



**JIM RYAN**

ATTORNEY GENERAL  
STATE OF ILLINOIS



March 7, 1996

FILE NO. 96 -019

TOWNSHIPS:  
Powers of Township Electors  
at Annual and Special Town-  
ship Meetings

Honorable James "Pate" Philip  
Senate President  
327 State Capitol  
Springfield, Illinois 62706

Dear Senator Philip:

I have your letter wherein you inquire regarding the extent of the powers which may be exercised by the electors present at the annual township meeting or at a special township meeting convened in accordance with law. For the reasons hereinafter stated, it is my opinion that the electors of a township may exercise only those powers which have been granted to them by statute, or those powers which are necessarily implied therefrom in order to effectuate the expressly granted powers.

As you are aware, the township form of government in Illinois differs significantly from that of other units of local government. The principal distinction is that the township electors are permitted to act directly upon certain legislative

Senator James "Pate" Philip - 2.

matters, notwithstanding the election of a representative body, the board of trustees of the township, which is generally responsible for the day to day governance of the township. The electors may exercise those powers reserved to them at the annual township meeting, or, where appropriate, at a special township meeting. At such meetings, action may be taken upon the affirmative vote of a majority of the electors present and voting (60 ILCS 1/40-15 (West 1994)). In some circumstances, the township board of trustees can act only upon direction from the electors; in other circumstances, the board has independent authority which may be exercised without the concurrence of the electors.

It is my understanding that your question has been prompted by occurrences at recent township meetings in which actions have been taken by the electors which exceeded the powers specified by law. For example, in one instance the electors purported to specify rules and procedures for the conduct of business by the township board, despite the statutory grant of authority to the board to adopt rules to govern its own meetings. (60 ILCS 1/80-10 (West 1994).) In other instances, electors have attempted to appropriate funds or to transfer funds when no funds were available in the township treasury for those purposes.

Section 30-20 of the Township Code (60 ILCS 1/30-20 (West 1994)) provides that the electors present at the annual township meeting may exercise the powers enumerated in article 30

Senator James "Pate" Philip - 3.

of the Code (60 ILCS 1/30-5 et seq. (West 1994)). The provisions of article 30 address a wide variety of matters pertaining to the governance of the township, including, inter alia, such matters as purchasing property for the use of the township (60 ILCS 1/30-50 (West 1994)), contracting for police protection (60 ILCS 1/30-150, 155 (West 1994)), and promoting the destruction of noxious weeds (60 ILCS 1/30-80 (West 1994)).

Similarly, section 35-5 of the Township Code (60 ILCS 1/35-5 (West 1994)) provides that the electors present at a special town meeting may exercise the powers granted to them under article 35 of the Code. (60 ILCS 1/35-5 et seq. (West 1994)). When a special township meeting is called by the township board, the electors may take any action that may properly be taken at an annual township meeting (60 ILCS 1/35-25 (West 1994)); when called by voters of the township, the electors are limited to taking action upon matters which have been postponed from consideration at an annual meeting or those which are specified in article 35 of the Code.


It is well established that townships, like all other non-home-rule units of local government, have no inherent powers, but only those which are granted to them by the constitution or by statute. (Diversified Computer Service v. Town of York (1982), 104 Ill. App. 3d 852, 857.) Article VII, section 8 of the Illinois Constitution of 1970 provides that townships shall have only the powers granted to them by law. Clearly, the extent

Senator James "Pate" Philip - 4.

of the powers which may be exercised by township electors, and the apportionment of powers between the electors and the township board, is a matter of legislative prerogative (see Hill v. Butler (1982), 107 Ill. App. 3d 721, 725-6), and is necessarily defined by the statutes which constitute grants of such powers. The fact that electors have been delegated the right to act directly upon specified township matters, however, does not mean that the electors have the plenary power to act upon any matter which may in some way relate to the township, or to exercise those powers which the General Assembly has granted to the township board or to other township officers.

It is, therefore, my opinion that the electors of a township, at an annual or special township meeting, may exercise only those powers which the General Assembly has delegated to them by statute, or those implied powers which are essential to the exercise of the powers which have been expressly granted.

Sincerely,

  
JAMES E. RYAN  
Attorney General