

Q Does the Open Meetings Act (OMA) prohibit voting by secret ballot?

Yes. The OMA states that "all decisions of a public body shall be made at a meeting open to the public" (MCL 15.263).

Attorney General Opinion (AG) 5262 states that the Legislature clearly intended a vote to be open to the public: "The Open Meetings Act prohibits a voting procedure at a public meeting which prevents citizens from knowing how members of the public body have voted." Township bodies cannot vote by paper ballot or other secret ballot.

Q Can a deputy vote?

No. According to MCLs 41.61, 41.69 and 41.77, a deputy supervisor, clerk or treasurer possesses the powers and performs the duties of the office, "except the deputy shall not have a vote on the township board."

Q Does the supervisor vote?

As a member of the township board, the supervisor should vote on all issues for which a vote is required unless there is a conflict of interest or a proper legal reason for abstaining.

The Charter Township Act also states that, "As a member of the township board, the supervisor shall be the presiding and executive officer of the board and shall have an equal voice and vote in the proceedings of the board" (MCL 42.5).

Some parliamentary procedures may call for a moderator to refrain from voting, vote only to break a tie or vote last, but these rules do not apply to a township supervisor (or the chairperson of any other township voting body).

Q One of our general law township board members frequently refuses to vote. He doesn't have a conflict

of interest; he just avoids voting.

Are board members required to vote?

Yes. Based on case law and Attorney General opinions, it is MTA Legal Counsel's opinion that a township board member has a general duty to vote on motions before the board when he or she is present at a meeting. A township board member who abstains from voting on an issue, unless there is a conflict of interest, is committing a breach of duty. Township board members should consider voting at a township board meeting a duty of office.

Q Can township board members abstain from voting?

Yes, under certain circumstances, such as a conflict of interest. A legal conflict of interest is a financial or contractual interest in a matter before the board. A resigning township board member may not vote to appoint his or her successor. A charter township board member may also abstain from voting on an appointment to fill a vacancy for which he or she wishes to be considered.

For charter townships, MCL 42.7 says, "A member of the township board who is recorded as present shall vote on all questions decided by the board unless excused by the unanimous consent of the other board members present."

Q How many votes are required to pass a motion at a township board meeting?

It depends on the specific issue. If no state law governs the issue you are voting on, a majority vote by a quorum of members is sufficient, according to AG Opinion 5238.

Q When must an action be approved by more than a majority vote by a quorum of members?

Various statutes require a majority vote of the township board membership. For example, a majority vote of the township board membership is required to set the date of the annual meeting (MCL 41.8); buy, sell or lease property (MCL 41.2 and other statutes authorizing purchase or sale of property/equipment); adopt or amend a non-zoning ordinance (MCL 41.181) or a zoning ordinance (MCLs 125.272, 125.281, 125.285); or approve a 425 Agreement (MCL 124.24).

A two-thirds vote of board membership is required to go into closed session for specific purposes outlined by the OMA (MCL 15.267) or to reject the recommendation of a compensation commission (MCLs 41.95 and 42.6a).

A majority of the planning commission membership is required to adopt a master plan (MCLs 125.326 and 125.328). A concurring vote of a majority of the zoning board of appeals membership is required to reverse a zoning action or to grant an approval or variance (MCL 125.290).

This is not an exhaustive list; other statutes may require majority or two-thirds votes. The township board or other voting body should consult their statutes and their township attorney when in doubt. ■

Hello, MTA...? provides general information on typical questions asked by township officials. Answers are based on a review of MTA Legal Counsel's response to similar member inquiries. Readers are encouraged to contact their township attorney for advice specific to their situation.