



PROPOSED AGENDA
SPECIAL MEETING OF THE LAKE ODESSA VILLAGE COUNCIL
MONDAY, FEBRUARY 5, 2024 – 6:00 P.M.
Page Memorial Building
Village Council Chambers
839 Fourth Avenue, Lake Odessa, Michigan 48849

I. Call to Order/Roll Call

II. Approval of Agenda

III. Public Comment:

Under the Open Meetings Act, any citizen may come forward at this time and make comment on items that appear on the agenda. Comments will be limited to three minutes per person. Anyone who would like to speak shall state his/her name and address for the record. Remarks should be confined to the question at hand and addressed to the chair in a courteous tone. No person shall have the right to speak more than once on any particular subject until all other persons wishing to be heard on that subject have had the opportunity to speak.

IV. New Business:

- a) Discussion: Distribution of Car Show Funds
- b) Selection of Third-Party Administrator for MSHDA CDBG CHILL Grant
- c) Approval of Engagement Letter with Bloom Sluggett, Attorneys
- d) Discussion: Legal Opinion re: Acting Village Manager Role
- e) Proposed Resolution 2024-__: A Resolution Appointing and Establishing Compensation for Village President to Temporarily Assume Duties of Acting Village Manager

V. Adjournment



Karen Banks Village President	Kathy Forman Clerk/Treasurer
Jesse Trout DPW Superintendent	Kendra Backing Chief of Police

MEMORANDUM

TO: Village Council Members

FROM: Karen Banks, Village President

SUBJECT: Updated Agenda Summary

DATE: February 4, 2024

ITEMS OF BUSINESS:

Distribution of Car Show Funds

The Village currently maintains a fund entitled "Lake Odessa Car Show," and except for earning interest, the fund has been inactive ever since the annual downtown car show was discontinued some years ago due to lack of volunteers. The account balance is slightly in excess of \$6,000.

Last August the Village Council directed the Village Manager to develop a plan to close this account and transfer the funds to a local non-profit organization. You may recall that at our August council meeting, representatives of the Jordan Lake Trail made a request for those funds. Travis Ackerson, who for the past two years has organized the car show held at the Lake Odessa Fair, will be present at our meeting to also request the car show funds.

I am requesting that the Village Council discuss this matter and give me direction as to how you would like the car show funds disbursed. If we can come to a consensus, I can then prepare a resolution to be voted on at our regular Village Council meeting on February 19 so that this account can be closed and taken off of the Village's books.

Selection of Third-Party Administrator for MSHDA CDBG CHILL Grant

At the January Village Council meeting, you authorized the publication of a Request for Proposals for a third-party administrator for the MSHDA CDBG CHILL grant. MSHDA requires the Village to engage the services of a third-party administrator as an element of the grant process, and the deadline for grant applications to be submitted is February 12. Please keep in mind that all fees and costs of the third-party administrator will be borne entirely by MSHDA, so no Village expense will be incurred. Proposals from prospective third-party administrators are to be submitted to Kathy no later than Monday at 4:30 p.m. We will review the proposals and make a selection at our meeting.

Approval of Attorney Engagement Letter

On January 31st the Village was served with a lawsuit related to a sewage overflow that occurred on November 8, 2023 outside of the Village limits. The Plaintiffs have named the Lakewood Wastewater Authority, the Village and Cargill Kitchen Solutions as Defendants.

As is normal protocol in a situation such as this, the matter was immediately referred to the Village's insurance carrier, but we were informed that the Village's insurance policy does not cover sewage overflows. Dickinson Wright, the law firm that provides general legal services for the Village, also represents the LWA, so they will be unable to represent the Village in this matter due to a conflict of interest. We have been referred to the law firm of Bloom Sluggett, a Grand Rapids law firm that has background in municipal legal consulting and litigation.

Before the attorneys will be able to begin representation of the Village and file with the court the required Answer to the Complaint, the Village Council must first approve an engagement letter setting forth the terms of our arrangement. That letter will be provided to you at our meeting on Monday.

Discussion re: Legal Opinion – Acting Village Manager Role

Enclosed in this packet are emails between myself and John Weiss, the attorney who performs general municipal legal work for the Village, with regard to the question of whether a village president may perform the duties of a village manager and receive compensation for those duties, and also whether a conflict of interest exists. I am enclosing for your reference a copy of Village Ordinance Sec. 2-31 and Resolution 2021-56, which were shared in one of my emails with John Weiss.

Also enclosed is an excerpt from the Handbook for General Law Village Officials regarding the roles of village officials. In particular, I'd ask that you please review pages 16-18 regarding the roles of a village president and a village manager.

Proposed Resolution 2024-__: A Resolution Appointing and Establishing Compensation for Village President to Temporarily Assume Duties of Acting Village Manager

This is the resolution drafted by attorney Weiss. As you will see, he has inserted an hourly rate of \$50 for work performed by myself in an acting manager role, but I will leave it to council to decide what, if anything, you feel is appropriate. I appreciate the support council members have shown to me during this challenging time as we search for a new village manager.

I have attached for your review my non-Village President hours worked during December 2023 and January 2024 (i.e., work that would typically be performed by a village manager.)

BUDGET WORK SESSION:

Our work session will begin immediately after the special meeting. Kathy, with input from Jesse and Kendra, has devoted many long hours to develop the proposed 2024-25 fiscal year budget, a task that in past years has been handled in large part by the Village Manager. She deserves an enormous amount of credit for all of her hard work and effort.


I look forward to seeing everyone on Monday at 6:00 p.m.

RE: Village President Compensation

John A. Weiss <JWeiss@dickinson-wright.com>

Tue 1/23/2024 3:14 PM

To: Karen Banks <president@lakeodessa.org>

 1 attachments (14 KB)

4857-7424-5023 v2 Resolution for President Acting Village Manager Compensation.docx;

Here is a proposed resolution to that end. This is only prospective, right? You could probably do retrospective if you felt that was the right thing to do. Although there are some limitations to changing payment for services already rendered, they need not necessarily be considered triggered here all things considered. This resolution also formally appoints you to the role of acting manager for this interim period.

Let me know if there are any questions.

John



John A. Weiss

Attorney

O: 616-336-1034

JWeiss@dickinson-wright.com

From: Karen Banks <president@lakeodessa.org>

Sent: Tuesday, January 23, 2024 11:22 AM

To: John A. Weiss <JWeiss@dickinson-wright.com>

Subject: Re: Village President Compensation

Thank you, John. The village council has already determined that this arrangement will not be long term (nor do I want to do this long term), other than we don't want to be rushed into making a hiring decision on a village manager. We'll certainly keep track of the 180-day mark and seek your guidance if we still haven't recruited a new manager.

In the meantime, would you please draft a resolution to authorize payment for additional tasks, as required by our Ord. Sec. 2.31? I think it's best that I not draft the resolution myself. I have been tracking my hours and will submit them to council each month for their approval.

~Karen

From: John A. Weiss <JWeiss@dickinson-wright.com>

Sent: Tuesday, January 23, 2024 11:01 AM

To: Karen Banks <president@lakeodessa.org>

Subject: RE: Village President Compensation

Hi Karen –

There is an exception in the Incompatible Public Offices Act that allows a municipality with a population of less than 40,000, such as the Village of Lake Odessa, to, by council action, authorize an officer or employee to perform, with or without compensation, other additional services for the unit of government. MCL 15.183(4) (c). The potential obstacle here is that under Sec. 2-83 of the Village Code, the Village President, with the concurrence of four or more trustees, shall appoint or designate an acting manager during a vacancy in the office of village manager. The President shall also make a permanent appointment within 180 days from the effective date of the vacancy. There is no timeline specifying in what time period the President shall appoint an acting manager. The ordinance certainly contemplates that the Village will have an independent manager. Under the General Village Law Act, you're not required to have a village manager. MCL 65.8. The President is considered the "CEO" of the Village and when there's not a village manager, have authority to exercise supervision over the affairs of the village and its public property, enforcement of laws, etc. MCL 64.1 You're also entitled under Sec. 2-31 of the Code (and by MCL 64.21) to receive hourly compensation as determined by the council for additional tasks.

You may want to discuss with council whether this arrangement is intended to be long-term. If that's the case, we may want to add a sentence to the code to formalize that the council can choose to have the president act with the village manager's duties (as allowed by the general law village act) and be considered the village manager to the extent the village manager has duties/obligations under the code.

Let me know if you would like to discuss.



John A. Weiss

Attorney

O: 616-336-1034

JWeiss@dickinson-wright.com

From: Karen Banks <president@lakeodessa.org>
Sent: Thursday, January 18, 2024 1:13 PM
To: John A. Weiss <JWeiss@dickinson-wright.com>
Subject: Village President Compensation

John:

Since December 6 our Village Manager position has been vacant, and I have been filling in on a limited basis to assume some of those responsibilities until such time as a new manager is hired.

At last night's council meeting, council voted to approve paying me \$50/hour for those additional duties, pending review by legal counsel. I'm attaching a copy of Ordinance Sec. 2-31 regarding compensation paid to village council members, and a resolution adopted in October of 2021 also relating to village council compensation (which only addresses per diem and expense reimbursement).

We would appreciate your guidance on the following:

1. May a village president assume the duties of a village manager when the village manager position is vacant? And if so, would those duties be considered "official duties of president" as referenced in our ordinance? Would a conflict of interest arise?
2. May a village president be compensated for those additional duties (assuming the village council adopts a resolution to that effect)?

Karen Banks, President

Village of Lake Odessa

839 Fourth Avenue

Lake Odessa, MI 48849

269-838-9863

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ARTICLE II. VILLAGE COUNCIL¹

Sec. 2-31. Compensation.

In accordance with Public Act 3 of 1895, the General Law Village Act (Sec. 64.21), the president and trustees of the village council shall receive such compensation and benefits as may be established from time to time by resolution of the village council, to be paid from the general fund. Such compensation may include a base salary, a per diem rate for attending council meetings and other meetings in fulfillment of the duties of the president and trustees. Further, the president and trustees of the village council may be entitled to receive such hourly compensation as may be established from time to time by resolution of the village council for additional tasks performed by such persons if in fulfillment of such person's official duties of president or trustee.

(Ord. No. 2021-3, § 1, 10-18-2021)

Sec. 2-32. Payment.

Compensation that is due to the president and trustees shall not be paid more frequently than monthly as established by resolution of the village council.

(Ord. No. 2021-3, § 2, 10-18-2021)

Sec. 2-33. Expense reimbursement.

The president and trustees shall not be entitled to reimbursement of mileage or out-of-pocket expenses except by resolution of the village council. The president and trustees may only be reimbursed for reasonable and customary expenses incurred in performance of official duties upon documentation of actual expenses and village council approval.

(Ord. No. 2021-3, § 3, 10-18-2021)

Secs. 2-34—2-60. Reserved.

¹State law reference(s)—Village council MCL 65.1 et seq.; standards of conduct and ethics, MCL 15.341 et seq.; open meetings act, MCL 15.261 et seq.; freedom of information act, MCL 15.231 et seq.

VILLAGE OF LAKE ODESSA

RESOLUTION NO. 2021-56

At a regular meeting of the Lake Odessa Village Council held on October 18, 2021, at the Page Memorial Building, Lake Odessa, Michigan, the following Resolution was offered for adoption by Trustee McCloud and seconded by Trustee Hickey:

A RESOLUTION ESTABLISHING COMPENSATION AND EXPENSE REIMBURSEMENT FOR VILLAGE PRESIDENT AND VILLAGE TRUSTEES

WHEREAS, pursuant to Public Act 3 of 1895, the General Law Village Act (Sec. 64.21), the president and each trustee shall receive compensation for the performance of the duties of the office of president or trustee only as provided by ordinance; and

WHEREAS, on October 18, 2021, the village council adopted Ordinance 2021-55, setting forth the manner in which the president and trustees of the village council shall be compensated.

NOW, THEREFORE, BE IT HEREBY RESOLVED, that the president shall receive the sum of \$150.00 and each trustee shall receive the sum of \$75.00, paid from the General Fund, for each regular meeting attended. Furthermore, the Village President shall receive the sum of \$75.00 and each Trustee shall receive the sum of \$37.50, for each special meeting of the village council attended by them during their term of office. No compensation shall be paid for village council study sessions, work sessions, or meetings not attended; and

BE IT FURTHER RESOLVED, that the village president and trustees may be reimbursed for reasonable and customary expenses incurred in performance of official duties in accordance with the expense reimbursement policy as set forth in the village's Employee Handbook, and following approval by the village council; and

BE IT FURTHER RESOLVED, this resolution shall take effect on the effective date of Ordinance 2021-55.

YEAS:	McCloud, Hickey, Brighton, Johnson, Cappon, Banks
NAYS:	None
ABSENT	Young
ABSTAIN:	None

RESOLUTION DECLARED ADOPTED.

CERTIFICATION

I hereby certify that this is a true and complete copy of Resolution 2021-56, adopted by the Lake Odessa Village Council at a regular meeting held on October 18, 2021, the original of which is on file in my office and available to the public pursuant to the required statutory procedure.

Date: October 18, 2021



Patrick Reagan, Village Manager/ Clerk

Section 2: Roles and Responsibilities

Chapter 3: Duties of Village Officials

“AN ACT to provide for the government of certain villages, to define their powers and duties....”

The General Law Village Act, PA 3 of 1895, serves as the charter for 208 Michigan villages. This Act not only defines the powers of general law villages, but also the roles and responsibilities of the elected and appointed officials of those villages.

Roles of Elected and Appointed Officials

The mix of elected officials and administrative staff having a common purpose, but each having a different role and a different perspective makes governing a village a complicated process. When you add in personalities that may also conflict, it is clear that a hefty dose of goodwill and teamwork is needed for a general law village to function efficiently.

The information provided here should not be considered legal advice. Rather, it is primarily “nuts and bolts” information, based on the experience of officials in Michigan general law villages. You are urged to consult your village attorney for legal advice.

Village Council

“The legislative authority of villages shall be vested in the council.” (MCL 65.1). Villages operate as governments of law within a system of constitutional federalism and a complex network of federal and state laws and regulations. At the top are the guarantees and restraints found in the U.S. Constitution and federal legislation and regulations. Next are the Michigan Constitution, statutes, and regulations.

Based on a professional understanding of the law and the interrelationships of various levels of the law, your village attorney will be able to assist you in determining which laws are applicable and how they apply to your village and to your role as trustee.

Ordinances, Resolutions, and Motions

For the newly elected official, the distinction between motions, resolutions, and ordinances can be confusing.

Ordinances are formal actions by the council and constitute local legislation. Ordinances carry the force of law and may impose penalties on violators. If the council wants to change a duly adopted ordinance, it must amend, repeal, or rescind the ordinance. The clerk is required by state law to maintain an ordinance book, and from time to time a village may compile or codify all of its current ordinances and publish that compilation or code. (See Ch 7—Local Ordinances)

Resolutions are less formal than ordinances, and are often used for short-term matters, such as adopting the annual budget. A resolution may be used to state the council’s position, such as in support or opposition to a piece of state or federal legislation. When the council wishes to commend a citizen or commemorate an occasion, it acts by resolution. Resolutions are a part of the permanent record of the village.

Motions are used to introduce a subject or propose an action to the council. For example, a trustee might say “I move that the ordinance (or resolution) be adopted.” Once a motion is made and seconded, it can be discussed and acted upon (See Ch 6—Successful Meetings).

The League maintains a collection of sample ordinances. Many are available on the League website at mml.org, or may be obtained by emailing info@mml.org or calling the League at 800-653-2483. Your village attorney should review all ordinances, including samples you receive from the League, to provide you with guidance on the language, the relevance of state

statutory requirements, and the application of case and constitutional law.

Some ordinances, such as a zoning ordinance, require that a public hearing be held prior to enactment. In other instances it may be advisable to hold a public hearing, even though it may not be mandatory. In some villages, council rules of procedure require an ordinance to be read aloud several times before it is adopted. This may be a full reading of the entire ordinance—which can be quite lengthy—or only a synopsis. The introduction of the ordinance is usually considered the first reading, and a second reading occurs at a subsequent meeting when the ordinance is actively considered. Law does not require these readings, but they do provide an opportunity for public awareness and input. The council rules of procedure may authorize the suspension of one or more readings to avoid verbatim readings of lengthy measures or emergency actions.

Rules of Procedure

Section 65.5 of the GLV Act **requires** the council to adopt “rules of its own proceedings.” As a new trustee, you should become familiar with any rules of procedure already adopted by previous councils. These rules help in running an efficient and genial meeting and in dealing lawfully and effectively with the public and the media. The rules of procedure should indicate the sequence of the council agenda as well as the procedure for holding public meetings. Sample rules of procedure are included in Appendix 4: Rules of Procedure for General Law Village Councils.

Rules of procedure should be adopted by a majority vote and reexamined regularly. When the village council meets following the election of trustees, the council’s rules of procedure should be reviewed by the new council, amended as the members desire, and adopted as the current rules of procedure.

Trustees should become very familiar with the requirements of the Michigan Open Meetings Act. For example, Section 3 of the Act states that “a public body may establish reasonable rules and regulations in order to minimize the possibility of disruption” in the taping, broadcasting, or telecasting of the proceedings of a public body.

Many local governments in Michigan adopt the latest edition of *Robert’s Rules of Order* in addition to their council rules. Most people are familiar with it, and it offers a framework for your meetings. Robert’s Rules should be consulted as a last resort, after state law and council rules. If possible, the village president should appoint a parliamentarian to assist the council in following Robert’s Rules.

Citizen Participation in Council Meetings

The president, council, and citizens should keep in mind one important difference between villages and townships. Townships may hold an annual town meeting where citizens may participate and vote. This is not an option for villages. Only the president and the trustees may introduce an agenda item and vote on matters brought for action.

The village council agenda should include an opportunity for members of the public to address the council. Under Section 3(5) of the Open Meetings Act, “a person shall be permitted to address a meeting of a public body under rules established and recorded by the public body.” Sample rules of procedure are printed in Appendix 4.

Public Hearings

Council rules should also include a procedure for public hearings. Public hearings offer citizens an opportunity to be heard—which is a strength of a representative democracy. Even if not required by law, a public hearing can be useful in helping village officials understand how their constituents feel and why they feel that way.

Public hearings are a formal meeting of the council to obtain input from the public, and are a legal requirement for some matters, such as adoption of the annual budget or changing the local zoning ordinance. They should be viewed as a serious effort on the part of village officials to secure as much information as possible about a topic before a final decision is made. A hearing may either be a part of a regular council meeting or be held at a special meeting called for that purpose.

Suggestions for Public Hearings:

Encourage citizens to participate in the discussion of the issue. Although limits may have to be placed on how long any individual may talk, everyone who wishes to be heard should be allowed “their day in court.” Public hearings can be tiring and it is tempting to close discussion before everyone has spoken. Resist this temptation. It is better to err in the direction of permitting “overtalk” rather than “undertalk.”

Avoid debating with citizens at a public hearing. The purpose of the hearing is to **receive** their information and/or opinion. You will have your opportunity later to state your position and rebut any information or argument you may feel needs it. Give the appearance—and feel it, too—of encouraging individuals to express themselves. You can help by looking directly at the person talking and by using nonverbal cues such as nodding affirmation and physically leaning in the direction of the speaker. At the same time, avoid such negative nonverbal cues as scowling, reading, checking your phone messages, talking to another trustee, or using facial expressions that suggest ridicule or contempt.

Avoid being trapped by the idea that the number of citizens who speak on one side of an issue or the other should determine the nature of the decision. Although the number speaking on one side or the other may be one factor influencing a solution, this should not be the only factor. There is no easy way to determine the extent to which speakers represent their claimed constituents; the other side may be far more numerous but far less vocal. Decisions should result from careful balancing of the facts and arguments both from the point of view of those directly concerned and of the community at large, with all citizen input given equal consideration if not equal weight.

Operating in the “Sunshine”

A basic premise of democracy is that the public’s business is conducted in public. This requirement is particularly necessary in a representative democracy.

Two pieces of legislation enacted in 1976 spelled out the people’s right to know and set limits and parameters on a council’s actions. These are the Open Meetings Act (OMA), PA 267 of 1976, and the Freedom of Information Act (FOIA), PA 442 of 1976. The policy of the state of Michigan is that the public is entitled to full and complete information regarding the affairs of government and the actions of those who represent them.

In a nutshell, the OMA requires that – with only a few, very specific exceptions – all “deliberations” and “decisions” of a “public body” shall be made in public. By the same token, FOIA states that all persons, except those in prison, upon “written request” have a “reasonable opportunity” to inspect, copy, or receive copies of the requested “public record” of the “public body.”

A general rule of thumb is to conduct the public’s business in public. Deliberate so the constituents know why decisions are made. The deliberations and documents may be kept confidential only when there is an actual detriment to the municipality, not when the matter would simply be embarrassing.

General guidelines and reference materials are available from many sources, including the League. However, when specific circumstances arise that make you question the appropriateness of a closed session or the necessity to post a meeting or whether or not to release a document, the best course of action is to seek guidance from your village attorney. The specific details of the situation and recent legislation and court decisions will make each situation unique.

Powers of Elected and Appointed Officials

Powers of the council

The GLV Act establishes the council as the legislative authority for the village. It is important to remember that this authority is granted to the council as a whole rather than to individual trustees. Most of the powers granted to the council are permissive in nature rather than obligatory. The Act allows the council to:

- reduce the number of trustees from six to four. The proposed ordinance must be

voted on and adopted at a meeting that occurs not less than 10 days after the initial meeting or public hearing at which it was considered. It requires adoption by a vote of two-thirds of the council. It cannot take effect for 45 days following adoption, during which time a petition signed by 10 percent of the registered voters can force a referendum on the issue. There are additional requirements regarding the timing of the ordinance and the effect on the term of sitting trustees. (MCL 62.1). A sample ordinance to reduce the size of council is available in Appendix 8 of this handbook.

- change the position of clerk and/or treasurer from elected to appointed. (MCL 62.1) The proposed ordinance requires adoption by a vote of two-thirds of the council. It cannot take effect for 45 days following adoption, during which time a petition signed by 10 percent of the registered voters can force a referendum on the issue. Sample ordinances to appoint the clerk and treasurer are available in Appendices 6 and 7 of this handbook.
- provide for the appointment of additional officers not provided for in the charter and prescribe their duties. (MCL 62.2, 62.3)
- appoint individuals nominated by the president. (MCL 62.2)
- act on resignations, determine vacancies, and make appointments to fill vacant offices. (MCL 62.10 - 62.13)
- provide for compensation of village officers (by ordinance for the president and council). (MCL 64.21)
- exercise all legislative authority. (MCL 65.1)
- select one member of the council to serve as president pro tempore. (MCL 65.3)
- hold regular meetings, at least one each month. The president or three members of the council can call special meetings as needed. (MCL 65.4)
- create or abolish offices. (MCL 65.5)

- vacate, purchase, lease, and sell property. (MCL 65.5)
 - order public improvements. (MCL 65.5)
 - appropriate money, i.e. adopt a budget (MCL 65.5) (See Appendix 9), and levy taxes sufficient to support the budget (MCL 69.1) but not to exceed:
 - general operating, maximum 12.5 mills before any Headlee rollback (MCL 69.1) and subject to Truth in Assessing.
 - highways, maximum 5 mills before any Headlee rollback. (MCL 69.2)
 - cemeteries, maximum 2.5 mills for grounds purchase and 1 mill for operation before any Headlee rollback. (MCL 69.4)
 - garbage collection, maximum 3 mills before any Headlee rollback. (Garbage Disposal Act, 1917 PA 298, MCL 123.261)
 - audit and allow accounts, i.e. authorize payment of bills. (MCL 65.7)
 - by two-thirds vote, increase taxes and impose special assessments. (MCL 65.5)
 - employ a village manager and enter into an employment contract with the manager. (MCL 65.8)
 - adopt ordinances providing for the safety, health, welfare, and good government consistent with Michigan and/or federal laws. (MCL 67.1)
- The style of the ordinances and the requirements for publication are set out in Chapter VI of the GLV Act. The council may also set penalties for violation of these ordinances. (MCL 66.2)

The League's website can provide samples as starting points for drafting language for your ordinances. However, it is imperative that your village attorney at least reviews, and preferably prepares, the final draft for the council to consider. If your ordinance is challenged in a court of law, it is the village attorney who will normally defend the village action.

- grant licenses and set the terms and conditions under which a license will be granted and/or revoked. Determine the amount to be charged for the license. (MCL 67.2)
- establish public parks and grounds and provide rules for their use and vacating. (MCL 67.4, 67.6)
- supervise and control all public streets, bridges, sidewalks, alleys, etc. (MCL, 67.7-67.23), including:
 - assessment of costs to benefiting property owners. (MCL 68.32-68.35; 69.5)
 - regulation of signs and awnings. (MCL 67.11)
 - condemnation of private property. (MCL 67.12, 73.1 et seq.)
 - vacating of streets and alleys. (MCL 67.13)
 - determination of grades, paving, curbs and gutters, etc. (MCL 67.15-67.16)
- provide for and/or regulate the planting and trimming of trees. (MCL 67.21)
- provide for and/or regulate street lighting. (MCL 67.21)
- provide for village lighting. (MCL 72.1-72.9)
- establish, construct, and maintain sewers and drains. (MCL 67.24-67.34)
- establish and maintain public wharves, piers, and levees; and regulate navigable waters, including licensing of ferries. (MCL 67.35-67.40)
- purchase, improve, and care for cemeteries. (MCL 67.55-67.64)
- establish and maintain a fire department. (MCL 70.1)
- establish a police force and adopt rules governing the powers and duties of the police officers. (MCL 70.13-70.16)
- establish a department of public safety. (MCL 70.18)
- designate a street administrator and/or establish a department of public works. (MCL 71.12-71.14)

- incur debt. (MCL 69.21-69.25)
- condemn private property for public use. (MCL 73.1-73.5)
- alter village boundaries. (MCL 74.6)

Powers of the Village President

The GLV Act also establishes the duties and responsibilities of the village president. Some administrative duties of the president may be transferred to a village manager. (These duties are noted in **bold face**.)

The village president:

- serves as chief executive officer, **with supervisory authority over affairs and property of the village**. (MCL 64.1)
- serves as a voting member of the council on all issues. (MCL 64.1)
- presides at council meetings. (MCL 64.1, 65.2)
- **gives the council information concerning the affairs of the village and recommends appropriate actions**. (MCL 64.1)
- **sees that laws relating to the village and ordinances and regulations of the council are enforced**. (MCL 64.1)
- is a conservator of the peace and may exercise power to suppress disorder. May command citizen assistance to help enforce ordinances in emergency and disaster situations. (MCL 64.2)
- **may remove any appointed officer or suspend any police officer for neglect of duty**. (MCL 64.3)
- **may examine all books, records, or papers of the village**. (MCL 64.3)
- **performs all duties prescribed by village ordinances**. (MCL 64.3)
- calls special meetings of the council (three trustees may also call special meetings). (MCL 65.4)
- approves synopsis (or entire proceedings) of actions taken at council meetings prior to publication. (MCL 65.5)
- authenticates, by signing, all ordinances. (MCL 66.3)

- nominates the clerk and/or treasurer for council appointment if village has changed from an elected to an appointed a clerk and/or treasurer. (MCL 62.1)
- signs certification of assessment roll and amount required to be raised by general tax and special assessment. (MCL 69.13)
- warrants the treasurer to collect taxes. (MCL 69.15)
- countersigns disbursement warrants. (MCL 69.24)
- nominates a harbormaster (if needed) for appointment by council. (MCL 67.39)
- **directs the fire chief.** (MCL 70.4)
- **appoints police officers and personnel with the consent of the council.** (MCL 70.13)
- **nominates a chief of police for council appointment.** (MCL 70.15)
- **nominates a director of public safety for council appointment.** (MCL 70.18)
- **nominates a director of public works for council appointment.** (MCL 71.14)
- **nominates non-elected officers for council appointment in accordance with the ordinance/ resolution creating the position.** (MCL 62.2)
- **fills vacancies of non-elected officials, with the consent of council.** (MCL 62.13)
- concurs with the fire chief to order the destruction of a building, if necessary, to arrest the progress of a fire. (MCL 70.11)
- signs boundary adjustment petition for presentation to the county commission. (MCL 74.6)
- **prepares budget for presentation to council.** (Michigan Uniform Budgeting and Accounting Act).

Powers of the President Pro Tempore

Each year, the village council appoints one of its members as president pro tempore. The appointment should be made on November 20th or as soon as possible thereafter. When the president is absent, the president pro tem presides at council meetings and exercises all powers and duties of the president. (MCL 65.3)

If the office of the president becomes vacant for any reason, the council must appoint a president to serve until the next regularly scheduled village election; any qualified elector may be selected to fill the vacancy. The president pro tem does not automatically become president. (MCL 62.13)

Duties of a Village Manager

Of Michigan's 208 general law villages, 56 have a village manager. In determining whether or not to establish the position of a village manager, each village must decide what will best meet the needs of the community.

Prior to 1985, a village council could only assign those duties to a manager not required by law to be performed by another village official. This limited the effectiveness of the manager. Act 173 of 1985 allowed the village council to assign to the manager, by ordinance, selected administrative duties otherwise performed by other village officials under the GLV Act.

In addition, the 1998 revision to the Act allows the council to employ a manager to serve at the pleasure of the council and to enter into an employment contract with the manager. The council may now pass an ordinance assigning the manager any administrative duty of the council or the president, including hiring, firing, and directing village employees or other appointed officials. The manager may also be given supervisory responsibility over accounting, budgeting, personnel, purchasing, and related management functions otherwise given to the clerk or treasurer. This ordinance, like the ordinances for appointment of the clerk and treasurer, only becomes effective 45 days after passage to allow for the filing of a petition signed by 10 percent of the electorate, or after the election if such a petition is filed.

The village manager may be designated as the chief administrative officer required by the Uniform Budgeting and Accounting Act (MCL 141.434) to be responsible for the preparation, presentation, and administration of the village budget. The manager may also be designated as the street administrator as defined in section 113 of 1951 PA 51, MCL 247.663.

Villages with manager positions predating 1985 PA 173 may wish to review their

experience and enact an ordinance in accordance with the 1998 revisions to the Act. (MCL 65.8)

The Work of the Village Attorney

An important, though not always visible, member of the village team is the attorney.

Although the duties of the attorney are not spelled out in the charter, at the request of council they might include:

- drafting ordinances,
- preparing legal opinions,
- reviewing policies and procedures for compliance with local, state and federal law,
- defending the village in a court of law,
- advising the council on legal issues, and
- prosecuting violators of village ordinances.

Often a general law village cannot afford to have the attorney present at all meetings. However, copies of agendas and minutes should be submitted for review to assure that the village is in conformity with the law and to keep the council from unintentionally placing the village in a questionable legal position.

When appointing a village attorney, the council should prepare a request for proposal, specifying exactly what the attorney will be expected to do for the village. Things to consider in selecting an attorney are:

- experience in municipal law,
- time available—attorney must commit time for village issues; discuss turn-around time for written opinions, ordinance drafts, etc.,
- fees—per hour versus retainer or
- references—other municipal clients.

The council also needs to establish a policy for contacting the attorney. A common practice is that only specific officials may contact the attorney without council authorization. For instance, the president or the manager (or the clerk if there is no manager) should make the contact.

The League's Inquiry Service and Legal Affairs Division do not give legal advice nor do they render legal opinions. However, the legal staff will gladly confer with your attorney on

any legal issues in your community or to offer guidance in drafting your own policies, regulations, or ordinances.

The League's Inquiry Service can assist by providing sample ordinances and policies as a starting point for drafting ordinances or policies for your village. Many of these are available on the League's web site at mml.org.

Duties of a Village Clerk

The office of clerk is a pivotal one, dealing with vital areas of village operation: records management, finances, and elections. The importance of recording and preserving the official action of the village's legislative body cannot be overstated. Years from now all that will remain of the village documents will be these records.

Traditionally, the village clerk has been an elected official. The 1998 revision of the GLV Act allows the council, by ordinance subject to referendum, to appoint the clerk (MCL 62.1). This allows the council to require specific job skills and experience for the position, and makes the clerk accountable to the council. This option was made available so that the council could appoint a clerk who did not live in the village. Making the office appointed takes away the residency requirement (since the person does not have to be an elector). A sample ordinance to appoint a village clerk is available in Appendix 6. Many of the clerk's duties may be transferred to the manager by ordinance. In many villages without a manager, the clerk performs the day-to-day administrative duties.

- Keep the corporate seal and all records and documents not entrusted to another officer by the charter. (MCL 64.5)
- Serve as clerk of the council, record all proceedings, resolutions, and ordinances. (MCL 64.5)
- Countersign and register all licenses. (MCL 64.5)
- Make reproductions in accordance with the Media Records Act 1992 PA 116, MCL 24.401-24.403. (MCL 64.5)
- Administer oaths and affirmations. (MCL 64.5)

- Serve as general accountant. (MCL 64.6, 64.7)
- Collect claims against the village, present them to council for allowance and, if allowed, submit check disbursement authorization to treasurer. (MCL 64.6)
- Report tax or money levied, raised or appropriated to treasurer as well as the fund to be credited. (MCL 64.6)
- Make complete financial report to council as requested. (MCL 64.8)

The office of clerk can be the most controversial, and perhaps misunderstood, position in a general law village. Several steps can be taken to help resolve some of these issues:

- The clerk and council should discuss mutual expectations of the roles and responsibilities of each position. This can lead to cooperation and mutual respect.
- Network with other village officials. The Michigan Association of Municipal Clerks offers support for clerks. Help is often just a phone call away. By the same token, offer to assist new clerks in your area who may be having difficulty identifying roles and responsibilities.
- Attend educational programs about roles and responsibilities of officials, teamwork, and local government.
- Consider appointment of the clerk by the council, as allowed by the 1998 revisions to the charter. The ordinance may establish requirements for specific job skills and experience and make the clerk accountable to the council. It may also provide job security and continuity for this important position.

Duties of a Village Treasurer

Prior to the 1998 revision of the GLV Act, a number of villages amended the general law village charter to provide for the appointment of the treasurer by the council. This allows the council to require specific job skills and experience for the position, and makes the treasurer accountable to the council. This option was made available so that the council could

appoint a treasurer who did not live in the village. Making the office appointed takes away the residency requirement (since the person does not have to be an elector). With the 1998 amendments, the village now has the option of council appointment of the treasurer by ordinance, subject to referendum. A sample ordinance to appoint a village treasurer is available in Appendix 7. Duties of the treasurer may be transferred to the village manager by ordinance. The treasurer:

- Has custody of and receives all village money, bonds, mortgages, notes, leases, and evidence of value. (MCL 64.9)
- Keeps an account of all receipts and expenditures. (MCL 64.9)
- Collects and keeps an account of all taxes and money appropriations, keeping a separate account of each fund. (MCL 64.9)
- Performs duties relating to assessing property and levying taxes. (MCL 64.9)
- Makes periodic reports to the clerk and council as required by law. (MCL 64.10)

Changing your Charter

General law villages can amend the provisions of the GLV Act (MCL 74.24) following the procedures outlined in the Home Rule Village Act, PA 278 of 1909, as amended (MCL 78.1-78.28). An amendment must be approved by the village council, submitted to the governor's office for review, and approved by the village electors. Village councils interested in amending their charters should work with their village attorney to assure that the procedure required in the state statutes is followed.

If the village needs to make substantial changes to the GLV Act, they might consider the possibility of becoming a home rule village and adopting their own charter. Villages can also become cities if they meet the standards designated by the state statute and if their citizens approve the change. The League has information on both of these processes.

Words of Wisdom

The following suggestions have been provided by experienced village officials:

Realize you cannot solve every problem quickly. Looking at problems from the inside lends a different perspective when you are forced to look at all aspects. *Village Manager*

You have information citizens do not and you are charged with educating as well as listening to citizens. *Village Manager*

Get involved. Know what is going on. Communicate with other trustees. Review your meeting material prior to the night of the meeting. *Trustee*

When first elected, listen and observe. Don't challenge existing staff or practices in public until you have done your homework and know what you are talking about. It boils down to good manners. Often, "jumping the gun" on an

issue causes it to be magnified in the media. *Clerk*

Show respect to other village officials, including those appointed rather than elected. Our clerk and treasurer are now appointed by the council. They are still officials. Don't treat them like they are your private secretaries. *Clerk*

Be professional. Don't turn village issues into personal issues. Communication and cooperation are the key. *Trustee*

Chapter by League staff

VILLAGE OF LAKE ODESSA

RESOLUTION NO. 2024-__

At a regular meeting of the Lake Odessa Village Council held on _____, 2024, at the Page Memorial Building, Lake Odessa, Michigan, the following Resolution was offered for adoption by Trustee_____and seconded by Trustee_____:

A RESOLUTION APPOINTING AND ESTABLISHING COMPENSATION FOR VILLAGE PRESIDENT TO TEMPORARILY ASSUME DUTIES OF ACTING VILLAGE MANAGER

WHEREAS, pursuant to Public Act 3 of 1895, the General Law Village Act (MCL 64.21), the president and each trustee shall receive compensation for the performance of the duties of the office of president or trustee only as provided by ordinance; and

WHEREAS, Section 2-31 of the Village Code of Ordinances authorizes the President and Trustees of the Village Council to receive such compensation and benefits as may be established from time to time by resolution of the Village Council, to be paid from the general fund; and

WHEREAS, Resolution 2021-56 established the compensation and expense reimbursement for the Village President and Village Trustees; and

WHEREAS, Section 2-31 of the Village Code of Ordinances further provides that the President and Trustees of the Village Council may receive such hourly compensation as may be established by resolution of the Village Council for additional tasks; and

WHEREAS, the office of Village Manager of the Village of Lake Odessa has been vacant since December 6, 2023; and

WHEREAS, the General Law Village Act (MCL 64.1) designates a village president as the chief executive officer of a village and authorizes the president, in the absence of a village manager, to have authority to exercise supervision over the affairs of a village; and

WHEREAS, the Incompatible Public Offices Act, Act 57 of 1978, as amended, allows a municipality with a population of less than 40,000 to authorize an officer to perform other additional services for the unit of government; and

WHEREAS, the Village President has since December 6, 2023 been temporarily assuming the duties and responsibilities of the Village Manager; and

WHEREAS, consistent with the requirement of Section 2-83 of the Village Code of Ordinances that a permanent Village Manager be appointed within 180 days from the effective date of the vacancy, the Village Council anticipates that these additional duties and responsibilities will continue only on a temporary basis and expects to fill the position of

Village Manager before June 3, 2024.

NOW, THEREFORE, BE IT HEREBY RESOLVED

1. The Village President shall continue to serve as Acting Village Manager until the formal appointment of a permanent Village Manager or June 3, 2024, whichever shall come first.
2. The Village President shall receive the sum of \$50.00 per hour for additional tasks reasonably related to and in furtherance of the duties and obligations of the office of Acting Village Manager as set forth in the Village Code of Ordinances and under state law.
3. The Village President shall track the hours spent on additional tasks reasonably related to and in furtherance of the duties and obligations of the office of Acting Village Manager and submit a tracking sheet in a form acceptable to the Village Council for final approval of payment.

YEAS:

NAYS:


ABSENT/ABSTAIN:

RESOLUTION DECLARED ADOPTED.

CERTIFICATION

I hereby certify that this is a true and complete copy of Resolution 2024-____, adopted by the Lake Odessa Village Council at a regular meeting held on_____, 2024, the original of which is on file in my office and available to the public pursuant to the required statutory procedure.

Date:

, Village Clerk

Village of Lake Odessa

TIME SHEET*

Month of: December 2023

Name: Karen Banks

Date	Hourly Rate	Hours Worked	Total
12/15/2023		3.0	
12/21/2023		4.0	
12/26/2023		2.0	
TOTAL:		9.0	

*Hours worked as Acting Village Manager

Village of Lake Odessa

TIME SHEET*

Month of: January 2024

Name: Karen Banks

Date	Hourly Rate	Hours Worked	Total
1/5		4.0	
1/11		4.0	
1/12		6.0	
1/13		1.0	
1/16		2.5	
1/17		1.0	
1/20		.25	
1/22		1.5	
1/24		4.5	
1/26		3.0	
1/29		2.5	
1/30		.25	
1/31		3.0	
TOTAL:		33.5	

*Hours worked as Acting Manager