

I further find that said amendment to the articles of incorporation of The Mutual Plate Glass Insurance Company of Shelby, Ohio, is not in conflict with the constitution and laws of the State of Ohio or of the United States and the same is hereby accordingly approved.

I return herewith the certificate of amendment of the articles of incorporation of said company, the affidavit of publication of the notice of the holding of the meeting of the policy holders of The Mutual Plate Glass Insurance Company of Shelby, Ohio, which you forwarded to me.

Respectfully,  
 GILBERT BETTMAN,  
*Attorney General.*

2364.

ROAD—CONTINUOUS IN VILLAGE AND TOWNSHIP—TOWNSHIP MAY  
 AGREE TO CONSTRUCT AND MAINTAIN WITHIN VILLAGE—NO  
 SUCH AGREEMENT MAY BE MADE WITH CITY.

**SYLLABUS:**

*A township may by agreement, expend any funds available for road construction, improvement or repair upon roads inside of the village, when such road is a continuation of a road in the township outside of the village. It will be observed, however, that this authority is limited to a village, and therefore does not include a city.*

COLUMBUS, OHIO, September 23, 1930.

HON: HOWARD M. NAZOR, *Prosecuting Attorney, Jefferson, Ohio.*

DEAR SIR:—Acknowledgment is made of your recent communication which reads:

“I respectfully request that you render me your opinion as to whether or not it is a legal possibility for a township to join with a municipality for the improvement of a road passing through the municipality.”

It is a well established principle of law in this State, that in the absence of statutory authority, subdivisions of the State may not properly undertake jointly an enterprise which a subdivision is expressly authorized to undertake in its individual capacity. It has been held that a township and a municipality may not become the joint owner of property. Also it has been held that in the absence of express statutory provisions, a township and a municipality, or two municipalities may not jointly own and operate a fire department. Such decisions have led to the enactment of various statutes which authorize joint action in such matters.

In connection with the construction of roads, there is a separate machinery set up for the improvement of roads by the State, county and township. In many instances, statutes have authorized the county to cooperate with the State and likewise for the county to cooperate with the township.

In connection with the expenditure of the gasoline tax arising from the township under the provisions of Section 5541-8, General Code, the township is authorized to permit such expenditures to be made by the county commissioners. Therefore, in connection with your inquiry, we must look to the statutes to determine whether or not there is any express authority which will authorize a township and a municipality to cooperate in the improvement of roads.

Section 7464 of the General Code, defines what shall constitute State roads, county roads and township roads. The section, among other things, provides that township roads shall include all public highways of the State other than State or county roads. However, it is apparent that said section is dealing with public roads and ways, to the exclusion of municipal streets, which can not be said to be any part of a highway system.

Section 7467, General Code, provides :

“The state, county and township shall each maintain their respective roads as designated in the classification hereinabove set forth ; provided, however, that either the county or township may, by agreement between the county commissioners and township trustees, contribute to the repair and maintenance of the roads under the control of the other. The state, county or township or any two or more of them may by agreement expend any funds available for road construction, improvement or repair upon roads inside of a village or a village may expend any funds available for street improvement (improvement) upon roads outside of the village and leading thereto.”

It will be observed that by the express terms of the last sentence of the section last above quoted, the township may by agreement expend any funds available for road construction, improvement or repair upon roads inside of a village. It will therefore be seen that if the improvement contemplates a road within the village the section expressly authorizes the township to cooperate. Undoubtedly, there may be some difficult questions arise as to what constitutes a road, within the village, as distinguished from that which is regarded as a municipal street. However, from a practical standpoint, it is believed that a discussion of this question is unnecessary at this time. Undoubtedly, a street which is to be regarded as a road, within the meaning of this section, will have to have some connection with a road leading into or through the village, the improvement of which would make the same useful for the public at large, as distinguished from a use purely local within the municipality.

Based upon the foregoing, and in specific answer to your inquiry, it is my opinion that a township may by agreement, expend any funds available for road construction, improvement or repair upon roads inside of the village, when such road is a continuation of a road in the township outside of the village. It will be observed, however, that this authority is limited to a village and therefore does not include a city.

Respectfully,

GILBERT BETTMAN,

*Attorney General.*

2365.

APPROVAL, CONTRACT BETWEEN STATE OF OHIO AND THE MODERN PLUMBING COMPANY OF CLEVELAND, OHIO, FOR PLUMBING WORK IN LAUNDRY BUILDING AT HAWTHORNDEN FARM, CLEVELAND STATE HOSPITAL, CLEVELAND, OHIO, AT AN EXPENDITURE OF \$3,545.00—SURETY BOND EXECUTED BY THE AETNA CASUALTY AND SURETY COMPANY OF HARTFORD, CONNECTICUT.

COLUMBUS, OHIO, September 23, 1930.

HON. ALBERT T. CONNAR; *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—You have submitted for my approval a contract between the State of Ohio, acting by the Department of Public Works, for the Department of Public