

OPINION NO. 76-071

Syllabus:

1. A board of township trustees is not required by R.C. Chapter 511 to establish a township park district and a board of park commissioners as a prerequisite to the development of a park on its own initiative, either unilaterally pursuant to R.C. 505.26 or R.C. 755.12 or by joint action with one or more other subdivisions pursuant to R.C. 755.16.

2. A school district or other subdivision enumerated in R.C. 755.16 may join with one or more other such subdivisions in any combination in a joint effort to establish a park or recreational facility. In the event of such joint action R.C. Sections 755.12 through 755.18 govern the operation of the recreational facilities.

To: James R. Unger, Stark County Pros. Atty., Canton, Ohio
By: William J. Brown, Attorney General, October 28, 1976

I have before me your request for my opinion concerning the authority of a board of township trustees to establish parks and recreation facilities. Specifically you have asked whether provisions in R.C. Chapter 511 require the establishment of a board of park commissioners as a prerequisite to the development of a park, either by the township trustees unilaterally or by joint action of the township and one or more other subdivisions.

In addition you have asked whether a school district, which encompasses the area of two or more townships, may pursuant to provisions in R.C. Chapter 755 join with one of those townships in establishing a joint recreational board. Finally, you have asked whether R.C. Chapter 511 or R.C. Chapter 755 governs the operation of recreational facilities, which a board of township trustees has determined to develop by joint action with other subdivisions.

R.C. 505.26 gives boards of township trustees general power to establish township parks and to acquire lands and buildings for recreational purposes. That Section reads:

"The board of township trustees may purchase, appropriate, construct, enlarge, improve, rebuild, repair, furnish, and equip a township hall, a township park, and bridges and viaducts over streets, streams, railroads, or other places where an overhead roadway or footway is necessary, and such board may acquire sites by lease or otherwise for any of such improvements, including lands and buildings for recreational purposes."

With respect to the creation of a township park district and a board of park commissioners, R.C. 511.18 provides:

"When any number of electors in a township, including the electors of all municipal corporations therein, equal to or exceeding one tenth of the total vote cast in such township at the general election next preceding, files a petition with the board of township trustees for proceedings to organize a park district and to establish one or more free public parks within such township, the board shall certify such fact to the court of common pleas of the county, which court, or a judge thereof, shall appoint a board of park commissioners for the township."

It appears then that the establishment of a board of park commissioners is not a prerequisite to the development of park facilities by the board of township trustees. Only where, pursuant to R.C. 511.18, a petition is filed with the board of township trustees to organize a park district does R.C. Chapter 511 require the appointment of a board of park commissioners. Absent this procedure, a board of trustees, acting within the scope of its statutory power, may establish recreational facilities without there first being a board of park commissioners. Similarly, R.C. 755.12, to which you refer, provides:

"The legislative authority of a municipal corporation, the board of township trustees, or the board of county commissioners of any county may designate and set apart for use as playgrounds, playfields, gymnasiums, public baths, swimming pools, or indoor recreation centers, any lands or buildings owned by any such municipal corporation, township, or county and not dedicated or devoted to other public use. Such municipal corporations, township, or

county may, in the manner provided by law for the acquisition of land or buildings for public purposes in such municipal corporations, townships, or county, acquire lands or buildings therein for such use." (Emphasis added.)

As to joint action by a school district and a township or other political subdivision, R.C. 755.16 reads in pertinent part:

"(A) Any municipal corporation, township township park district, county, or school district may, jointly with any one or more other municipal corporations, townships, township park districts, counties, or school districts, in any combination, acquire property for and operate and maintain any park, playgrounds, playfields, gymnasiums, public baths, swimming pools, or indoor recreation centers, and any school district may provide by the erection of any school building or school premises, or the enlargement, addition thereto, or reconstruction or improvement thereof, for the inclusion of any such parks and recreational facilities to be jointly acquired, operated, and maintained. Any municipal corporation, township, township park district, county, or school district may join with any one or more other municipal corporations, townships, township park districts, counties, or school districts, in any combination, in equipping, operating, and maintaining such parks and recreational facilities, and may appropriate money therefor." (Emphasis added.)

Under R.C. 755.14, whenever such subdivisions have determined to take joint action pursuant to R.C. 755.16, they may establish a joint recreation board for the purpose of exercising the powers and responsibilities of the local authorities under those sections.

The clear import of these sections then is that the General Assembly has intended to authorize joint action by "any combination" of the above enumerated subdivisions, in addition to unilateral action authorized by R.C. 755.12, *supra*. Furthermore, the establishment of a joint recreational board is made a matter subject to the discretion of the participating subdivisions.

Finally, with respect to the operation of recreational facilities, which are developed pursuant to R.C. 755.12, *et seq*, R.C. 755.13 is in point. It states that:

"The authority to supervise and maintain playgrounds, playfields, gymnasiums, public baths, swimming pools, or indoor recreation centers, may be vested in any existing body or board, or in a recreation board, as the legislative authority of the municipal corporation, the board of township trustees, or the board of county commissioners determines. The local authorities of any such municipal corporation, township, or county may equip, operate, and maintain such facilities as authorized by sections 755.12 to 755.18, inclusive, of the Revised Code. Such local

authorities may, for the purpose of carrying out such sections, employ play leaders, recreation directors, supervisors, superintendents, or any other officers or employees."

It follows from the above that R.C. Sections 755.12 through 755.18 establish guidelines for the operation of joint recreational facilities created pursuant to R.C. 755.16.

In specific answer to your question then it is my opinion and you are so advised that:

1. A board of township trustees is not required by R.C. Chapter 511 to establish a township park district and a board of park commissioners as a prerequisite to the development of a park on its own initiative, either unilaterally pursuant to R.C. 505.26 or R.C. 755.12 or by joint action with one or more other subdivisions pursuant to R.C. 755.16.

2. A school district or other subdivision enumerated in R.C. 755.16 may join with one or more other such subdivisions in any combination in a joint effort to establish a park or recreational facility. In the event of such joint action R.C. Sections 755.12 through 755.18 govern the operation of the recreational facilities.