

## MICHIGAN COMPILED LAW

Act 157 of 1905, 41.426 / Sec. 6 (5)

A vacancy in the township park commission shall be filled by appointment of the township board for the period prescribed in sections 370 and 370a of the Michigan Election law ...

## Parks Commission Vacancies / Resignations

A recent action by Tuscarora Township Board to declare a Parks Commission seat vacant came after seeking legal opinion on how the board should solve the problem of an improper appointment to the seat of an elected official.

### What happened?

In Feb. 2021, one of the five people elected to fill Parks Commission seats in the 2020 general election gave his verbal resignation to the Parks Commission. The Parks Commission erroneously assumed they had the authority to appoint someone to fill that seat for the remainder of his term. In March 2021, Pat McGinnis was selected by the Parks Commission to fill the vacancy.

Following the 2022 general election that included a vote to replace Tuscarora Township Clerk, a seat vacant through resignation, the township board was asked why the Parks Commission vacancy had not been on the ballot.

Research into the situation revealed:

- 1) no written resignation from the commission member was given to either the township board or Parks Commission
- 2) the Parks Commission did not recommend a candidate to the township board for appointment
- 3) so, the replacement went unnoticed, and the legal process for filling the vacancy was never followed

The township board consulted their attorney about the question.\* At the March 7 board meeting, after a closed session to review attorney opinion, the board declared by **unanimous votes** that:

- 1) the Parks Commission seat was vacant
- 2) McGinnis was appointed to the seat for 31 days as interim Parks Commission member
- 3) the board would post the vacancy for 14 days, after which a person would be appointed to the seat for the remainder of the term ending in 2024

During public comment at the end of the March 7 meeting, McGinnis complained he had been removed from the appointed seat without being consulted. He refused the 31-day appointment, stated he would not submit a letter of interest to finish the term, and blamed Trustee Kramer for his removal due to matters unrelated to the Parks Commission vacancy.

Following the meeting, it became evident to the board that they had not given the public, and McGinnis, an explanation of the cause and remedy for the situation. At the April 4 board meeting, township counsel Matthew Cross explained the legal basis for the action.

At the March 9, 2023 Parks Commission meeting, a simple statement by the chairperson was made that McGinnis was no longer on the board. Minutes for this meeting online state “McGinnis was removed by the township board . . . due to a technical oversight . . . We all agree that this is a Parks Commission responsibility and that the new township board has usurped their authority.”

**(Note:** The video of the March parks meeting does not show that the Parks board had a conversation in public about the legal process for filling the vacant position of an elected official, or that anyone on the board tried to define what a “new township board” is. Only one of the five township board members at the time of this action is new to the board.)

At the end of the March 9 meeting, chairperson Jennifer Andrew gave a verbal resignation. Reasons in her written resignation include “toxic environment” and “negativity.” The resignation of commission member Jim Burke followed on March 23, with the reason the township board “has become radioactive.”\*\*

All three vacant Parks Commission seats were filled at the April 4, 2023 regular township board meeting. New commissioners are: Courtney Quick, Alan Maves, and Greg Rotter.

## Appointments to boards: Who and how?

When an elected seat on **any township board or commission** goes vacant between elections, by resignation or unforeseen circumstance, Michigan Compiled Law (MCL) gives the township board **sole authority** to appoint a temporary replacement until the next general election.

The process:

- Any person holding elected or appointed office in township government who wishes to resign “shall” submit a written, signed letter of resignation.
- The resignation is effective when it is accepted by the township board.
- All vacant seats, whether elected or appointed, are filled by action of the township board.
- MCLs give the Supervisor the authority to appoint (upon board approval) candidates to the DDA and Planning Commission. Parks Commission candidates may be recommended by the Parks Commission board to the township board for approval.

Tuscarora Township’s Policy Book describes how the board structures the appointment process (pages 13-14). These policies are in addition to state law, which does not have a posting/advertising requirement. The board asserts its primary authority: “A board member may nominate an individual at any time.” \*\*\*

## Whose job is it?

If you were to draw an illustration of authority and responsibility, Tuscarora Township Board would be at the apex of a pyramid, with other boards, commissions, and task forces clustered below. Other boards and commissions may have unique areas of legally described responsibilities, but the Township Board is the financial overseer and records keeper for the entire township.

Recent “new” requirements placed on other commissions and departments by the township board include:

- development of an annual Capital Improvements Plan, as required by state law\*\*\*\*
- development of the yearly budget on a timeline to allow for greater understanding of township finances and timely public input prior to adoption. Zero-based budgeting will be used for the first time to help achieve the “greater understanding” goal.

## Online resources

SEE:

- Michigan Election Law, Act 116 of 1954 - 168.370, Sec. 370
- Revised Statutes of 1846 - Townships 41.56, Sec. 56
- \*\*\*\* Michigan Planning Enabling Act, Act 33 of 2008 - 125.3865 (1) & (2)

At [www.tuscaroratwp.com](http://www.tuscaroratwp.com)

\*(See online document: Board Packet March 7, 2023)

\*The township board packet for March 7, 2023 records:

“Parks Commission Pat McGinnis replaced Tom Snyder on the commission when Mr. Snyder resigned in 2021. We are waiting on the attorney’s Letter of Opinion on whether:

1. Mr. McGinnis should have run for the position in the 2022 election
2. The position should have been reappointed before the election
3. Mr. McGinnis can just fill out the remainder of the four year term (2024 election)

\*\* (See online documents, Board Packet April 4, 2020)

\*\*\* (See online Board and Administrative Policy Manual)

Recent minutes for Tuscarora Township Board and Tuscarora Township Parks & Recreation Commission

- On YouTube, “**Indian River Flows**” – video recordings of recent township board and Parks Commission meetings