on county roads.

What is a CRC to do? With respect to the example of a regional shopping center that may be near a freeway or other major thoroughfare, one can forecast quite accurately which roadways will be affected by the shopping center traffic. Similarly, a CRC may be able to project fairly accurately the traffic volume generated by a new large industrial facility or an office complex. In such instances, a CRC should be invited to participate in planning and scheduling the necessary road improvements and construction.

Much of the increase in traffic volume on the county road system is more subtle and can only be monitored on the basis of traffic counts. A key element of the planning, then, is an ongoing effort to monitor traffic volumes on major county thoroughfares on a regular basis to learn how traffic volume is changing.

Increased traffic volume, in itself, may not require further action other than closer monitoring to determine if any elements of the system are causing needless congestion, accidents or other problems. If none of these factors are evident, the CRC may merely continue to monitor that part of the system.

Monitoring traffic volumes on a regular basis is one of the continuing activities a CRC performs to keep the planning and engineering personnel aware of demands on the system. Many CRCs, however, place greater emphasis on the number of crashes, which can be seen as a better indicator of adequacy of the road system and the need to understand and address contributing factors.



WHATS IS THE ROW
scan QR code to watch video



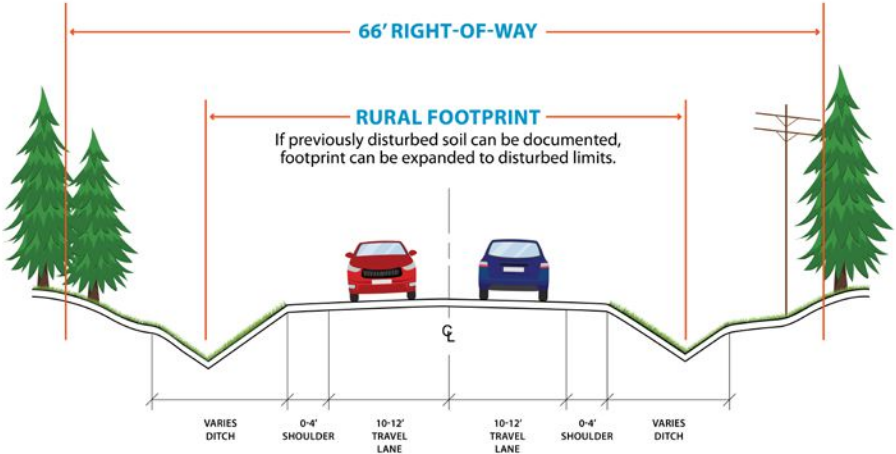
Information on Right-of-Way and CRCs role

One of the statutory responsibilities of the CRC is providing a safe and efficient county transportation infrastructure system, including stewardship of the public's right of way.

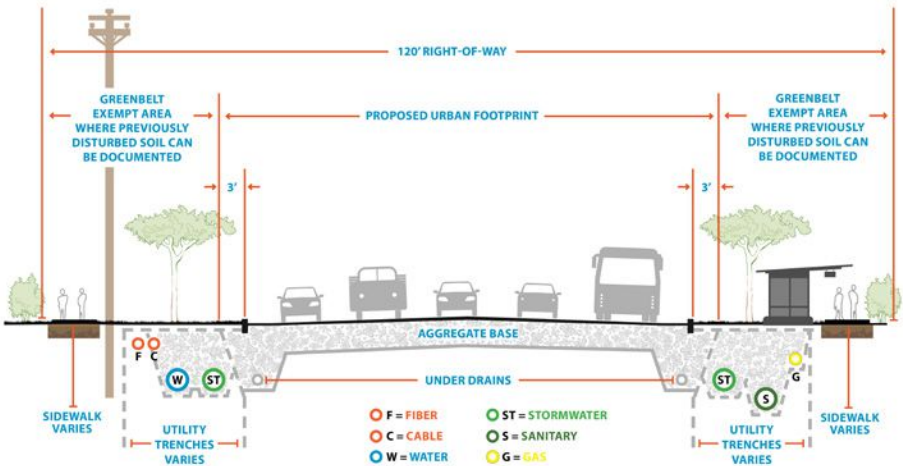
The ROW was defined (*MCL 221.20, PA 283 of 1909*) as 66 feet or approximately 33 feet in each direction from the center of the road. Also, the CRC may have acquired additional ROW with permanent easement. This area allows for the roadbed and space on either side of the road for storm drainage and a safe recovery area for vehicles that leave the road surface.

Within these ROW areas, the CRC has full jurisdictional authority of the ROW and may grant any temporary or permanent access by permit and specifications attached to the permit. **Landowners are not to erect permanent structures in the ROW, although most mailboxes are allowed.**

RURAL RIGHT-OF-WAY



URBAN RIGHT-OF-WAY



During electrification of rural Michigan in the 1930s, the first utility poles were installed in the ROW. As telephone service came to Michigan, it often shared the electrical pole. Since then, gas and water lines, sewer pipes, sidewalks and nonmotorized paths have all crowded into the ROW.

Now cable, broadband and fiber companies want access to the ROW, and with the work-at-home revolution the public also demands high-speed internet and rural connectivity.

All of this activity in the ROW requires road agency approval for safety reasons. ROW work including ditching, brush removal and dead trees can be controversial with homeowners who may not understand the permanent easement concept.

Service Requests

Service requests and complaints are another source of information about the serviceability of your county's road system. Recording and categorizing these calls or letters provides staff and CRC board members with data about conditions that could be problematic and require some action. At a minimum, the requests should be seen as a call to review conditions even if not all will be responded to or corrected immediately.

A CRC may track service requests and complaints in these categories: Bridges, drainage, engineering, gravel roads, permits, road surface, roadside maintenance, "thank you's", traffic engineering, trash, dead animals, trees and winter maintenance. Service requests and complaints may have legal considerations.

Tort Liability or Responsibility for Injuries and Damages

In general, under state law a governmental agency has broad immunity from tort liability if the agency is engaged in performing a governmental function. However, when the Legislature adopted the Governmental Tort Liability Act (*MCL 691.1402, 1964*), it created six exceptions to the broad grant of immunity.

One of them, the Highway Exception, applies to all road agencies. It reads:

Each governmental agency having jurisdiction over any highway shall maintain the highway in reasonable repair so that it is

reasonably safe and convenient for public travel. A person who sustains bodily injury or damage to his or her property by reason of failure of a governmental agency to keep a highway under its jurisdiction in reasonable repair and in a condition reasonably safe and fit for travel may recover the damages suffered by him or her from the governmental agency. The liability, procedure and remedy as to county roads under the jurisdiction of a county road commission shall be provided in section 21 of chapter IV of 1909 PA 283, MCL 224.21. Except as provided in section 2a, the duty of a governmental agency to repair and maintain highways, and the liability for that duty, extends only to the improved portion of the highway designed for vehicular travel and does not include sidewalks, trailways, crosswalks or any other installation outside of the improved portion of the highway designed for vehicular travel. A judgment against the state based on a claim arising under this section from acts or omissions of the state transportation department is payable only from restricted funds appropriated to the state transportation department or funds provided by its insurer. MCL 691.1402(1).

A road agency is under a duty “to maintain the highway in reasonable repair so that it is reasonably safe and convenient for public travel.” A person injured due to a road agency’s breach of its duty to maintain any part of the improved portion of the highway designed for vehicular traffic as required by the statute may recover damages from the road agency. The Michigan Supreme Court has held that the immunity granted by the Legislature is broad and the exceptions are to be narrowly construed.

The courts are careful to apply the exception only to the traveled portion of the highway. Liability does not extend to the shoulder of the road or a paved parking lane.

Liability is not determined by the type of travel or traveler. A court held that a CRC was not immune from liability where a person tripped over uneven pavement on a crosswalk marked by two painted lines.

The duty to maintain and repair does not extend to poor original design nor does the exception impose a duty on road agencies to correct or improve the original design of a highway. The exception to governmental immunity does not extend to the absence of lighting or signage, inadequate lighting or signage, or the condition or existence of traffic control devices because lighting, signage and traffic control devices are not

considered part of the traveled portion of highway designed for vehicular traffic.

The law related to road liability is constantly changing. CRCs should encourage management and staff to be alert to conditions that may cause injuries or contribute to tort claims.

Planning for the Roundabout

When a county has an intersection with a high number of serious accidents or traffic backup problems, the CRC's engineer may need to determine what changes will facilitate the movement of vehicles or minimize crashes. The solution may be a traffic signal at an intersection. Or perhaps adding turn lanes to provide a center left-turn lane or right turn lanes to minimize traffic congestion or reduce crashes.

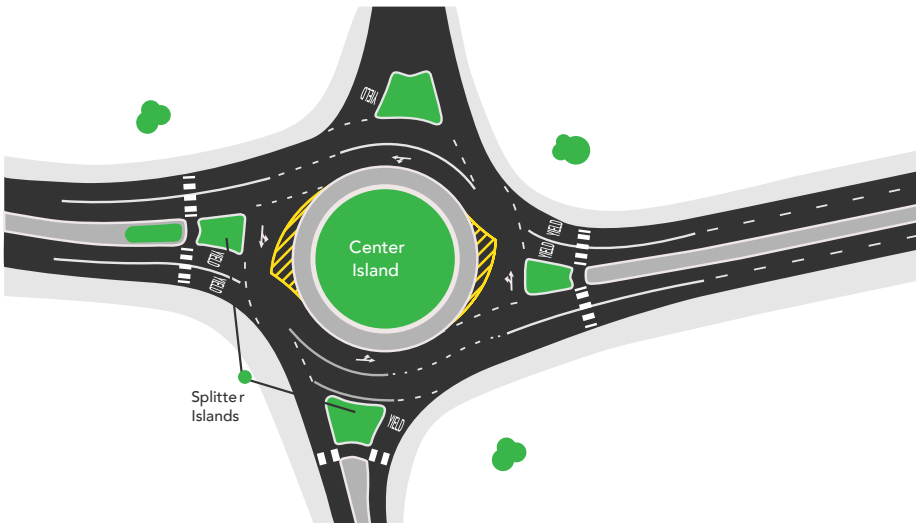
Another approach to traffic management at an intersection that is growing in favor is the construction of a **roundabout**, which involves a system of channelized approach lanes and circular lanes that permit a driver to proceed forward or make a turn without having to wait for the traffic signal or make a left-hand turn.

Why not put up a traffic light instead? In addition to being safer, roundabouts are generally more cost effective than installing a traffic signal at an intersection. Over time, traffic signals are more costly than roundabouts. Signal equipment costs an average of \$50,000-\$100,000, plus on-going electricity fees. Adding a signal can also require adding turn lanes to provide a center left turn lane. This could require expensive right-of-way (land) acquisition costs and a significant amount of pavement.

Michigan drivers are now getting used to roundabouts, as drivers become more familiar with roundabouts they should find them to be safer since every vehicle is required to slow down and turn to the right. The roundabout crash experience has shown that serious crashes have been reduced due to slow traffic speeds at these types of intersections.



Photo courtesy of MDOT - 2016



Regulating Truck Traffic

Regulating truck traffic has several aspects. One concerns the county roads, which trucks may be prohibited from using. Others relate to the weight trucks may carry or the size of the truck.

With respect to the first concern, both the CRC and township boards may forbid trucks from using certain routes. Both exercise this authority for two main reasons.

First, is the general suitability of the road for truck traffic. In some instances, trucks are directed not to use roadways through business or residential districts when other routes are available. To exercise this authority, the CRC must adopt a resolution designating the route and then post signs informing drivers of the prohibitions.

The second concern relates to the gross vehicle weight (GVW) of trucks using the road system. Vehicles with GVW of 80,000 pounds that have five axles properly spaced are allowed on National Truck Network routes and, for limited distances, off these routes. Some trucks have more than five axles, of course, and trucks with 11 axles properly spaced may have a GVW of up to 164,000 pounds.

CRCs have some **“all-season” roads**, which have no seasonal weight limitations. Most local roads, however, were not built to all-season standards. On these roads the CRC will reduce the maximum GVW during **seasonal weight restrictions (SWRs)** – approximately March to May, or when conditions warrant.

These are sometimes called “frost laws” and can be very contentious with industry, which may be trying to haul a load of logs, place road building equipment or conduct other commerce before the restrictions are enacted.

A CRC should work hard to communicate the imminent enactment of SWRs, in cooperation with neighboring agencies if possible. The law requires all counties to post their SWRs online in a centralized location, which is the County Road Association’s website. CRA also has a free mobile app to show up-to-the-moment SWR status, and potentially link to pulling an e-permit. More on seasonal weight restrictions may be found on CRA’s website.

Additional provisions relate to weight limits for trucks carrying **agricultural commodities, propane haulers and utility vehicles**. Vehicles carrying any agricultural commodity on the National Truck Network must be given access. Moreover, such trucks carrying agricultural products must also be given permits, if requested, to use a road even though they may be using a weight-restricted road during the SWR period.

Propane haulers may exceed seasonal weight limits so long as their tank is 50 percent full or less. Lastly, utility vehicles and those of their subcontractors may exceed seasonal weight limits under a notification and permit process.

Michigan has considerable work to do in building a connected network of all-season roads. Modest financial grants to develop this system are given annually to all CRCs through Michigan's Transportation Economic Development Fund – Category D.

Traffic Signals

Over the years, traffic signals have become more complex. Early signals, and many still today, provide only red (stop), green (go), and yellow (caution) lights. Opposing lanes could proceed, left-hand turns were allowed when traffic cleared, and traffic from the right and left had to wait. Today, many of the signals are much more complex and serviceable. They still use red, green, and yellow but, in the more complex intersections, traffic movement may be different.

Today, the signals in intersections with high-traffic volumes often direct eight movement positions from as many as six or 10 lanes. One set of opposing traffic with the green light may proceed straight ahead or turn right. When the light changes, the other set of opposing traffic may proceed straight ahead or turn right. When these two cycles are completed, the traffic signal is red except for those wishing to make left-hand turns from opposing directions. When the light changes, the other pair of left-hand turning motorists may proceed. This format of signals tends to lengthen the waiting time but reduces efforts to “beat” the signals and tends to reduce congestion.

Timing, Coordinating Traffic Signals

An aspect of effective traffic signal operations relates to the timing of the signals. If based on sound data regarding the volume of traffic in the various directions and the percentages of those making left-hand turns, the timing of the lights can favor the lanes with the heaviest traffic volumes to keep those lanes accommodating as many vehicles as possible. Lower volume lanes must then experience longer waiting times.

If the traffic data are accurate, such an approach to traffic signal timing can maximize the use of road lanes at the cost of a modest waiting time for those on the lower volume lanes.

Maximizing road capacity through signal timing, as noted, requires sound information about the traffic flows and speeds. They may even require variation at different times of the day.

More urban CRCs use technology in traffic signals to monitor traffic flow, communicate with computers and to enable the signals to change in accordance with the current traffic flow. Less populous CRCs not having this technology need to check the timing of signals at least once every three years.

Local Bridge Program

CRCs are continually challenged to meet state and federal standards for bridges on roadways due to inadequate funding and increasing standards. In 2016 Michigan had 11,062 bridges, of which 5,718 are under CRC jurisdiction.

In 2016, the **Local Bridge Program** received \$48 million in federal, state and local match funds. State funds consist of one-half of one cent (PA 51), or approximately \$27 million. Federal funds are the 15 percent federal requirement in the off-system bridge category, or \$19 million in 2016. Local match is 5 percent, or \$2 million.

Annual dollars received by the Local Bridge Program fund fewer than 20 percent of the bridge applications received in a given year. Consequently, state and local road programs compete for the bridge maintenance funds. The Local Bridge Advisory Board has made repeated requests to increase this allocation. Further reading on the subject of bridge ratings and

conditions is found in MDOT's Bridges of Concern publication.

The **Local Bridge Advisory Board (LBAB)**, on which CRA has three voting members, makes final decisions about which bridge projects are funded statewide. The LBAB includes representatives from MDOT, CRCs and cities/villages who make prioritized decisions based on structural deficiency and traffic needs.

The **Regional Bridge Councils (RBC)** – of which there are seven – *recommend* bridge projects to the LBAB. The Regional Bridge Councils include representatives from CRCs, cities and villages. CRC appointments to the RBCs and LBAB are made by CRA's Executive Committee.

The entire Local Bridge Advisory Program has worked well for county road agencies in recent years.

Regarding funding, a majority of the bridge program funding is used to replace and rehabilitate bridges rather than to maintain them. However, there have been more preservation projects in recent years.

Because replacement is more costly than providing regular maintenance care of bridges, only small amounts of the "bridge monies" are available for maintenance. The local jurisdictions, however, may use available funds to provide the necessary maintenance.

- **Historic Considerations.** All architectural structures and underground cultural resources older than 50 years – including bridges, come under the provisions of **national historic preservation laws** when using federal aid. An old bridge that is historically significant will require review by MDOT and potentially the Michigan State Historical Preservation Office. Area residents may also chime in on CRC plans to replace such bridges.

With respect to funding, CRCs may spend regular MTF or local millage dollars for bridge maintenance to extend the useful life of a bridge. Maintenance actions may include cleaning and repainting the steel girders or periodically resealing deck surfaces to keep various compounds from permeating the surface and causing rust.

In addition, reducing load limits may help to extend the life of a bridge, although this approach makes these road systems less serviceable and requires truck drivers to search out alternative routes.

Local Pavement Warranty Program

In its 2015 Transportation Funding Package, the Michigan Legislature amended PA 51 creating a requirement that each local road agency adopt an MDOT-approved Local Pavement Warranty Program (LPWP) (*MCL 247.662*). For nearly three years, a CRA work group of CRC and municipal engineers, industry representatives, FHWA and Local Technical Assistance Program (LTAP) crafted perhaps the first such program in the US.

Every CRC's board of commissioners was required to adopt these uniform LPWP documents by 2016.

Once adopted, a pavement warranty must be considered by the board of road commissioners (county commissioners for county road departments), on each project (state or federal funds) that includes \$2 million or more in paving-related components. This consideration must be reflected in the CRC meeting minutes and the CRC must report annually on such projects, whether they implemented a warranty or not. There are sometimes good reasons not to use a warranty; other times it may be a valuable tool.

The overall LPWP goal is to have one standardized method for applying pavement warranties on local agency projects, which provides a consistent, quantifiable and transparent program that pavement contractors can recognize and implement.

The Asset Management Approach

Roads and bridges are long-lived capital assets. Operating, maintaining and upgrading those assets in a cost-effective manner require long-term planning. Nationally, many road agencies have found that transportation asset management optimizes their investment.

Applying the right fix at the right place at the right time extracts maximum value from the asset. This avoids pavement and bridge failures due to a simple lack of relatively inexpensive maintenance and repair. Prioritizing projects using an organized and methodical approach outperforms a relatively random "worst first" approach to planning projects.

The Michigan Legislature in 2002 amended PA 51 to create the Transportation Asset Management Council (TAMC) and charged it with

developing tools, practices, procedures and strategies so that all road agencies could implement asset management. Further, the law requires that road agencies report on the condition of roads and bridges, and publish an annual report on the project investments made in the last year and planned projects over the next three years based on an asset management strategy.

TAMC members are appointed by the Michigan State Transportation Commission; voting members represent road agencies, the Michigan Association of Counties, Michigan Townships Association and regional planning agencies. County road agencies have two voting members chosen by the CRA Executive Committee.

PASER Ratings. TAMC provides training on the use of the **pavement surface and evaluation rating system** (PASER) and requires that all agencies rate the federal-aid system using it. Teams of trained raters from MDOT and the CRC rate about 50% of the federal-aid system every year with no direct costs to the CRC.

Road agencies are also encouraged to rate the paved non-federal aid system and report it to TAMC; some limited reimbursement is available. The national bridge inventory is a nationally-accepted method of rating bridges; all bridges are rated every two years based on Federal Highway Administration (FHWA) requirements.

Annual project investments and long-range project plans are reported to TAMC using the investment reporting tool (IRT), with reporting required within 120 days after the PA report is due on May 2.

Annually, TAMC provides a report to the governor, Michigan Legislature and the State Transportation Commission about the condition of Michigan's roads and bridges. This allows a consistent, fact-based narrative to be told across all road types, asset owners and over time.

TAMC utilizes eight of these performance measures in a dashboard format, which local CRCs – as well as any member of the public - can review for comparative purposes and to generate reports.

In addition to PASER and Investment Reporting Tool (IRT) training, TAMC provides training on other principles of asset management for elected officials. Training opportunities are scheduled throughout the year.

ROAD COMMISSION BUILDINGS, FACILITIES, EQUIPMENT

The CRC board must think beyond the county's road and bridge system to fully represent the CRCs interests. To do its best work and function at optimal efficiency, the CRC staff must have proper, modern equipment in good repair and high-quality buildings, garages and storage facilities. In today's highly competitive market for quality employees, the facilities and equipment are part of the recruiting package. Commissioners and the CAO should consider all these areas to help the CRC be most effective, safe and efficient. Looking to the "bigger picture" is a key board responsibility.



CRA County Road Investment Plan

In 2019 and 2021, CRA completed its first and second biannual *County Road Investment Plan*. The Plan involves hundreds of hours of primary research and data gathering from all 83 CRCs, which were aggregated to provide a statistical, holistic picture of the non-staff needs of Michigan's county road agencies.

Countywide data on paved roads has been available only in piecemeal fashion since 1984 when the state's last

Highway Needs Study was published. The County Road Investment Plan has monetized needs of the county system and finds that as of May 2021 an additional \$1.8 billion annually should be invested in the county road and bridge system to strive for the performance goals outlined below.

Performance Goals. Goal setting is important to ensure Michigan is aiming for appropriate restoration of the county road and bridge system. Under PA 325 of 2018 (*amending PA 51*), each county road agency must provide its agency performance goals in the ongoing process of maintaining, preserving, upgrading and operating physical assets cost effectively, based on a continuous physical inventory and condition assessment and investment to achieve established performance goals.

For this study, the CRA Board of Directors has established the same restoration goal for federal aid-eligible county roads as MDOT is utilizing:

- **90% good/fair for federal aid-eligible roads in 10 years.** These 22,744 miles of county roads had an average rating of 52% good/fair across all counties in 2021. (good/fair = PASER 5-10)

For the nonfederal aid-eligible (primary and local) roads CRA has set the following goal:

- **60% good/fair for local, nonfederal aid-eligible roads in 10 years.** These 30,716 miles of roads had an average rating of 46% across all counties in May 2021.

The counties' 36,540 miles of unpaved roads are not rated; however, the Plan includes the cost of gravel road surface replenishment on an appropriate schedule. The Plan addresses only investments to preserve and restore the current system, and does not contemplate system improvements (e.g., additional lanes, intersection improvements or paving gravel roads), right-sizing or reductions.

The Plan quantifies the annual financial needs of federal and nonfederal aid roads, as well as bridges. It also considers the needs for equipment including trucks and heavy equipment, as well as buildings.

Buildings, Maintenance Facilities. All existing county road agency buildings and facilities were listed in the Plan data. Straight-line depreciation on these items was used to determine the required annual investment. Replacement costs for buildings for administration (\$190/sq. ft.); equipment maintenance and heated storage (\$190/sq. ft.); cold storage (\$50/sq. ft.); and salt storage (\$50/sq. ft.), all with a life span of 40 years were used. These values were based on conversations with architects and county road agencies who had recent experience with these structures.

Fuel, brine and emulsion storage facilities were assigned a replacement value established by insurance companies. A life span of 20 years was assumed for these types of facilities based on experience from county road agencies.

Equipment. Straight-line depreciation was used to determine the annual target investment for equipment. Equipment and life span values were established directly from county road agency communications in the first quarter of 2019 and adjusted for inflation.

Overall, the Plan found that the annual needs of all 83 county road agencies for buildings/maintenance facilities were \$44.6 million, an increase over the 2019 report; and for equipment the annual needs were \$164.6 million – also up over the 2019 report.

All of this data has been shared by CRA with the Michigan Legislature, the Office of the Governor, MDOT, the media and all of our member agencies. There have been neither criticism nor concerns expressed over the obvious need of county road agencies to keep their buildings and equipment up to the needs of the times. Similarly, road commissioners should not shy away from the important responsibility they have to talk about future plans for the facilities and equipment needed to provide the most productive and efficient county road agency.

NOTES:

NON-ROAD PROGRAMS

The board of the County Road Association, made up of both CAOs and commissioners updated the guiding vision and mission for the association in 2016, and these statements may also double as the guiding principles for a CRC.

Vision: *A credible, unified and effective voice for a safe and efficient local transportation infrastructure system in Michigan, which includes stewardship of the public's right-of-way.*

Mission: *To help our members promote and maintain a safe, efficient local road and bridge system, including stewardship of the public's right-of-way, in rural and urban Michigan.*

CRCs are here to serve the public with safe, high-functioning county primary and local road systems, and to ensure wise use of the entire right-of-way. In addition to local road responsibilities, in the last five-year MDOT maintenance contract which expired in late 2016, 63 county road agencies were hired to maintain state freeways, highways and roads in their counties.

Some CRCs have additional functions for which they are responsible. The process of assigning other functions to a CRC is somewhat circuitous.

Drainage System Management

Michigan's Drain Code Law (*MCL 280.21, 1956*) permits any county having a population <12,000 to abolish the office of **drain commissioner** and assign the duties to the CRC. The statute goes back to one of the early drain codes, but does not require a county to appoint a separate drain commissioner when the population exceeds 12,000. About 18 counties employ an approach other than having an elected drain commissioner.

Michigan also has the County Public Improvement Act (CPIA) (*MCL 46.171 et. al.*) that permits counties to establish a **department of public works** (DPW), and allows the county commissioners to appoint an independent board to run it that must include the drain commissioner. Other options are to assign the DPW to the road commission or to assign DPW duties to the drain commissioner. Most counties do not have DPW boards, but these alternatives are in use somewhere.

These two laws permit, at the discretion of the board of county commissioners, DPWs and CRCs to manage the drainage system. If the practice is not abolished, the drain commissioner may operate primarily as a board member of the DPW.

The CPIA also permits the board of county commissioners to designate the CRC as its agent for providing some of the public services mentioned above. In addition, some laws such as the Land Division Act (*MCL 560.101 et. al.*) can be used by county commissioners to assign certain duties to county road commissions.

Department of Public Works, Parks and Recreation

Among the functions CRCs can perform through these legal mechanisms are water supply systems, sanitary sewer systems, refuse disposal services, lake improvement programs, county drainage systems, soil and sedimentation control provisions, parks and recreation, community planning and more. Only a few CRCs administer these non-road services, and they do so usually as the result of past decisions by the board of county commissioners.

Back in the day, **parks and recreation** responsibilities were sometimes assigned to CRCs, which used to be less busy in the summer than the winter. As CRC staff has dwindled and the demands to preserve and maintain roads and bridges have grown, and as sophistication of parks and recreation programs has also evolved very few CRCs still have these responsibilities.

The same historical pattern also assigned DPW responsibilities to CRCs. Ironically, now that the law permits a county to take over its road commission board, which three counties have done, the CRC is again usually part of the DPW.

Community Planning

Some CRCs provide community planning. Townships ordinarily exercise the zoning powers and, in connection with that, also fill the community planning role. However, in the absence of township planning and zoning, state law permits counties to provide the planning services and exercise zoning regulations in townships not exercising those powers. A board of county commissioners may assign the function to the CRC.

Having both CRCs and townships responsible for community planning need not be contradictory or redundant. Community planning at the county level, whether done by the CRC or by a county planning commission, provides a broader perspective than planning by the individual 20 or so townships and cities in a county.

Township planning can operate with a broad perspective, but mostly it will concern itself with details internal to the township. County planning, on the other hand, will tend to view the broader picture relating to infrastructure issues such as road systems, water and sewer systems, watershed and wetland issues, as well as regional parks and recreation facilities. And because the success of much of the planning depends on transportation, it is not inappropriate for a county board to assign community planning to a CRC.

Given the influence roads have on land use, having a CRC exercise broad planning responsibility can be very important. CRCs, for example, play a role in economic development as they construct or improve roads to serve existing or major new facilities. Having a CRC be involved in overall planning from the beginning can make important differences in the road and utility services.

Similarly, a CRC with a community planning perspective can play a key role in new subdivision review. All CRCs, of course, must review and sign off on new subdivision applications. Yet having the CRC involved in planning the subdivision can make an important difference in controlling the number of access points (driveways or new intersections) to a county primary road, which improves safety for everyone and preserves road capacity.

As an example, sound planning encourages new subdivisions to have residential lots back up to the adjacent county road, with just two subdivision streets intersecting the county road, depending on the size of the subdivision. The Land Division Act interferes with these goals somewhat by requiring all land divisions, especially those that are not part of a subdivision, to have access to a primary or local road.

Another dimension of relations between CRCs and community planning concerns economic development. Each year, a portion of the MTF is appropriated to the **TEDF**, which CRCs may be able to use to assist in community development. TEDF Category A grants can be accessed for road improvements linked to retaining or creating new jobs.

INTER-GOVERNMENTAL RELATIONS

The closing chapter in this guide to the role and responsibilities of Michigan county road commissioners considers the complex set of intergovernmental relations in which all CRCs are involved.

These relationships have many dimensions and range from the townships, cities and villages within the county to those that lie just on the other side of the county boundary. And they extend from townships and the board of county commissioners to MDOT, Michigan State Transportation Commission, state legislators and similar state governmental associations such as CRA, Michigan Townships Association, Michigan Association of Counties, the Michigan Municipal League (MML) and several engineering, road building and material supplier associations that are involved in forming policy in Lansing.

Township Relations

As CRC “customers,” township board members, especially township supervisors, serve as principal advocates for road services. Some will ask the CRC to grade unpaved dirt roads more often or apply dust control measures. Others will seek to have various roads “black-topped” or sealed and graveled. Others may seek more favorable consideration in the schedule for snow removal and a variety of other services.

Township supervisors periodically attend CRC meetings to look out for the interests of their clients: The township voters.

CRCs are not able, financially or physically, to meet all the needs township officials and residents place before them. Yet every road commissioner should be attentive to these requests and be able to explain why various township requests have priorities lower than they would like.

The commissioner’s credibility in these tough conversations goes back to the planning process and the “hard” data and asset management plans the CRC has developed. Having the capacity to identify the various rationales and the data backing them up will go a long way toward creating an atmosphere of understanding and cooperation.

Seek first to understand, then to be understood. The ability to listen and then explain will help build sound relationships.

A Special Provision

Under a special provision, state law permits CRCs and certain townships, by contract, to share the maintenance of local roads in the township. The provision applies to counties with a population of >500,000 and townships with a population of >40,000.

The law also imposes several other conditions. The township must be levying a road tax of not less than one mill, must record the expenditures for road preservation, file an annual report as to how it spent the funds, provide insurance coverage covering CRC responsibilities for roads, and acquire the necessary equipment and personnel to provide the services.

The CRC may contribute to the cost of maintaining the roads in the township within limits specified in the statute. For example, the parties must agree how much the township will expend on the roads and the CRC may not contribute more than 75% of that amount.

But the law specifies another limit in that the CRC may not pay more than 66% of the annual average over the prior five years and, should this limit be exceeded, the township must match the CRC amount. Excluded from the calculations are funds that may have been allocated from the CRC's primary road fund.

Competitive Bidding Requirements

Beginning in 2016, townships have two additional options in working with CRCs as a result of two bills passed with the 2015 Transportation Package.

- **Competitive Bidding.** (*PA 181, 2015*) Townships have an option to require competitive bidding on a local road project provided:
 - The township contributes 50% of the cost; and
 - Estimated project costs exceed \$25,000 for unpaved roads or \$50,000 for paved roads.

Maintenance projects are not subject to this bidding requirement.

County road agencies should consider the following tasks when putting together a competitive bid for a township:

- Who pays for the additional project administration costs? (i.e. design, project bid proposal, bid advertising, construction

administration, project inspection, material testing, contractor claims and contract closeout).

- Should the project be handled as a permit to work in the right-of-way, where the township retains an engineering firm to perform the administrative material testing and inspection of the project?

• **Exemptions.** (*PA 182, 2015*) A county road agency may be exempt from this law if it determines it is in the county's best interest to not require competitive bidding for a project. A county road agency shall report these findings before work commences in writing to the county board of commissioners.

CRA has further details on township competitive bidding in CRA Guidance Document 004.

Changing the Status of Roads

CRC-township relations may also be stressed from time to time over issues relating to the status of roads. For example, a CRC may have designated certain roads as seasonal roads. These are roads that have virtually no year-around residents on adjacent land, and usually lead to lakes, cottages, hunting property or other fair weather land uses.

The law permits a CRC to issue a public notice and hold a public hearing to determine if any adjacent landowner resides on the property or uses the road between November and April. A CRC may not designate a road as a seasonal road if anyone occupies adjacent property as a permanent residence. Although a CRC is required to post a notice in the CRC office showing the designated seasonal roads and to post signs on the roads, new owners may sometimes be surprised to learn about the road's status.

For more about seasonal roads, review CRA Guidance Document 002 or visit the topic on the CRA website.

In other circumstances, a CRC may have to deal with a so-called **paper road**, a road designated in an approved subdivision plat but which has not been constructed or improved. The question often arising with respect to such a road is whether a CRC is obligated to maintain the road.

The answer depends on whether the paper road is part of the county road system by reason of the CRC having adopted a formal resolution

accepting the road or having a record of the road's coming under the CRC jurisdiction under the terms of the road commission law.

If either of these is affirmative, the CRC is likely obligated to maintain the road. One other circumstance would determine whether it is a county road: A judicial ruling that a CRC that has expended funds on the road has "accepted" the road even though no documents exist to establish the fact. Note, however, that the CRC is not obligated to improve such a road.

A similar issue that road commissions encounter is a formal request to **abandon a road**. A petition to abandon a road must contain signatures of at least seven freeholders (resident landowners) in the township. If all the landowners adjacent to the road to be abandoned sign the petition, the CRC can accept and approve the request by majority vote.

Otherwise, the CRC must publish a notice and hold a public hearing on the issue. After the hearing and an examination by the engineer or CAO, the CRC may vote on the matter. If the abandoned roadway accesses a lake, the involved township or the MDNR may be given jurisdiction over the abandoned roadway property for use as a public access. (Such a provision may be challenged in court at some point. The argument is sometimes made that the land was taken for road purposes and when the land no longer serves that purpose it should revert to the original owner or the successive owner.)

Sharing Boundary Road Jurisdiction

Local intergovernmental relations sometimes develop over boundary roads or other roads that one CRC can service more economically than another. While each CRC has jurisdiction and responsibility for all public roads in the county that are neither part of the state highway system nor under the jurisdiction of a city or village, the law does permit adjacent jurisdictions to negotiate agreements for sharing responsibility for boundary roads.

Ideally, a municipal boundary should be located at the outer edge of the county or municipal road so that the road is entirely within one jurisdiction or the other. More typically, however, the centerline of a road is the designated boundary line and thereby puts one lane in the city/village and the other in the county.

Other confusing situations arise over sections of a county road traversing a city or village, or when state routes traverse a portion of the city or village. What should be done? Which unit should provide the maintenance service?

Most road officials would agree that the answers to these questions should be based on economics and service to the public. The difficulty is that it is not always easy to determine which approach is more economical and which best serves the public interest. In part, road maintenance funds are at stake; but often one system's vehicles travel the roads or streets to serve their areas in any case and would like to receive the maintenance funds.

In situations that cannot be resolved by economic and public service arguments, CRCs should seek to reach middle ground and look for a win-win arrangement. The road law provides the authority to negotiate joint agreements between CRCs regarding county line roads.

Similar relationships with individual CRCs and MDOT are developed through contracts where a CRC provides specified maintenance services on state highways. Depending on the proximity of particular state highway mileage, such intergovernmental contracts benefit the CRC but also extend the use of MDOT funds. In that sense all the involved parties, most especially the driving public, are benefited.

Speed Limits

Another area of intergovernmental relations is that between the Michigan State Police (MSP), CRCs and townships. While MSP officers generally concentrate their road patrol services on the state system, they share jurisdiction over setting speed limits on county roads.

Under most circumstances, MSP sets speed limits based on specific circumstances. The principal criterion is the speed of traffic on a particular section of road when it is uncongested and free flowing. Typically, a speed limit will be set at the speed at which 85 percent of the vehicles travel, rounded up to the next 5 mph increment.

This standard is based on the premise that motorists will not voluntarily obey the rate below this level and, as a result, the lower rate cannot be enforced effectively. However, this standard does not mean that the speed limit is not negotiable under any circumstances. A CRC may initiate the process of setting slower speeds by proposing changes to the MSP; but the burden of proof will likely rest with the CRC.

State-Level Relationships

Most of the CRCs statewide intergovernmental relationships are coordinated by the County Road Association of Michigan (CRA) under the direction of its 16-member board, which includes commissioners as well as CAOs. CRA dates back to the early formation of the road commission system in Michigan, and was organized in 1918, in part to advance CRCs and to help them speak with one voice on the statewide level.

CRC membership dues, contributions and dues from associate members, and event fees support the organization, which is a private nonprofit association chartered under Michigan law.

CRA is a formal, highly-networked association with four sectional associations, nine regional councils and 13 standing committees. Committee appointees and chair positions are selected by CRA's incoming president, in part according to nominations from the regional associations.

The CRA members lead the sectional associations, regional councils and standing committees, with staff support from the Association. CRA provides educational services for its members and represents member interests in the Michigan Legislature and in the policymaking and administrative decisions of the MSTC and MDOT.

County road commissions also have the option to obtain road commission-specific self-insurance services through two sister organizations: The County Road Association Self-Insurance Fund (CRASIF) and the Michigan County Road Commission Self-Insurance Pool (MCRCSIP).

Individual road commissions and their regional organizations also have an important role in building support on policy issues being addressed in Lansing. Commissioners should be in contact with area representatives and senators, keeping them informed on the impact current and proposed policies are having on the county road agency and the local road system, among other interests.

The interests of cities and villages won't always coincide with CRC or MDOT interests. Working together at the community level first can help identify win-win arrangements, which are very helpful in advancing

helpful policy in Lansing. Conversely, disagreements and inability to resolve issues locally can lead to the Michigan Legislature making blanket decisions on county road concerns.

A Word on a Positive Working Relationship with MDOT

Because the driving public and taxpayers see their roads and bridges as one continuous system, Michigan's three road owners – counties, municipalities and Michigan Department of Transportation – continue to work together to get the best possible results.

Occasionally, this can be challenging as CRCs observe the higher-quality equipment, garages and staff ratios at MDOT maintenance locations. Certainly, MDOT has more traffic on most of its highways, freeways and bridges that comprise 8% of Michigan roads, a bigger claim on federal funds and a long history of state funds to match it. MDOT also has responsibility to administer state grants and federal aid for all Michigan road owners, including helping local agencies deal with some of the burdensome rules that come along with federal funds.

The CRC, with 75% of the roads and 52% of bridges, also has wide-ranging responsibilities and roads that are in statistically worse condition. CRCs with a MDOT State Trunkline Contract are able to cost effectively and efficiently maintain the trunkline system for the benefit of their residents, although some may experience friction points in the process.

CRCs would do well to remember the public expects that we find ways to work together cooperatively with all road owners. A rising tide of funding – responsibly administered – will raise all boats and lead to a better road system and services in your county. CRA is always ready to help foster this relationship including trouble-shooting at the local level and seeking MDOT program improvements in Lansing, when the results will benefit most CRCs.

NOTES:



WHY A PAC?

scan QR code to watch video



ROADS+SM

Every trade association that seeks to introduce bills, change the law or strike down bad legislative proposals; or to secure better understanding and more funds out of state or federal government, will have an advocacy arm. For CRCs, that arm is Roads+SM a separate political action committee under the umbrella of the County Road Association. Roads+SM trustees are appointed by the CRA Board of Directors.



Since 1981, CRA has had an advocacy arm – renamed Roads+SM in 2017. This advocacy fund has played a vital role in CRA's legislative success in Lansing, and by your attendance at House and Senate political events in your area.

Membership

Roads+SM brings together people who understand the value of good roads and bridges. The goal of Roads+SM is to promote better road and bridge policies in Michigan by endorsing and contributing to the campaigns of candidates for state office who understand road and bridge issues and will advocate for judicious road policies.

All CRC road commissioners are encouraged to be members. We need your help to promote good local roads, safe bridges and a properly maintained ROW with elected officials in and candidates for the Michigan Legislature.

Your \$50 (or more) membership dues contribution helps CRA identify and work with influential officials and candidates so they will understand the value of Michigan's unique county road system that is responsible for good county and local roads, bridges and rights-of way.

In addition to annual dues, Roads+SM encourages commissioners to network at its four annual golf outings in various locations around the state; and participate in the Roads+SM events at the annual CRA Highway Conference.

Engaging your Legislators

- from the CRA Commissioners Subcommittee on Legislative Affairs

When scheduling a sit down with your legislator, prepare an agenda and send it ahead of time so you can allow time for the Rep/Senator to educate themselves on the issues.

Know your materials. Legislators are responsible for a very expansive spectrum of issues. You are focused on merely one of those issues. You need to know more than them and help them understand your specific county's needs and objectives.

Know your audience. If you plan on speaking to a legislator directly, brush up on their history. Making a personal connection will allow you to go that much farther with your issue.

Be concise. Everyone's time is valuable, including your own. Remember that everyone has only so much capacity for information intake. Focus on the most important issues and don't overwhelm them with trivial items.

Avoid technical jargon. Legislators likely don't have the background you do and won't understand your use of jargon. Keep it simple to explain and to understand.

Utilize the CRA for political events. Attending your reps' personal fundraiser will go a very long way.

If you are uncomfortable with a personal face to face, bring along your Managing Director. They can be the strongest advocate for your Commission. They know the industry, the rules, the downfalls, and can articulate in areas when you stumble.

Be honest with your legislators. There is a lot of drama involved in today's politics. It may come as a refreshing surprise to deal with a straight shooter.

Association Assistance For The Road Agency



County Road Association
OF MICHIGAN

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County Road Association Self-Insurance Fund

CRASIF — “Employee Safety Specialists” - Founded in 1978



One of the key programs available to county road commissions is CRASIF, the County Road Association Self-Insurance Fund. With a solid understanding of county road commission concerns, CRASIF is a road commission-specific workers' compensation program authorized under the State of Michigan Workers' Compensation Agency.

In addition to workers' comp risk protection, CRASIF membership provides road commission-specific ...

Risk control safety education programs

- Culvert safety
- Heavy equipment operations
- Lockout/tagout
- Personal protection equipment
- Road construction, repair, maintenance
- Snow plowing
- Traffic regulation
- Tree cutting, trimming, chipping

Customized county risk control plans covering your county's...

- Loss experience, exposure
- Training goals
- Hard abatement
- Behavior-based vs. site-based risk assessment
- Pre-MIOSHA audits.

Access to Web-based resources

- 1000s of safety training videos
- 5-minute safety talks
- Sample safety policies

Access to professional road commission risk consultants

Access to experienced governmental workers' compensation attorneys

CRASIF's rates are based on the road commission sector, not unrelated businesses. Its nine-member board is guided by a return-to-work philosophy, treating claimants with respect and getting the injured employee quality medical care.

Since 1978, CRASIF has returned \$81.4 million to members of \$180 million collected annually. For every \$1 paid for CRASIF, members got \$0.55 back in the form of a premium discount or refund.

Jim deSpelder, CRASIF Administrator

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JimdeSpelder@crasif.org • www.crasif.org



MICHIGAN COUNTY ROAD COMMISSION SELF-INSURANCE POOL

The Michigan County Road Commission Self-Insurance Pool (Pool) was formed through a joint effort of the County Road Association and its road commission members shortly after passage of PA 138 of 1982.

The Pool is an efficient, fiscally sound, member-run self-insurance program that is governed by a Declaration of Trust; member approved By-laws; and separate Inter-Local agreements entered into between the Pool and its members. It operates under the direction of a nine-member board of directors, who are elected by the membership.

The costs to operate the Pool are shared by the membership using calculations that assure an equitable contribution from each member.

The Pool offers the following coverages to its members:

- ✓ General, auto and trunkline liability;
- ✓ Employment practices liability;
- ✓ Public officials errors and omissions;
- ✓ Property and equipment physical damage; and
- ✓ Employee fidelity.

In addition, the Pool offers many other services to its members, including risk management and loss prevention, claims handling and specialized training programs.

One of the Pool's best features is that it is usually able to return excess equity directly to its membership. As of August 2016, nearly \$160 million has been returned by way of this unique, member-oriented program.

Protecting the people who take care of Michigan's county roads

**If you have any questions, we encourage you to call the
Pool office today at 800.842.4971.**

Glossary of Acronyms

ADA.....	Americans with Disabilities Act
BDA.....	Brownfield Development Authority
CAO.....	Chief Administrative Officer
CMAQ.....	Congestion Mitigation/Air Quality Program
CPA.....	Certified Public Accountant
CRA	County Road Association of Michigan
CRASIF	County Road Association Self-Insurance Fund
CRC	County Road Commission/Agency
CTF.....	Comprehensive Transportation Fund
DDA	Downtown Development Authority
DPW.....	Department of Public Works
FAHP.....	Federal-Aid Highway Program
FHP.....	Federal Highway Program
FHWA	Federal Highway Administration
FMLA.....	Family Medical Leave Act
FOIA.....	Freedom of Information Act
FLSA.....	Fair Labor Standards Act
IFT.....	Industrial Facility Tax
IRT	Investment Reporting Tool
GAAP	Generally Accepted Accounting Practices
GASB-34.....	Governmental Accounting Standards Board Statement 34
GVW	Gross Vehicle Weight

ACRONYMS

HTF.....	Highway Trust Fund
LBAB.....	Local Bridge Advisory Board
LPWP.....	Local Pavement Warranty Program
LTAP.....	Local Technical Assistance Program
MAC.....	Michigan Association of Counties
MAP 21.....	Moving Ahead for Progress in the 21st Century
MCRC SIP.....	Michigan County Road Commission Self-Insurance Pool
MDEQ.....	Michigan Department of Environmental Quality
MDNR.....	Michigan Department of Natural Resources
MDOT.....	Michigan Department of Transportation
MDT.....	Michigan Department of Treasury
MiWB.....	Michigan Wetland Board
MLRA.....	Michigan Labor Relations Act
MML.....	Michigan Municipal League
MPO.....	Metropolitan Planning Organization
MSP.....	Michigan State Police
MTA.....	Michigan Townships Association
MSTC.....	Michigan State Transportation Commission
MTF.....	Michigan Transportation Fund
MVC.....	Michigan Vehicle Code
NHS.....	National Highway System
OMA.....	Open Meetings Act
OPEB.....	Other Post-Employment Benefits
ORV.....	Off Road Vehicle

PA	Public Act
PASER.....	Pavement Surface and Evaluation Rating
PERA	Public Employment Relations Act
RABA	Revenue Aligned Budget Authority
ROW.....	Right of Way
RBC.....	Regional Bridge Council
RTF	Rural Task Force
SEV	State Equalized Value
STP	Surface Transportation Program
SWR	Seasonal Weight Restrictions
TAMC.....	Transportation Asset Management Council
TEDF	Transportation Economic Development Fund
TIFA.....	Tax Increment Finance Authority
USCIS.....	US Customs and Immigration Service

NOTES:

ROAD COMMISSIONERS CODE OF CONDUCT

Road Commissioners will conduct themselves lawfully, with integrity and high ethical standards. In addition, a Commissioner...

- Will attend as many board meetings as possible so as to be informed of concerning issues. Inform the Manager/Superintendent (chief administrative officer, CAO) of anticipated absences;
- Shall exercise his/her obligation to vote upon issues at hand unless a conflict of interest is present;
- Will not personally direct any part of the operational organization and will refer any appropriate staff;
- Will work with other Commissioners to establish effective policy and delegate authority for administration to the Manager /Superintendent;
- Shall support the employment of those individuals best qualified to serve as employees and insist on regular impartial evaluations of employees;
- Shall avoid being placed in a position of conflict of interest and refrain from using the Board position for personal or partisan gain;
- Shall avoid indicating he/she represents the board on a position unless the issue has truly been discussed at the board meeting and a position has been taken by the board;
- Will maintain confidentiality appropriate to sensitive issues and information that otherwise may tend to compromise the integrity or legal standing of the organization, especially those matters discussed in a closed session that is privileged under applicable law; and
- Will adopt policies and programs that do not discriminate on the basis of religion, race, color, national origin, age, sexual orientation, gender identity, height, weight, marital status or disability.

Revised: 12/3/2020

COUNTY ROAD COMMISSION BOARDS

Best practices for meetings, commissioners and commission chairs as proposed by the County Road Association Commissioners Committee

“Road commissions have a governing responsibility to see to it that their commissions achieve what they should and avoid unacceptable situations. . . . You are called to be a leader, a communicator and an advocate. You will lead as a collaborative group to set the direction for your county roads.”

p. 1, Michigan County Road Commissioners Handbook, 2022

To be an effective public body, the road commission – just like a township board, county commission or city council – must work productively and collaboratively to create a comprehensive, constructive future vision. In order to achieve consistently improved results, a road commission should aspire to best practices in A) the way meetings are run; B) the actions of individual road commissioners; and C) the specific responsibilities of the commission chair.

The County Road Association (CRA) Commissioners Committee has developed this set of best practices and encourages road commissions across the state to consider and discuss whether they have implemented these ideals.

BEST PRACTICES FOR MEETINGS

7 Rules of Constructive Engagement

The best road commission meetings are characterized by commissioner interactions that are...

1. Germane to the meeting purpose.
2. Agreed to by all.
3. Efficient.
4. Fair and void of divisive comments concerning religion, race, color, national origin, age, sexual orientation, gender identity, height, weight, marital status or disability.
5. Respectful of the public.

Revised: 12/3/2020

6. Lawful and ethical.
7. Conducted using your selected form of Parliamentary Procedure (e.g., Roberts Rules of Order).
8. Transparent during the meeting.

10 Rules for Road Commission Board Meetings

1. Hold only one meeting – avoid side conversations and off-track discussions.
2. Respect all viewpoints as valid; intervene with tact.
3. Generate and record all ideas first; evaluate them together later.
4. Reach consensus; majority vote is a last resort.
5. Agree that all members will support board decisions, and not disparage the result.
6. Provide meeting materials in advance.
7. Consider time limits for each agenda item and for each member to speak.
8. Be transparent to the greatest degree possible, only going into closed session when allowed by law.
9. Adopt the agenda before meeting begins.
10. Agree upon a form of parliamentary procedure for your board and use consistently.

BEST PRACTICES FOR COMMISSIONERS

Guidelines for Commissioner Conduct

Road commissioners must conduct themselves lawfully, with integrity and high ethical standards as they serve in the public interest. In addition, a Commissioner ...

- Will attend as many board meetings as possible so as to be informed of concerning issues. Inform the Manager/Superintendent (chief administrative officer, CAO) of anticipated absences.
- Shall exercise his/her obligation to vote upon issues at hand unless a conflict of interest is present.

Revised: 12/3/2020

- Will not personally direct any part of the operations of the road commission.
- Will work with other Commissioners to establish effective policy and delegate authority for administration to the CAO.
- Shall support the employment of staff hired by the CAO, believing them to be best qualified for their positions while also insisting on their regular, impartial evaluation by the CAO.
- Shall avoid being placed in a position of conflict of interest and refrain from using the Board position for personal or partisan gain.
- Shall avoid indicating he/she represents the board on a position unless the issue has truly been discussed at the board meeting and a position officially taken by the board.
- Will maintain confidentiality on sensitive matters where doing otherwise could compromise the integrity or legal standing of the organization, especially matters discussed in a closed session that is privileged under applicable law.
- Will adopt policies and programs that do not discriminate on the basis of religion, race, color, national origin, age, sexual orientation, gender identity, height, weight, marital status or disability.

Individual Commissioner Recommendations

1. Prepare by reading the materials in advance of the meeting.
2. Develop a perspective, goals, questions and opinions ahead of time.
3. Take the meeting seriously; stay involved; show up on time.
4. Be an active listener.
5. Keep comments relevant and to the point. Avoid story-telling.
6. Help chair keep meeting moving.
7. Obtain recognition from chair before speaking.
8. Avoid making any divisive action and commentary.
9. Limit remarks to issue being considered.
 - a.) Ask questions for clarification.
 - b.) Respect colleagues.

Revised: 12/3/2020

- c.) Explain reasons behind your significant decisions.
 - d.) Raise concerns and objections at the meeting.
 - e.) Articulate any disagreements respectfully.
 - f.) Don't spring surprises.
10. Make your criticisms constructive, tactful and fair.

BEST PRACTICES FOR COMMISSION CHAIRS

Being chair of the county road commission is a special responsibility and should be approached that way. "Annually each county road commission officially organizes with the election of a member to serve as chair at the pleasure of the board."

p. 5, *Michigan County Road Commissioners Handbook, 2017*

Best Practices when Chairing a Road Commission Meeting

1. Stay neutral.
2. Exhibit high energy.
3. Be assertive without being abrasive.
4. Listen well.
5. Recognize when the meeting veers off-course and bring it back.
6. Dedicate self to serving the group's needs; ensure members are satisfied.
7. Encourage participation by all.
8. Maintain a safe, open, trusting and supportive relationship among board members.
9. Deal with hidden agendas, disruptive behavior, and divisive actions and comments.
10. A sense of humor can reduce tension.
11. Be efficient in running the meeting.

Revised: 12/3/2020

12. Avoid partisanship during discussions and in decision making.
13. Identify and avoid conflicts of interest for self and other board members on items being discussed and decided.
14. Follow your adopted version of parliamentary procedure.
15. Keep public comment separate from board discussion and decision-making.
16. Maintain dialogue with CAO.
17. Limit public comment fairly.

Quick Recap: Highly-effective chairs don't do these things

Another way to look at best practices, is what you should not do. Chairs should not:

- Fail to relinquish gavel when your own position is too emotional or conflicted.
- Treat board members unevenly.
- Cut off discussion prematurely.
- Fail to close discussion in a timely fashion.
- Let the meeting drift off-topic.
- Allow meeting to become too informal.
- Neglect to explain the process.
- Forget to restate audience questions before answering them.
- Fail to apply time limits consistently to speakers.
- Fail to recognize, deal with procedural objections.
- Fail to protect members, staff from verbal attack.
- Lose track of amendments to motions.
- Fail to restate motions before voting.
- Forget to call recesses during long meetings.
- Neglect to reconvene at specified time.
- Allow any road commissioner or public attendee to engage in divisive actions and comments.

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Legal Consideration on Sample Board Best Practices

These best practices may be considered as a sample of the content and subject areas that county road commissioners should discuss and if deemed appropriate, adopt. Divisiveness is defined as actions or comments intended to cause disagreement or hostility between people based upon issues of religion, race, color, national origin, age, sexual orientation, gender identity, height, weight, marital status or disability. Some of these practices may need to be modified. Prior to adoption of any board policy or practice, consult your attorney. Questions or comments on these sample policies and practices can be directed to the County Road Association Commissioners Committee.

NOTES:

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