



NEIL F. HARTIGAN
ATTORNEY GENERAL
STATE OF ILLINOIS
SPRINGFIELD
62706

January 3, 1989

I - 89-002

GOVERNMENTAL ETHICS AND
CONFLICT OF INTEREST:
COMPATIBILITY:

The Offices of Township Trustee
and City Clerk of City Located within
the Township are Compatible

Honorable Michael P. Coghlan
State's Attorney, DeKalb County
133 West State Street
Sycamore, Illinois 60178

Dear Mr. Coghlan:

I have your letter of November 14, 1988, wherein you inquire whether one person may simultaneously hold the offices of township trustee and city clerk of a city which is located within the township. Because you have requested that I advise you on an informal basis, I shall respond accordingly.

Incompatibility between offices exists when the constitution or a statute specifically prohibits the occupant of either office from holding the other, or where the duties of the two offices conflict so that the holder of one cannot in every instance properly and faithfully perform all the duties of the other. (People ex rel. Myers v. Haas (1908), 145 Ill. App. 283, 286; see generally People ex rel. Teros v. Verbeck (1987), 155 Ill. App. 3d 81.) There is no constitutional or statutory provision prohibiting one person from simultaneously serving as a township trustee and as the city clerk of a city

Honorable Michael P. Coghlan - 2.

located within the township. The issue devolves, therefore, to whether the duties of either office are such that the holder of one cannot, in every instance, properly and faithfully perform all of the duties of the other.

From an examination of the statutes and consideration of the duties of the two offices, it appears that the office of city clerk is ministerial in nature precluding the likelihood of influence in discretionary city matters. (Ill. Rev. Stat. 1987, ch. 24, par. 3-10-7.) Even though a township may act, through its board of trustees, to contract or otherwise associate with the city, the city clerk would ordinarily not be under duty to vote or otherwise act in such matters. Therefore, since the duties of the two offices would not conflict, it appears that the offices of township trustee and city clerk in a city within the township are compatible.

This is not an official opinion of the Attorney General. If we may be of further assistance, please advise.

Very truly yours,

MICHAEL J. LUKE
Senior Assistant Attorney General
Chief, Opinions Division



WILLIAM J. SCOTT

ATTORNEY GENERAL
STATE OF ILLINOIS
500 SOUTH SECOND STREET
SPRINGFIELD
62706

June 15, 1976

FILE NO. NP-1108

**COMPATIBILITY OF OFFICES:
Township Auditor and
County Board Member**

Honorable Edward P. Drolet
State's Attorney
Kankakee County
Court House
Kankakee, Illinois 60901

Dear Mr. Drolet:

This is in response to your letter in which you ask whether the offices of township auditor and county board member are incompatible. You refer to my opinion No. S-877 which was issued on March 17, 1975, and opinion No. S-1016 which was issued on December 11, 1975. It is my opinion that the offices of township auditor and county board member are incompatible.

Incompatibility between offices arises where the Constitution, or a statute, specifically prohibits the occupant of either of the offices from holding the other, or where because of the duties of either office a conflict of interest

NP 1108

Honorable Edward P. Drolet - 2.

may arise, or where the duties of either office are such that the holder of one cannot in every instance, properly and faithfully perform all the duties of the other. (People ex rel. Meyer v. Haas, 145 Ill. App. 283.)

As explained in opinion No. S-877, the county board and the board of township auditors have authority to enter into contracts with each other to provide a particular service to the people of the county and township. This power is the result of the cumulative effect of section 10 of article VII of the Illinois Constitution of 1970, the Intergovernmental Cooperation Act (Ill. Rev. Stat. 1975, ch. 127, pars. 741 et seq.) and the amendment of section 20 of article XIII of "AN ACT to revise the law in relation to township organization." (Ill. Rev. Stat. 1975, ch. 139, par. 126.10, as amended by P.A. 78-1189 and P.A. 79-458.) As stated in opinion No. S-877, these statutes allow a county and township to enter into a contract to provide services with regard to the areas of public safety, environmental protection, public transportation, health, recreation, and social services for the poor and aged.

In attempting to make decisions upon contracts with regard to any of the above areas, a person who is a member of

Honorable Edward P. Drolet - 3.

both the county board and the board of township auditors cannot fairly represent the conflicting interests of the county and township. Where the service is to be provided in accordance with a contract entered into between the county and township, the dual officeholder is representing, and attempting to negotiate a contract most advantageous to the interest of both parties to the bargain. Since under section 1 of article XIII of "AN ACT to revise the law in relation to township organization" (Ill. Rev. Stat. 1975, ch. 139, par. 117) a township supervisor who simultaneously holds the office of county board member would be faced with this dilemma, I concluded in opinion No. S-877, that the offices of township supervisor and county board member were incompatible. Pursuant to section 1 of article XIII of "AN ACT to revise the law in relation to township organization" (Ill. Rev. Stat. 1975, ch. 139, par. 117) a township auditor (township trustee after the 1977 election) like the township supervisor is a voting member of the board of auditors and participates in the decision-making process in the exercise of the powers vested in the board of township auditors. It follows from the foregoing that the offices of township auditor and county board member are incompatible.

Subsequent to the issuance of opinion No. S-877,

Honorable Edward P. Drolet - 4.

"AN ACT in relation to the simultaneous tenure of certain public offices" (Ill. Rev. Stat. 1975, ch. 102, pars. 4.10 et seq.) was enacted and it provides:

"§ 1. The General Assembly finds and declares that questions raised regarding the legality of simultaneously holding the office of county board member and township supervisor are unwarranted; that the General Assembly viewed the office of county board member and township supervisor as compatible; and that to settle the question of legality and avoid confusion among such counties and townships as may be affected by such questions it is lawful to hold the office of county board member simultaneously with the office of township supervisor in accordance with this Act.

§ 2. It is lawful for any county board member who may be elected in 1977 or before 1977 to the office of township supervisor to hold the office of county board member and township supervisor simultaneously until the expiration of his term of office as county board member; thereafter it is unlawful for the same individual to hold both such offices simultaneously.

§ 3. All actions of such person, as township supervisor after December 1, 1974, which are otherwise in accordance with law, are hereby validated."

In response to a question prompted by this Act, I issued opinion No. S-1016 on December 11, 1975, in which I concluded that under the Act, an individual who is elected to the county board in November 1976, may hold that office simultaneously with the office of township supervisor should he be

Honorable Edward P. Drolet - 5.

elected to the latter office in 1977. Your letter asks whether the above Act makes the offices of township auditor and county board member compatible. The language of the Act is clear and unambiguous; it focuses only upon the office of township supervisor and makes no reference to the office of township auditor. In Chicago Home For Girls v. Carr, 300 Ill. 478, at page 485, the Illinois Supreme Court stated:

"

* * *

* * * [W]here a law is plain and unambiguous, whether it be expressed in general or limited terms, the legislature should be considered to have intended to mean what it has plainly expressed, and consequently no room is left for construction. It is not allowable to interpret what has no need of interpretation, or, when the words have a definite and precise meaning, to go elsewhere in search of conjecture in order to restrict or extend the meaning. 'Statutes * * * should be read and understood according to the natural and most obvious import of the language, without resorting to subtle and forced construction for the purpose of either limiting or extending their operation.' (City of Beardstown v. City of Virginia, 76 Ill. 34.) * * * "

It would be impermissible to expand the language of the Act to include the office of township auditor within its scope. I therefore conclude that the offices of township auditor and county board member are incompatible, and that "AN ACT in

Honorable Edward P. Drolet - 6.

relation to the simultaneous tenure of certain public offices"
(Ill. Rev. Stat. 1975, ch. 102, par. 4.10 et seq.) does not
make these offices compatible.

Very truly yours,

A T T O R N E Y G E N E R A L



NEIL F. HARTIGAN
ATTORNEY GENERAL
STATE OF ILLINOIS
SPRINGFIELD
62706

March 7, 1989

I - 89-019

COMPATIBILITY:

County Board Member and
Township Supervisor

County Board Member and
Township Trustee

Township Trustee and School
Board Member

Honorable Vincent Moreth
State's Attorney, Macoupin County
Macoupin County Courthouse
Post Office Box 480
Carlinville, Illinois 62626

Dear Mr. Moreth:

I have your letter of February 22, 1989, wherein you inquire whether the offices of (1) county board member and member of the township board of trustees, (2) township supervisor and county board member, and (3) township trustee and local school board member are incompatible. Because of the nature of your question, I do not believe that an official opinion of the Attorney General is necessary. I will, therefore, comment informally upon your inquiry.

At common law, incompatibility of offices arises where the constitution or a statute specifically prohibits the occupant of one office from holding another or where the duties of the two offices are such that the holder of one cannot, in every instance, fully and faithfully discharge the duties of the other. (People ex rel. Myers v. Haas (1908), 145 Ill. App.

283, 286.) Because of the inability of a person holding both offices to fairly represent the conflicting interests of both the county and township, Attorney General Scott advised in opinion No. S-877, issued March 17, 1975, (1975 Ill. Att'y Gen. Op. 37), that the offices of county board member and township supervisor were incompatible and, in opinion No. NP-1108, (Ill. Att'y Gen. Op. No. NP-1108, issued June 15, 1976), that the offices of county board member and township auditor (trustee) were incompatible. Since the issuance of those opinions, however, the General Assembly has declared it to be lawful for any person to hold simultaneously the offices of county board member and township supervisor and, in counties of less than 100,000 population, the offices of county board member and township trustee. (Ill. Rev. Stat. 1987, ch. 102, par. 4.11.) The offices of township trustee and county board member remain incompatible in counties with a population of 100,000 or more. See People ex rel. Fitzsimmons v. Swailes (1984), 101 Ill. 2d 458 (offices of county board member and township assessor incompatible in counties of over 300,000 population).

Because there is no constitutional or statutory provision prohibiting one person from simultaneously holding the offices of township trustee and school board member, the issue with respect to those offices devolves to whether the duties of either office are such that the holder of one cannot, in every instance, properly and faithfully perform all of the duties of the other.

Section 13-16 of the Township Law of 1874 (Ill. Rev. Stat. 1987, ch. 139, par. 126.6) provides in part as follows:

"To the extent that moneys in the general fund of the township have not been appropriated for other purposes, the board of town trustees may direct that distributions be made from that fund as follows:

(1) either or both to school districts maintaining grades 1 through 8 which are wholly or partly located within the township or to governmental units, as defined in Section 1 of the 'Community Mental Health Act', providing mental health facilities and services, including facilities and services for the mentally retarded, under that Act within the township;

* * *

(Emphasis added.)

Honorable Vincent Moreth - 3.

As a school board member, one has a duty to provide for the revenue necessary to maintain the schools in his or her district. (Ill. Rev. Stat. 1987, ch. 122, par. 10-20.3.) In the instance of a school district which lies partly or wholly within the township and which maintains grades 1 through 8, a conflict could arise between a dual officerholder's duty to determine how township funds should be spent to best serve the needs of the township and his or her duty as a member of the board of education to provide for the revenue necessary to maintain the district's schools.

Accordingly, it appears that the offices of town trustee or township supervisor and school board member of a school district, which lies wholly or partly within the township, and which maintains grades 1 through 8, are incompatible. Our research has disclosed nothing, however, which would render the office of town trustee or township supervisor incompatible with that of a school board member of a school district not eligible for township funds under section 13-16 of the Township Law of 1874. See Informal Opinion No. I-88-003, issued February 16, 1988.

This is not an official opinion of the Attorney General. If we may be of further assistance, please advise.

Very truly yours,

MICHAEL J. LUKE
Senior Assistant Attorney General
Chief, Opinions Division



ROLAND W. BURRIS
ATTORNEY GENERAL
STATE OF ILLINOIS



February 4, 1992

I - 92-009

COMPATIBILITY OF OFFICES:
County Treasurer and
Township Trustee

Honorable William R. Haine
State's Attorney, Madison County
103 Purcell Street, 3rd Floor
Edwardsville, Illinois 62025

Dear Mr. Haine:

I have your letter wherein you inquire whether one person may simultaneously hold the offices of county treasurer and township trustee. Because of the nature of your inquiry, I do not believe that the issuance of an official opinion is necessary. I will, however, comment informally upon the question you have raised.

The common law doctrine of incompatibility of offices precludes simultaneous tenure in two offices where the constitution or a statute specifically prohibits the occupant of either office from holding the other, or where the duties of the two offices conflict so that the holder of one cannot, in every instance, properly and faithfully perform all of the duties of the other. (Rogers v. Village of Tinley Park (1983), 116 Ill. App. 3d 437, 440-41; People ex rel. Myers v. Haas (1908), 145 Ill. App. 283, 286.) There is no constitutional or statutory provision prohibiting one person from simultaneously serving as

a county treasurer and as a township trustee. Therefore, the issue is whether the duties of either office are such that the holder of one cannot fully and faithfully discharge all of the duties of the other.

Township trustees, as members of the governing board of a township, exercise the corporate powers of the township. (Ill. Rev. Stat. 1989, ch. 139, pars. 117-126.28.) The principal duties of the county treasurer are set forth in section 3-10005 of the Counties Code (Ill. Rev. Stat. 1989, ch. 34, par. 3-10005) which provides, in pertinent part:

"* * * He shall receive and safely keep the revenues and other public moneys of the county, and all money and funds authorized by law to be paid to him, and disburse the same pursuant to law. * * *"

The duties of a county treasurer are not judicial or discretionary, but are ministerial. Mitchell v. Short (1929), 251 Ill. App. 357, 359.

In opinion No. 82-039(NP), issued November 10, 1982, Attorney General Fahner concluded that the offices of county treasurer and park district commissioner were not incompatible, stating:

" * * *

There is no relationship between the duties of the county treasurer and the duties of a park district commissioner which would render the offices incompatible. Although the county treasurer does have a duty to pay over a share of real property taxes to a park district (Ill. Rev. Stat. 1981, ch. 120, par. 761), the duty is ministerial and would not involve any exercise of discretion resulting in a conflict of duties or interest.

* * *

A similar analysis may be applied to the offices of county treasurer and township trustee. The duty of the county treasurer to disburse tax monies to the township is ministerial (Ill. Rev. Stat. 1989, ch. 120, par. 761) and, as such, would not involve any exercise of discretion resulting in a conflict of duties or interests. There is, therefore, no relationship between the duties of the county treasurer and the duties of a township trustee which would render the offices incompatible.

Honorable William R. Haine - 3.

Accordingly, because there are no conflicting duties, it appears that one person may simultaneously hold the offices of county treasurer and township trustee.

This is not an official opinion of the Attorney General. I apologize for our delayed response to your inquiry.

Very truly yours,

A solid black rectangular redaction box covering the signature of Michael J. Luke.

MICHAEL J. LUKE
Senior Assistant Attorney General
Chief, Opinions Division



NEIL F. HARTIGAN
ATTORNEY GENERAL
STATE OF ILLINOIS
SPRINGFIELD
62706

August 9, 1989

I - 89-043

COMPATIBILITY OF OFFICES:
Township Trustee and Fire
Protection District Trustee
or Village Trustee

Honorable Gordon Lustfeldt
State's Attorney, Iroquois County
Iroquois County Courthouse
Watseka, Illinois 60970

Dear Mr. Lustfeldt:

I have your letter wherein you inquire whether the offices of village trustee and township trustee, and the offices of fire protection district trustee and township trustee, are incompatible. Because of the nature of your inquiry, I do not believe that an official opinion of the Attorney General is required. I will, therefore, comment informally upon the question you have raised.

As laid down in the case of People ex rel. Myers v. Haas (1908), 145 Ill. App. 283, the common law rule is that two offices are incompatible where either the constitution or a statute specifically prohibits the occupant of either office from holding the other, or where, because of the duties of either office, a conflict of interest may arise or the holder

of one office cannot, in every instance, properly and faithfully perform all of the duties of the other. Applying this rule, Attorney General Scott advised in opinion No. NP-962, issued September 24, 1975, that the offices of township supervisor and township auditor (now township trustee) were incompatible with the office of city commissioner because of the conflict of duties that could arise from the exercise of the broad powers of the township board of trustees and the city council to contract with each other for the provision of a wide range of services to their residents. The dual officeholder would not be able to represent both units of government fully and fairly where, for example, a service is to be provided pursuant to a contract between the city and the township.

Like the city council in the commission form of government, the village board of trustees serves as the corporate authorities for the village (Ill. Rev. Stat. 1987, ch. 24, par. 1-1-2(2)). As such, the village board may contract with any township in the county within which the village is located to furnish police protection outside of the village. (Ill. Rev. Stat. 1987, ch. 24, par. 11-1-7.) The village and the township within which the village lies also have the power to contract with each other for the construction of such public improvements as bridges, subways, elevated ways, viaducts and roadway improvements. (Ill. Rev. Stat. 1987, ch. 24, par. 11-85-1.) In addition, the village board may authorize contracts to perform governmental services with townships (Ill. Rev. Stat. 1987, ch. 127, pars. 745, 742) and may exercise its powers jointly with townships and other units of local government (Ill. Rev. Stat. 1987, ch. 24, par. 1-1-5; ch. 127, pars. 743, 742). The board of town trustees is specifically authorized to enter into contracts with municipalities for the establishment or maintenance of youth service bureaus (Ill. Rev. Stat. 1987, ch. 139, par. 126.13) and to contract with any other governmental entity for the provision of a wide range of services, including public safety, environmental prosecution, public transportation, health, recreation, library and social services, to township residents (Ill. Rev. Stat. 1987, ch. 139, par. 126.10). The town board may also be authorized by the town electors to contract with municipalities or the county for the provision of police protection in areas of the township not located within the incorporated area of a municipality having a regular police department (Ill. Rev. Stat. 1987, ch. 139, par. 39.29) or in unincorporated areas of the township (Ill. Rev. Stat. 1987, ch. 139, par. 39.30). Townships are also authorized to construct or purchase and to operate waterworks and sewerage systems and may extend and improve such systems to serve a municipality which is located in the township and which does not own or operate its own waterworks or sewerage system. (Ill. Rev. Stat. 1987, ch. 139, pars. 160.32, 160.40.) A township that

chooses to operate a waterworks system may contract with municipalities for a supply of water for the township's system. (Ill. Rev. Stat. 1987, ch. 135, par. 160.41.)

It appears, therefore, that the reasoning of opinion No. NP-962 is also applicable to the offices of village trustee and township trustee, and that these offices are incompatible. I have enclosed a copy of opinion No. NP-962 for your reference.

In opinion No. UP-946, issued June 6, 1963, Attorney General Clark advised that the offices of fire protection district trustee and township auditor (township trustee) were not incompatible. He found no constitutional or statutory provision declaring the offices to be incompatible, and examination of pertinent statutory provisions revealed no conflict of interest between the duties of these offices. The reasoning of that opinion still appears to be valid. Consequently, it appears that one person would not be prohibited from simultaneously holding the offices of fire protection district trustee and township trustee.

This is not an official opinion of the Attorney General. If we may be of further assistance, please advise.

Very truly yours,

MICHAEL J. LUKE
Senior Assistant Attorney General
Chief, Opinions Division

Enclosure



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

December 10, 1996

Jim Ryan
ATTORNEY GENERAL

I - 96-052

COMPATIBILITY OF OFFICES:
Library District Trustee/
Township Trustee

Honorable Jack O'Connor
State Representative - 35th District
2123-0 Stratton Building
Springfield, Illinois 62706

Dear Representative O'Connor:

I have your letter wherein you inquire whether an elected library district trustee may simultaneously serve as a township trustee. Because of the nature of your inquiry, I do not believe that the issuance of an official opinion is necessary. I will, however, comment informally upon the question you have raised.

The doctrine of incompatibility of offices is applicable where the constitution or a statute specifically prohibits the occupant of one office from holding another, or where the duties of the two offices are such that the holder of one cannot, in every instance, fully and faithfully discharge the duties of the other. (People ex rel. Myers v. Haas (1908), 145 Ill. App. 283, 286.) There are no constitutional or statutory provisions which expressly prohibit one person from holding the two offices in question simultaneously. Therefore, it is necessary to examine the duties, functions and powers of the two offices to determine whether a conflict of duties could arise.

Section 30-55.40 of the Illinois Public Library District Act of 1991 (75 ILCS 16/30-55.40 (West 1994)) provides, in pertinent part:

"The [library] board may contract with any public or private corporation or entity for the purpose of providing or receiving library service or of performing other acts necessary and proper to carry out the responsibilities, the intent, and the provisions of this Act. this contractual power includes, but is not limited to, (i) participating in interstate library compacts and library systems, (ii) contracting to supply library services, and (iii) spending any federal or State funds made available to any county, municipality, or township or to the State of Illinois for library purposes.
* * *"

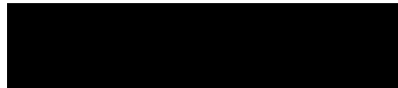
Similarly, townships may expend funds to operate and maintain libraries for the residents of the township, and are expressly authorized to contract with other governmental entities to provide library services. (60 ILCS 1/85-13(a)(1)(F)(West 1994)).

The likelihood of a library district and a township contracting for the provision or receipt of library services is not remote. A library district trustee, in implementing the powers granted to the board under the Illinois Public Library District Act of 1991 (75 ILCS 16/1-1 et seq. (West 1994)), is under a duty to protect and represent the best interests of the library district. (75 ILCS 16/30-55 et seq. (West 1994).) A township trustee is also under a duty to represent and protect the interests of the township which he or she serves. It has previously been stated that one person cannot adequately represent the interests of two governmental units when those units contract with one another. (Ill. Att'y Gen. Op. No. 91-023; Ill. Att'y Gen. Op. No. 85-019; 1976 Ill. Att'y Gen Op. 116; 1975 Ill. Att'y Gen. Op. 37.) Because of the potential conflicts of duties which arise when one governmental unit contracts with another, an individual who served simultaneously as both a library district trustee and township trustee would not be able to represent the interests of both entities adequately, fully and faithfully. Therefore, it appears that the two offices are incompatible, and one person may not hold both offices simultaneously.

Honorable Jack O'Connor - 3.

This is not an official opinion of the Attorney General. If we can be of further assistance in this matter, please advise.

Sincerely,

A solid black rectangular redaction box covering the signature of Michael J. Luke.

Michael J. Luke
Senior Assistant Attorney General
Bureau Chief, Opinions

MJL:SZ:dn



NEIL F. HARTIGAN
ATTORNEY GENERAL
STATE OF ILLINOIS
SPRINGFIELD
62706

May 29, 1990

I - 90-018

GOVERNMENTAL ETHICS AND
CONFLICT OF INTEREST:
Township Trustee Employed
By Road District

Honorable John Knight
State's Attorney, Bond County
Bond County Courthouse
Greenville, Illinois 62246

Dear Mr. Knight:

I have your letter wherein you inquire whether a member of a township board of trustees may simultaneously serve as a part-time, paid employee of the township road district. In addition, you ask whether any existing conflict may be remedied by the particular trustee declining to vote on any action that directly impacts upon the road district. Because of the nature of your inquiry, I do not believe that the issuance of an official opinion is necessary. I will, however, comment informally upon the questions you have raised.

Section 3 of "AN ACT to prevent fraudulent and corrupt practices in the making or accepting of official appointments and contracts by public officers" (hereinafter referred to as the Corrupt Practices Act) (Ill. Rev. Stat. 1987, ch. 102, par. 3) provides, in pertinent part:

"(a) No person holding any office, either by election or appointment under the laws or constitution of this state, may be in any manner interested, either directly or indirectly, in his own name or in the name of any other person, association, trust or corporation, in any contract or the performance of any work in the making or letting of which such officer may be called upon to act or vote. * * *

* * *

"

Section 6-501 of the Illinois Highway Code (hereinafter referred to as "the Code") (Ill. Rev. Stat. 1987, ch. 121, par. 6-501) requires approval by the township board of trustees of any levy or appropriation by a road district composed of a single township. Under these circumstances, the township trustee in question would be required to vote upon the appropriation of funds from which his or her compensation as an employee of the road district would be paid. This appears to be the kind of pecuniary interest which section 3 of the Corrupt Practices Act is intended to prohibit. (Rogers v. Village of Tinley Park (1983), 116 Ill. App. 3d 437, 445.) It would appear, therefore that a township trustee may not ordinarily be employed as a paid, part-time general laborer by the road district for the township which he or she serves.


I note, however, that subsections 3(b) and 3(c) of the Corrupt Practices Act do permit a member of the governing body of a public entity to furnish services or labor if certain procedures, including disclosure of the pecuniary interest and abstention from voting on the award of the contract, are complied with, and the amount of the contract does not exceed the limits set therein. In this case, the only action which the trustee would take upon the contract would be the approval of the highway commissioner's appropriation and budget. Consequently, if the trustee in question abstains from voting upon the budget and appropriation, and the other criteria of the applicable exception are met, it appears that there would be no violation of section 3.

In response to the second portion of your inquiry, section 3 of the Corrupt Practices Act is applicable to any contract upon which such officer may be called upon to vote. It would appear, therefore, that abstention from voting does not absolve the officer from any conflict, except to the extent permitted under subsections (b) and (c) thereof. 1976 Ill. Att'y Gen. Op. 57.

Honorable John Knight - 3.

This is not an official opinion of the Attorney General. If we may be of further assistance, please advise.

Very truly yours,


MICHAEL J. LUKE
Senior Assistant Attorney General
Chief, Opinions Division



NEIL F. HARTIGAN
ATTORNEY GENERAL
STATE OF ILLINOIS
SPRINGFIELD
62706

March 7, 1989

I - 89-019

COMPATIBILITY:

County Board Member and
Township Supervisor

County Board Member and
Township Trustee

Township Trustee and School
Board Member

Honorable Vincent Moreth
State's Attorney, Macoupin County
Macoupin County Courthouse
Post Office Box 480
Carlinville, Illinois 62626

Dear Mr. Moreth:

I have your letter of February 22, 1989, wherein you inquire whether the offices of (1) county board member and member of the township board of trustees, (2) township supervisor and county board member, and (3) township trustee and local school board member are incompatible. Because of the nature of your question, I do not believe that an official opinion of the Attorney General is necessary. I will, therefore, comment informally upon your inquiry.

At common law, incompatibility of offices arises where the constitution or a statute specifically prohibits the occupant of one office from holding another or where the duties of the two offices are such that the holder of one cannot, in every instance, fully and faithfully discharge the duties of the other. (People ex rel. Myers v. Haas (1908), 145 Ill. App.

283, 286.) Because of the inability of a person holding both offices to fairly represent the conflicting interests of both the county and township, Attorney General Scott advised in opinion No. S-877, issued March 17, 1975, (1975 Ill. Att'y Gen. Op. 37), that the offices of county board member and township supervisor were incompatible and, in opinion No. NP-1108, (Ill. Att'y Gen. Op. No. NP-1108, issued June 15, 1976), that the offices of county board member and township auditor (trustee) were incompatible. Since the issuance of those opinions, however, the General Assembly has declared it to be lawful for any person to hold simultaneously the offices of county board member and township supervisor and, in counties of less than 100,000 population, the offices of county board member and township trustee. (Ill. Rev. Stat. 1987, ch. 102, par. 4.11.) The offices of township trustee and county board member remain incompatible in counties with a population of 100,000 or more. See People ex rel. Fitzsimmons v. Swailes (1984), 101 Ill. 2d 458 (offices of county board member and township assessor incompatible in counties of over 300,000 population).

Because there is no constitutional or statutory provision prohibiting one person from simultaneously holding the offices of township trustee and school board member, the issue with respect to those offices devolves to whether the duties of either office are such that the holder of one cannot, in every instance, properly and faithfully perform all of the duties of the other.

Section 13-16 of the Township Law of 1874 (Ill. Rev. Stat. 1987, ch. 139, par. 126.6) provides in part as follows:

"To the extent that moneys in the general fund of the township have not been appropriated for other purposes, the board of town trustees may direct that distributions be made from that fund as follows:

(1) either or both to school districts maintaining grades 1 through 8 which are wholly or partly located within the township or to governmental units, as defined in Section 1 of the 'Community Mental Health Act', providing mental health facilities and services, including facilities and services for the mentally retarded, under that Act within the township;

* * *

(Emphasis added.)

Honorable Vincent Moreth - 3.

As a school board member, one has a duty to provide for the revenue necessary to maintain the schools in his or her district. (Ill. Rev. Stat. 1987, ch. 122, par. 10-20.3.) In the instance of a school district which lies partly or wholly within the township and which maintains grades 1 through 8, a conflict could arise between a dual officerholder's duty to determine how township funds should be spent to best serve the needs of the township and his or her duty as a member of the board of education to provide for the revenue necessary to maintain the district's schools.

Accordingly, it appears that the offices of town trustee or township supervisor and school board member of a school district, which lies wholly or partly within the township, and which maintains grades 1 through 8, are incompatible. Our research has disclosed nothing, however, which would render the office of town trustee or township supervisor incompatible with that of a school board member of a school district not eligible for township funds under section 13-16 of the Township Law of 1874. See Informal Opinion No. I-88-003, issued February 16, 1988.

This is not an official opinion of the Attorney General. If we may be of further assistance, please advise.

Very truly yours,

MICHAEL J. LUKE
Senior Assistant Attorney General
Chief, Opinions Division



NEIL F. HARTIGAN
ATTORNEY GENERAL
STATE OF ILLINOIS
SPRINGFIELD
62706

February 16, 1988

I - 88-003

COMPATIBILITY OF OFFICES:
The Offices of Town Trustee and
School Board Member

Honorable Dennis Schumacher
State's Attorney, Ogle County
County Court House
Oregon, Illinois 61061-0395

Dear Mr. Schumacher:

I have your letter wherein you inquire whether the offices of town trustee and school board member are compatible. Due to the nature of your question, I do not believe that an official opinion of the Attorney General is necessary. I will, however, comment informally upon the issue you have posed.

Incompatibility between offices exists where the constitution or a statute specifically prohibits the occupant of either office from holding the other, or where the duties of the two offices conflict so that the holder of one cannot in every instance properly and faithfully perform all the duties of the other. (People ex rel. Myers v. Haas (1908), 145 Ill. App. 283, 286; see generally People ex rel. Teros v. Verbeck (1987), 155 Ill. App. 3d 81.) There is no constitutional or statutory provision prohibiting one person from simultaneously serving as a town trustee or township supervisor, who pursuant to statute is a member of the town board of trustees (Ill. Rev. Stat. 1985, ch. 139, par. 117), and as a member of a board of

education. The issue devolves, therefore, to whether the duties of either office are such that the holder of one cannot, in every instance, properly and faithfully perform all of the duties of the other.

Section 13-16 of the Township Law of 1874 (Ill. Rev. Stat. 1985, ch. 139, par. 126.6) provides in part as follows:

"To the extent that moneys in the general fund of the township have not been appropriated for other purposes, the board of town trustees may direct that distributions be made from that fund as follows:

(1) either or both to school districts maintaining grades 1 through 8 which are wholly or partly located within the township or to governmental units, as defined in Section 1 of the 'Community Mental Health Act', providing mental health facilities and services, including facilities and services for the mentally retarded, under that Act within the township;

* * *

(Emphasis added.)

As a school board member, one has a duty to provide for the revenue necessary to maintain the schools in his or her district. (Ill. Rev. Stat. 1985, ch. 122, par. 10-20-3.) In the instance of a school district which lies partly or wholly within the township and which maintains grades 1 through 8, a conflict could arise between a dual officerholder's duty to determine how township funds should be spent to best serve the needs of the township and his or her duty as a member of the board of education to provide for the revenue necessary to maintain the district's schools.

Accordingly, it appears that the offices of town trustee or township supervisor and school board member of a school district, which lies wholly or partly within the township, and which maintains grades 1 through 8, are incompatible. Our research has disclosed nothing, however, which would render the office of town trustee or township supervisor incompatible with that of a school board member of a school district not eligible for township funds under section 13-16 of the Township Law of 1874.

Honorable Dennis Schumacher - 3.

This is not an official opinion of the Attorney General. If I can be of further service, please advise.

Very truly yours,

SHAWN W. DENNEY
Solicitor General



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

April 5, 2013

I - 13-002

COMPATIBILITY OF OFFICES:

Township Assessor and
Township Trustee

The Honorable Scott Brinkmeier
State's Attorney, Carroll County
Carroll County Courthouse
Post Office Box 209
Mt. Carroll, Illinois 61053

Dear Mr. Brinkmeier:

I have your letter inquiring whether one person may simultaneously hold the offices of township assessor and township trustee of the same township. For the reasons discussed below, in these circumstances the offices of township assessor and township trustee are incompatible. Consequently, one person may not hold both offices simultaneously.

BACKGROUND

The common law doctrine of incompatibility of offices precludes simultaneous tenure in two public offices if the constitution or a statute specifically prohibits the occupant of either office from holding the other, or if the duties of the two offices conflict so that the holder of one cannot, in every instance, fully and faithfully discharge all of the duties of the other office. *People ex rel. Fitzsimmons v. Swailes*, 101 Ill. 2d 458, 465 (1984); *People ex rel. Smith v. Brown*, 356 Ill. App. 3d 1096, 1098 (2005); *People ex rel. Myers v. Haas*, 145 Ill. App. 283, 286 (1908). There is no constitutional or statutory provision that expressly prohibits one person from

simultaneously serving as an elected township assessor and a trustee of the same township.¹ The issue, therefore, is whether the duties of either office are such that the holder of one cannot, in every instance, fully and faithfully discharge all of the duties of the other.

ANALYSIS

Powers and Duties of Township Assessor

The office of township assessor is created by the Township Code (60 ILCS 1/50-5, 77-5 (West 2010)), which provides for the election of an assessor for a term of four years. The duties of the office, however, are governed by the provisions of the Property Tax Code (35 ILCS 200/1-1 *et seq.* (West 2010)). The principal duty of a township assessor is to determine as nearly as is practicable the value of each property listed for taxation in the township as of January 1 of the year of valuation. 35 ILCS 200/9-155 (West 2010).

Powers and Duties of Township Trustee

Township trustees, as members of the governing board of a township, exercise a number of corporate powers on behalf of the township. *See* 60 ILCS 1/85-10 *et seq.* (West 2011 Supp.). Of particular concern to this analysis, the board of township trustees levies taxes on the taxable property in the township to defray the general township charges (60 ILCS 1/80-40 (West 2010)).

Conflict of Duties

Under section 15-60 of the Property Tax Code (35 ILCS 200/15-60 (West 2010)), the public buildings of a township and the grounds on which they are located, as well as property owned by a township and operated as senior citizen housing, are generally exempt from taxation.

¹Section 2a of the Public Officer Prohibited Activities Act (50 ILCS 105/2a (West 2010)) limits those offices to which a township trustee may be appointed and provides, in part:

No township supervisor or trustee, during the term of office for which he or she is elected, may accept, be appointed to, or hold any office by the appointment of the board of township trustees unless he or she first resigns from the office of supervisor or trustee or unless the appointment is specifically authorized by law.

Township assessors are generally elected. *See* 35 ILCS 200/2-5, 2-45 (West 2010). However, if no candidate for the office of township assessor meets the statutory qualifications, the township board of trustees may appoint a township assessor. *See* 35 ILCS 200/2-45(e) (West 2010). Similarly, if an assessor's office becomes vacant, the township board of trustees is authorized to fill the vacancy. *See* 35 ILCS 200/2-60(a) (West 2010). In such circumstances, section 2a of the Public Officer Prohibited Activities Act would prohibit one person from holding both offices simultaneously. Nothing in the information we have been provided indicates that the township assessor who underlies your inquiry was appointed to office, rather than elected.

Further, all property owned by a taxing district, a term which includes townships,² that is being held for future expansion or development is generally exempt from taxation. 35 ILCS 200/15-60 (West 2010). There are circumstances, however, in which township property may be taxed. For example, pursuant to subsection 30-50(c) of the Township Code (60 ILCS 1/30-50(c) (West 2011 Supp.)), if the township electors determine to lease township property (*see* 60 ILCS 1/30-50(a) (West 2011 Supp.)), then those portions of the improvements devoted to private use are fully taxable. *See also* 35 ILCS 200/15-60 (West 2010).

In opinion No. 93-008, issued March 19, 1993, Attorney General Burriss addressed the analogous question of whether the offices of multi-township assessor and village trustee are incompatible. In reaching his conclusion that the offices are incompatible and that one person may not hold both offices simultaneously, Attorney General Burriss stated:

Property of a village which is not exempted by the foregoing provisions [35 ILCS 205/19.6, 19.8, 19.9, 19.9a (West 1992), now codified at 35 ILCS 200/15-60, 15-70, 15-75, 15-80, 15-160] would be subject to taxation. If a multi-township assessor also served as a trustee of a village within an assessed township, he or she would be in the untenable position of determining whether village property was subject to taxation, and of assessing taxable property which belonged to the village. Under these circumstances, it must be concluded that one person could not, in every instance, properly and faithfully perform all of the duties of each office. Ill. Att'y Gen. Op. No. 93-008 at 3-4.

The same analysis is applicable to the offices of township assessor and township trustee. If the township assessor also served as a trustee of the township which he or she is charged with assessing, then the dual officeholder could be placed in the untenable position of being required to determine taxability and assess the value of property belonging to the township, while also being obligated to levy taxes on the property and to allocate township funds to pay its share of the taxes, the amount of which is directly derived from the assessment.

²The term "taxing district" is defined in the Property Tax Code as "[a]ny unit of local government, school district or community college district with the power to levy taxes." 35 ILCS 200/1-150 (West 2010). However, the term "unit of local government" is not defined in the Property Tax Code. Accordingly, it must be ascribed the meaning established for it in the Illinois Constitution of 1970. 5 ILCS 70/1.28 (West 2010); *see also Du Page Aviation Corp., Flight Services, Inc. v. Du Page Airport Authority*, 229 Ill. App. 3d 793, 802 (1992), *appeal denied*, 146 Ill. 2d 625 (1992). Under the Constitution, "units of local government" include, among other things, townships. Ill. Const. 1970, art. VII, §1. As noted previously, townships possess the authority to levy taxes for general corporate purposes. 60 ILCS 1/80-40 (West 2010).

Similarly, under section 16-25 of the Property Tax Code (35 ILCS 200/16-25 (West 2010)), "[a]ny taxing body that has an interest in an assessment made by any local assessment officer³ * * * may have the assessment reviewed by the board of review by" filing a written complaint with the board as specified by statute. Section 16-25 authorizes the board of township trustees to file a complaint requesting the review of the township assessor's assessment of the township's property. A township assessor who also served as a township trustee would be required to review and challenge the validity of his or her own assessment in order to support the filing of a complaint.

A township assessor and a township trustee are both obligated to carry out their duties as such with undivided loyalty. *See* 35 ILCS 200/4-30 (West 2010); 60 ILCS 1/55-10 (West 2010); Ill. Const. 1970, art. XIII, §3. Given the potentially conflicting duties referenced above, one person could not, in every instance, properly and faithfully discharge all of the duties of each office. *See generally* 1979 Ill. Att'y Gen. Op. 121 (concluding that the offices of township trustee and county board of review member are incompatible because a board of review member would have to review an assessment of which he, as a township trustee, complained). Therefore, the offices are incompatible.

CONCLUSION

Because of potential conflicts in duties, one person could not properly, fully, and faithfully perform his or her duties as both a township assessor and township trustee of the same township. Consequently, the offices are incompatible and a township assessor may not serve simultaneously as a township trustee.

This is not an official opinion of the Attorney General. If we may be of further assistance, please advise.


Very truly yours,


LYNN E. PATTON
Senior Assistant Attorney General
Chief, Public Access and Opinions Division

LEP:ERV:cj

³As used in the Property Tax Code (35 ILCS 200/1-1 *et seq.* (West 2010)), the term "local assessment officer" includes township assessors and multi-township assessors. 35 ILCS 200/1-85 (West 2010).



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

June 21, 1995

Jim Ryan
ATTORNEY GENERAL

I - 95-021

GOVERNMENTAL ETHICS AND
CONFLICT OF INTEREST:
Member of Township Board
as Cemetery Trustee

Mr. A. L. Zimmer
General Counsel
State Board of Elections
1020 South Spring
Post Office Box 4187
Springfield, Illinois 62708

Honorable Ted J. Hamer
State's Attorney, Henry County
100 South Main Street
Cambridge, Illinois 61238

Gentlemen:

I have your letters wherein you inquire, respectively, whether a township supervisor or a township trustee may simultaneously serve as a township cemetery trustee. Because of the nature of your inquiries, I do not believe that the issuance of an official opinion is necessary. I will, however, comment informally upon the questions you have raised.

Offices are deemed to be incompatible when a statute or the constitution prohibits the holder of one office from holding the other, or where the duties of either office are such that the holder of the one office cannot fully and faithfully perform all of the duties of the other office. (People ex rel. Myers v. Haas (1908), 145 Ill. App: 283.) One person may not hold two incompatible offices simultaneously.

Mr. A. L. Zimmer
Honorable Ted J. Hamer - 2.

Section 2a of the Public Officer Prohibited Activities Act (50 ILCS 105/2a (West 1992)) provides:

"Township supervisors and trustees. No township supervisor or trustee, during the term of office for which he or she is elected, may accept, be appointed to, or hold any office by the appointment of the board of township trustees unless he or she first resigns from the office of supervisor or trustee or unless the appointment is specifically authorized by law. A supervisor or trustee may, however, serve as a volunteer fireman and receive compensation for that service. Any appointment in violation of this Section is void."

There are various statutory provisions relating to the appointment of township cemetery trustees, which provide alternative methods for their selection. However, the information which you have provided indicates that the cemetery trustees in question were, in each case, appointed by the township board of trustees.

Section 1 of the Public Graveyards Act (50 ILCS 610/1 (West 1992)) provides for the appointment of three cemetery trustees by the township board of trustees. Such trustees serve staggered six year terms, with one trustee being appointed in each odd numbered year. Section 1c of the Public Graveyards Act (50 ILCS 610/1c (West 1993 Supp.)) authorizes the cemetery trustees, after referendum approval, to levy a tax for cemetery purposes.

Because trustees appointed pursuant to the Public Graveyards Act are appointed by the township board of trustees, section 2a of the Public Officer Prohibited Activities Act will clearly apply to the appointment of a supervisor or township trustee to the cemetery board. Section 2a provides that neither the township supervisor nor a township trustee may accept such an appointment without first resigning from his office. Therefore, in these circumstances, the offices of township cemetery trustee and either township supervisor or township trustee are rendered incompatible by statute, and an appointment made in violation of the section would be void.

Section 2a of the Public Officer Prohibited Activities Act does not, however, address circumstances in which a person

Mr. A. L. Zimmer
Honorable Ted J. Hamer - 3.

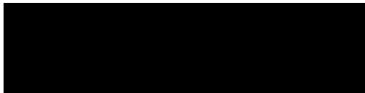
serving as a cemetery trustee is subsequently elected or appointed to the township board. In those circumstances, unless the duties of the two offices conflict, it may be possible for one person to hold both offices until the end of his or her term as cemetery trustee.

Cemetery trustees are responsible for levying a tax and for receiving and administering funds for the construction, care and maintenance of cemeteries owned by the township. The fiduciary duty of the cemetery trustees, like that of the township board of trustees, is to the people of the township, not to any other entity. Nonetheless, the cemetery board is independent of the township board and does not operate as a subordinate body. The township board does not approve the budget of the cemetery board, and the funds managed by the cemetery board are generally derived from separate sources. Therefore, it appears that the duties of cemetery trustee and township trustee are not necessarily antagonistic, and will not render the two offices incompatible, except when the cemetery trustee is appointed by the township board of which he is a member.

This analysis is limited to instances in which cemetery trustees are appointed by the township board. In townships in which cemetery trustees are otherwise selected, a different conclusion may appertain.

This is not an official opinion of the Attorney General. If we may be of further assistance, please advise.

Sincerely,


MICHAEL J. LUKE
Senior Assistant Attorney General
Acting Chief, Opinions Bureau

MJL:KJS:cj



ROLAND W. BURRIS

ATTORNEY GENERAL
STATE OF ILLINOIS



March 5, 1992

I-92-017

TOWNSHIPS:

Resignation of Township
Trustee to Become
Township Clerk

Honorable Larry S. Vandernick
State's Attorney, Henry County
100 South Main Street
Cambridge, Illinois 61238

Dear Mr. Vandernick:

I have your letter wherein you inquire whether a township trustee may resign from office in order to accept an appointment as township clerk. Because of the nature of your inquiry, I do not believe that the issuance of an official opinion is necessary. I will, however, comment informally upon the question you have raised.

Section 2a of the Public Officer Prohibited Activities Act (Ill. Rev. Stat. 1989, ch. 102, par. 2a) provided, prior to January 1, 1992:

"No township supervisor or trustee, during the term of office for which he was elected, may accept, be appointed to or hold any office by the appointment of the board of township trustees unless such appointment is specifically

authorized by law. However, the supervisor or trustee may serve as a volunteer fireman and receive compensation for such service. Any appointment in violation of this Section is void." (Emphasis added.)

Under the language quoted above, a township trustee was prohibited from accepting, during his or her term of office, an appointment made by the board of township trustees, unless specifically authorized to hold the second office by law. Although the phrase "term of office" is not defined in the Act, a statutory term which is not defined must be given its ordinary and popularly understood meaning. (Williams v. The Illinois State Scholarship Commission (1990), 139 Ill. 2d 24, 50.) It is well established in Illinois that the phrase "term of office" refers to the fixed period of time designated by the constitution or by statute during which an office may be held by an individual, rather than the period of time during which such office is actually held. People ex rel. Sullivan v. Powell (1966), 35 Ill. 2d 19, 22; People ex rel. Holdom v. Switzer (1917), 280 Ill. 436, 444-445; 1975 Ill. Att'y Gen. Op. 89, 90.

Based upon the foregoing, it appears that a township trustee was, prior to January 1, 1992, prohibited from accepting an appointment made by the board of township trustees during for the four year period in which he or she was entitled serve as township trustee (see Ill. Rev. Stat. 1989, ch. 46, par. 2A-33), if the authority to make the appointment to the second office was vested in the board of township trustees. Therefore, a resignation from the office of township trustee did not terminate the term of office for which the trustee had been elected, but rather terminated only the term of the person holding the office. Consequently, an individual could not lawfully resign from the office of township trustee to accept an appointment as township clerk.

Public Act 87-350, effective January 1, 1992, however, amended section 2a of the Public Officers Prohibited Activities Act to provide:

"Township supervisors and trustees. No township supervisor or trustee, during the term of office for which he or she is elected, may accept; be appointed to, or hold any office by the appointment of the board of township trustees unless he or she first resigns from the office of supervisor or trustee or unless the appointment is specifically authorized by law. A supervisor

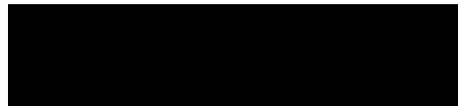
Honorable Larry S. Vandersnick - 3.

or trustee may, however, serve as a volunteer fireman and receive compensation for that service. Any appointment in violation of this Section is void." (Emphasis added.)

Under the plain language of Section 2a, as amended, a township supervisor or trustee may now be appointed to another office by the board of township trustees if he or she first resigns from his or her respective position.

This is not an official opinion of the Attorney General. If we may be of further assistance, please advise.

Very truly yours,

A solid black rectangular redaction box covering the signature of Michael J. Luke.

MICHAEL J. LUKE
Senior Assistant Attorney General
Chief, Opinions Division



NEIL F. HARTIGAN
ATTORNEY GENERAL
STATE OF ILLINOIS
SPRINGFIELD
62706

August 9, 1989

I - 89-043

COMPATIBILITY OF OFFICES:
Township Trustee and Fire
Protection District Trustee
or Village Trustee

Honorable Gordon Lustfeldt
State's Attorney, Iroquois County
Iroquois County Courthouse
Watseka, Illinois 60970

Dear Mr. Lustfeldt:

I have your letter wherein you inquire whether the offices of village trustee and township trustee, and the offices of fire protection district trustee and township trustee, are incompatible. Because of the nature of your inquiry, I do not believe that an official opinion of the Attorney General is required. I will, therefore, comment informally upon the question you have raised.

As laid down in the case of People ex rel. Myers v. Haas (1908), 145 Ill. App. 283, the common law rule is that two offices are incompatible where either the constitution or a statute specifically prohibits the occupant of either office from holding the other, or where, because of the duties of either office, a conflict of interest may arise or the holder

of one office cannot, in every instance, properly and faithfully perform all of the duties of the other. Applying this rule, Attorney General Scott advised in opinion No. NP-962, issued September 24, 1975, that the offices of township supervisor and township auditor (now township trustee) were incompatible with the office of city commissioner because of the conflict of duties that could arise from the exercise of the broad powers of the township board of trustees and the city council to contract with each other for the provision of a wide range of services to their residents. The dual officeholder would not be able to represent both units of government fully and fairly where, for example, a service is to be provided pursuant to a contract between the city and the township.

Like the city council in the commission form of government, the village board of trustees serves as the corporate authorities for the village (Ill. Rev. Stat. 1987, ch. 24, par. 1-1-2(2)). As such, the village board may contract with any township in the county within which the village is located to furnish police protection outside of the village. (Ill. Rev. Stat. 1987, ch. 24, par. 1-1-7.) The village and the township within which the village lies also have the power to contract with each other for the construction of such public improvements as bridges, subways, elevated ways, viaducts and roadway improvements. (Ill. Rev. Stat. 1987, ch. 24, par. 1-1-85-1.) In addition, the village board may authorize contracts to perform governmental services with townships (Ill. Rev. Stat. 1987, ch. 127, pars. 745, 742) and may exercise its powers jointly with townships and other units of local government (Ill. Rev. Stat. 1987, ch. 24, par. 1-1-5; ch. 127, pars. 743, 742). The board of town trustees is specifically authorized to enter into contracts with municipalities for the establishment or maintenance of youth service bureaus (Ill. Rev. Stat. 1987, ch. 139, par. 126.13) and to contract with any other governmental entity for the provision of a wide range of services, including public safety, environmental prosecution, public transportation, health, recreation, library and social services, to township residents (Ill. Rev. Stat. 1987, ch. 139, par. 126.10). The town board may also be authorized by the town electors to contract with municipalities or the county for the provision of police protection in areas of the township not located within the incorporated area of a municipality having a regular police department (Ill. Rev. Stat. 1987, ch. 139, par. 39.29) or in unincorporated areas of the township (Ill. Rev. Stat. 1987, ch. 139, par. 39.30). Townships are also authorized to construct or purchase and to operate waterworks and sewerage systems and may extend and improve such systems to serve a municipality which is located in the township and which does not own or operate its own waterworks or sewerage system. (Ill. Rev. Stat. 1987, ch. 139, pars. 160.32, 160.40.) A township that

Honorable Gordon Lustfeldt - 3.

chooses to operate a waterworks system may contract with municipalities for a supply of water for the township's system. (Ill. Rev. Stat. 1987, ch. 135, par. 160.41.)

It appears, therefore, that the reasoning of opinion No. NP-962 is also applicable to the offices of village trustee and township trustee, and that these offices are incompatible. I have enclosed a copy of opinion No. NP-962 for your reference.

In opinion No. UP-946, issued June 6, 1963, Attorney General Clark advised that the offices of fire protection district trustee and township auditor (township trustee) were not incompatible. He found no constitutional or statutory provision declaring the offices to be incompatible, and examination of pertinent statutory provisions revealed no conflict of interest between the duties of these offices. The reasoning of that opinion still appears to be valid. Consequently, it appears that one person would not be prohibited from simultaneously holding the offices of fire protection district trustee and township trustee.

This is not an official opinion of the Attorney General. If we may be of further assistance, please advise.

Very truly yours,

MICHAEL J. LUKE
Senior Assistant Attorney General
Chief, Opinions Division

Enclosure