

**Note from the Attorney General's Office:**

1957 Op. Att'y Gen. No. 57-1052 was modified by 1999  
Op. Att'y Gen. No. 99-035.

1052

TOWNSHIP ZONING COMMISSION — MEMBER MAY SERVE AS SECRETARY—NO COMPENSATION FOR SERVICES RENDERED AS SECRETARY.

SYLLABUS:

Although a member of the township zoning commission may properly serve as the secretary of such commission he may not be compensated for his services rendered in his capacity as secretary.

Columbus, Ohio. September 20, 1957

Hon. James W. Dinsmore, Prosecuting Attorney  
Geauga County, Chardon, Ohio

Dear Sir:

I have before me your request for my opinion which reads as follows:

“Our office would appreciate an informal opinion as to whether a member of the Township Zoning Commission appointed pursuant to Section 519.04 R.C.O. may serve as the secretary for the Zoning Commission.

“In the event that the commissioner may serve in the capacity of secretary, may he be compensated for that service, providing funds have been appropriated by the board of trustees for the purpose of paying for such service.”

Section 519.04, Revised Code, to which you refer, provides for the creation of a five member township zoning commission by the township board of trustees. Section 519.05, Revised Code, provides that the members of the township zoning commission shall serve without compensation, and that they may employ such executive and clerical assistants as they deem necessary. In addition, this section provides as follows :

\* \* \* “The zoning commission shall organize, adopt rules for the transaction of its business, and keep a record of its actions and determinations. \* \* \*

While neither of the above sections specifically refers to the office of secretary, a subsequent section does so, to-wit: Section 519.16, Revised Code, which provides that the township clerk may be appointed secretary of the township zoning commission, and may be compensated therefor in addition to other compensation allowed to him by law.

With regard to your first question, I see no reason why one of the commissioners may not serve as secretary of the commission. The additional services or duties performed by the commissioner would be a mere *ex-officio* extension of his statutory duties as an incumbent commissioner. These mere additional duties are germane to his office and, therefore, give rise to no problem of incompatibility of offices. The election by the commission of a secretary from the membership of the commission, would be a proper exercise of the mandatory duty to organize and keep a record of commission actions and determinations.

Turning to your second question, it is my opinion that a commissioner serving as secretary may not be compensated for the latter service, for the reason that to do so would contravene public policy. At page 322 of the Opinions of the Attorney General of Ohio for 1910, one of my predecessors was asked whether a member of the Civil Service Commission could legally act as clerk of the commission and receive a salary as clerk. In answering this query in the negative, the controlling principle was enunciated as follows :

\* \* \* “there is a general principle of public policy that, unless specifically authorized by law, a member of an administrative

board may not be appointed by it to a salaried position under its authority.”

This same principle has been applied consistently by my predecessors and also may be found in 42 American Jurisprudence, Section 97, at page 955; 67 Corpus Juris Secundum, Section 20, at page 130; and McQuillin on Municipal Corporations, 3rd Edition, Volume 3, Section 12.75, at page 289.

In the absence of express statutory authorization in the instant case, I must conclude that although a member of the township zoning commission may properly serve as the secretary of such commission he may not be compensated for his services rendered in his capacity as secretary.

Respectfully,  
WILLIAM SAXBE  
Attorney General