

OPINION
64-267

January 13, 1964 (OPINION)

TOWNSHIPS

RE: Board of Supervisors - Authority

This is in reply to your recent request for an opinion on the following question.

Can the township officers authorize a board of county commissioners to represent them in dealings relative to the upkeep and maintenance of township roads damaged by contractors in the installation of missile sites?"

We note that the township supervisors are required to appoint a supervisor of highways. The duties of this township supervisor of highways include, among others, the responsibility for the maintenance of township highways and the execution of all lawful orders of the board of township supervisors. Generally speaking the determination as to the amount of money to be expended upon the construction and repair of township highways and the direction of the expenditure of these moneys rests with the township electors. See section 58-03-07 (13, 14) of the North Dakota Century Code. The township supervisors have the authority to manage and control the affairs of the township which are not committed to other township officers and to prosecute any action for trespass committed on any public highway belonging to the township. See section 58-06-01 of the North Dakota Century Code.

We believe the intent of the laws governing townships and township supervisors is to make the township supervisors responsible for the general welfare of township property. This responsibility would include the preservation of township roads. We further believe the township supervisors may authorize other boards or individuals to represent them in matters concerning the preservation of the roads, particularly with regard to damage to the roads.

It is, therefore, our opinion that the township supervisors may authorize the board of county commissioners to represent them in negotiations relative to the upkeep and maintenance of township roads damaged by contractors in the installation of missile sites if the board of county commissioners agrees to accept this responsibility.

It is further our opinion that a motion to this effect duly noted in the minutes of the township board of supervisors and enacted by the township board of supervisors would be sufficient authorization. We believe, however, that such motion should contain a provision that it be forwarded to the appropriate board of county commissioners for action thereon. The action of the county commissioners should also be noted in their minutes.

HELGI JOHANNESON

Attorney General