

OPINION NO. 66-062**Syllabus:**

1. The "local authorities" referred to in Section 755.14, Revised Code, are the Director of Public Service and the Board of Park Commissioners.
2. The municipal recreation board has the power to equip, operate and maintain recreational facilities, that power being comparable to that previously held by the Director of Public Services and the Board of Park Commissioners.
3. The municipal recreation board may employ play leaders, recreation directors, supervisors, superintendents, or any other officers or employees pursuant to Section 755.13, Revised Code.
4. It is within the power of a municipal recreation board to appoint the play leaders, recreation directors, supervisors, superintendents, or other officers or employees, but the amount of compensation for these employees must be determined by the legislative authority of the municipality, and the payment of these expenses must be pursuant to Section 755.18, Revised Code.

To: John T. Corrigan, Cuyahoga County Pros. Atty., Cleveland, Ohio
By: William B. Saxbe, Attorney General, March 23, 1966

I have received the following request for an opinion:

"A non-charter municipality has adopted an ordinance creating a City Recreation Board. This ordinance in part provides that the board shall possess all the powers and be subject to all the responsibilities of the respective local authorities under sections 755.12 to 755.18, inclusive, of the Revised Code. I respectfully ask your opinion as to the following questions:

"(1) What are the powers and duties of such a board as created under and pursuant to the said sections of the Code and who or what are 'local authorities' as described in said sections and what are the powers and duties of such local authorities as regards recreation in a municipality?

"(2) In Revised Code 755.13 we find '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'.

"Are the local authorities as described therein the City Recreation Board, and if so, does this paragraph give said Board the power to appoint play leaders, recreation directors, supervisors, superintendents, or any other officers or employees?

"(3) Must the Council of the City create the positions as described in said paragraph and set the compensation for same, and is such compensation to be paid from the monies appropriated by said Council for recreation purposes?"

Section 755.13, Revised Code, provides the following:

"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."

Section 755.14, Revised Code, reads in part as follows:

"If the legislative authority of a municipal corporation determines that the power to equip, operate and maintain playgrounds, playfields, gymnasiums, public baths, swimming pools, or recreation centers shall be exercised by a recreation board, it may establish such a board, which shall possess all the powers and be subject to all the responsibilities of the respective local authorities under Sections 755.12 to 755.18, inclusive, of the Revised Code.
* * *"
(Emphasis added)

According to the above sections, the powers and duties of such a recreation board are the same as those possessed by the local authorities under Sections 755.12 to 755.18, Revised Code. The term "local authorities" in this context has been interpreted as referring to the Director of Public Service and the Board of Park Commissioners. Opinion No. 3859, Opinions of the Attorney General for 1922, at page 1084, contained an interpretation of Section 4065-3, General Code, which is now Section 755.14, supra:

"While it is not altogether clear as to just what powers are vested in the said recreation board by the above phraseology (Section 4065-3, General Code) or as to the meaning of the term 'local authorities' as used therein, it is believed, however, that the intention of the statute is to transfer the powers and duties of the local authorities previously supervising such matters as playgrounds, etc., to the board of recreation provided by Section 4065-3, General Code. That is to say that relative to such matters, the board of recreation was to have the same supervisory control over said playgrounds, etc., as that exercised by the director of public service under Section 4325, General Code, and the board of park commissioners under Section 4057, General Code, and to possess the same powers and duties relative to the subject of playgrounds as those local authorities."
(Emphasis added)

The powers and duties of the Director of Public Service are now set forth in Section 735.02, Revised Code, which reads in part as follows:

"The director of public service shall manage and supervise all public works and undertakings of the city, except as otherwise provided by law.

"The director shall supervise the improvement and repair of...playgrounds..., the lighting, sprinkling and cleaning of public places...

"The director shall manage municipal ...playgrounds...."

Section 755.05, Revised Code, replaced Section 4057, General Code, and provides the following:

"The board of park commissioners shall have the control and management of...children's playgrounds,...of all improvements thereon, and the acquisition, construction, repair, and maintenance thereof. The board shall exercise exclusively all the powers and perform all the duties, in regard to such property, rested in and imposed upon the director of public service."

In answer to your first question, the "local authorities" referred to in Section 755.14, supra, are the Director of Public Service and the Board of Park Commissioners. The power of the recreation board to "equip, operate, and maintain such facilities", set out in Section 755.14, supra, is comparable to the powers held by the Director of Public Services and the Board of Park Commissioners. The recreation board does not have the power to issue bonds since Section 755.17, Revised Code, gives that power to the legislative authority of the municipal corporation, and also because neither the Director of Public Service nor the Board of Park Commissioners are authorized to issue bonds.

The power to "employ play leaders, recreation directors, supervisors, superintendents, or any other officers or employees" is also given the "local authorities" by Section 755.13, supra. Since the members of the recreation board have the same powers as those previously held by the local authorities, the recreation board may employ such assistants as are set out in Section 755.13, supra.

In reference to your third question, your attention is directed to Opinion No. 803, Opinions of the Attorney General for 1951, page 563. The second paragraph of the syllabus to that opinion states the following:

"A recreation board appointed pursuant to Section 4065-3 of the General Code, may appoint the officers and employees named in Section 4065-2, General Code, but is without power to fix the compensation of such officers and employees; such compensation must be fixed by the municipal council."

Thus, it is within the power of the recreation board of a municipality to appoint the assistants named in Section 755.13, supra, but the amount of compensation for these employees must be determined by the legislative authority of the municipality. The payment of these expenses by the municipal council will be pursuant to Section 755.18, supra, which provides the following:

"All expenses incurred in the operation of playgrounds, playfields, gymnasiums, swimming pools, public baths, and indoor recreation centers, established as provided by Sections 755.12 to 755.17, inclusive, of the Revised Code, shall be payable from the treasury of the municipal

corporation, township, county, or school district. The local authorities of such municipal corporation, county, township, or school district, having power to appropriate money therein, may annually appropriate and cause to be raised by taxation an amount for the purpose of maintaining and operating such recreational facilities."

Therefore, it is my opinion, and you are hereby advised that:

1. The "local authorities" referred to in Section 755.14, Revised Code, are the Director of Public Service and the Board of Park Commissioners.
2. The municipal recreation board has the power to equip, operate and maintain recreational facilities, that power being comparable to that previously held by the Director of Public Services and the Board of Park Commissioners.
3. The municipal recreation board may employ play leaders, recreation directors, supervisors, superintendents, or any other officers or employees pursuant to Section 755.13, Revised Code.
4. It is within the power of a municipal recreation board to appoint the play leaders, recreation directors, supervisors, superintendents, or other officers or employees, but the amount of compensation for these employees must be determined by the legislative authority of the municipality, and the payment of these expenses must be pursuant to Section 755.18, Revised Code.