

**OPINION
69-509**

April 8, 1969 (OPINION)

Mr. John A. Alphson

State's Attorney

Grand Forks County

RE: Townships - Elections Called at Annual Meetings - Part of

Annual Meeting

This is in response to your letter in which you state the following:

Union Township had their annual meeting by resolution of the taxpayers and called for a special election to be held by April 15, 1969. I was wondering if in your opinion, this could not be considered a continuing annual meeting, inasmuch as the resolution calling for a special election was done at the annual meeting of the township by the electors present. Your opinion would be gratefully appreciated as soon as possible."

The authority to levy the five mill tax is contained in section 57-15-19.4. It is clear that this section authorizes the electors of a township to levy up to five mills on taxable property in the township at the annual meeting. In this instance the electors took action by calling a special election. The electors have, in fact, decided that the question whether or not the five mill levy is to be imposed should be left to all of the eligible electors of the township. The election is a direct result of the action taken at the annual meeting. It should be observed that section 57-15-19.4 does not state or provide that the decision must be made final at the annual meeting.

We would observe that the holding of the election is a direct result of the action taken at the annual meeting and is not in the nature of a special meeting. The annual meeting actually implemented the method whereby the question would be resolved. The electors used the special election method to determine whether or not the five mill levy should be imposed. This action was taken at the annual meeting.

We are assuming that the electors present at the annual meeting adopted a resolution calling for a special election to be held on April 15, 1969, at which time the question of the five mill levy would be voted upon. Such action comes within the purview of the powers granted to the electors of a township which may be exercised at the annual meeting.

It is therefore our opinion that where the electors of a township at an annual meeting adopted a resolution to call a special election on the question whether or not a five mill levy for road purposes as authorized, be imposed, constitutes action taken at the annual meeting. If the special election held thereon approves the five mill levy, such levy would be legal. The procedures would constitute

substantial compliance with section 57-15-19.4. A copy of the opinion dated March 25, 1969, addressed to Mr. Calvin Rolfson, to which reference has been made in your letter, is enclosed.

HELGI JOHANNESON

Attorney General