

2018

TOWNSHIP: MUNICIPAL CORPORATION — COOPERATIVE CONSTRUCTION OF PUBLIC BUILDING—§§511.05, 511.06, 511.07 R.C.—SUBMISSION TO VOTERS; TWO-THIRDS MAJORITY REQUIRED WHETHER OR NOT TAX TO BE LEVIED TO FINANCE PROJECT.

**SYLLABUS:**

When a township and a village located in said township desire to jointly construct a public building, an application must be made by the freeholders of the township and of the village as provided for in Section 511.05, Revised Code, a vote must be held pursuant to Section 511.06, Revised Code, and a two-thirds majority must be obtained in such election as provided in Section 511.07, Revised Code, in order to authorize such joint action, whether or not a tax is to be levied to cover the cost of such project.

Columbus, Ohio, April 30, 1958

Hon. George E. Schroeder, Prosecuting Attorney  
Putnam County, Ottawa, Ohio

Dear Sir:

I have before me your request for my opinion which reads as follows:

“If a township and a village located in said township desire to jointly construct a building to be used as a fire station, garage, meeting house and voting place the estimated cost of which is \$12,000.00 to be divided equally and to be paid in the case of the township out of funds derived from the sale of the old township house and the balance from the township general fund, can the township do this without submitting this question to a vote of the people in reference to Section 503.23 and 511.05 and 511.07 of the Revised Code of Ohio?”

Prior to 1957, Section 503.23, Revised Code, read as follows:

“The board of township trustees shall fix the place of holding elections within its own township, or within any election precinct in such township. For such purpose the board may purchase or lease a house and suitable grounds, or, by permanent lease or otherwise, may acquire a site and erect thereon a house. If a majority of the electors of such township, or precinct, voting at any general election, vote in favor thereof, the board may purchase a site and erect thereon a town hall for such township or precinct, and levy a tax on the taxable property therein to pay such cost, *which shall not exceed two thousand dollars*. At least thirty days' notice shall be given in at least five of the most public places in the township or precinct, that at such election a vote will be taken for or against a tax for such purpose.” (Emphasis added)

This section was amended effective September 9, 1957, to read:

“The board of township trustees shall fix the place of holding elections within its township, or within any election precinct in such township. For such purpose the board may purchase or lease a house and suitable grounds, or, by permanent lease or otherwise, may acquire a site and erect thereon a house. The board may purchase a site and erect thereon a town hall for such township and pay for the same out of funds in the township treasury, or the board may proceed as provided in sections 511.01 and 511.02 of the Revised Code.”

We may vote that the board of trustees is no longer required to submit to a vote any action taken pursuant to this section; therefore, the proposed action you outline would not be affected by this section.

Section 511.05, Revised Code, reads:

“The electors of a township in which a village is situated, and the electors of such village, may, if the electors of both so determine, unite in the enlargement, improvement, or erection of a public building.

“For such purpose, an application *shall* be made to and filed with the board of township trustees, signed by not less than twenty-five resident freeholders of such township, who are not residents of the village, and an application shall also be made to and filed with the mayor of the village, signed by not less than twenty-five resident freeholders of the village.” (Emphasis added.

The language used in this section is mandatory, and one of my predecessors in office held, in Opinion No. 1829, Opinions of the Attorney General for 1933, p. 1707, that a township and village located in such township *cannot* unite in the erection of a public building without submitting the same to a vote of the electors of both subdivisions, as provided for in Sections 511.06 and 511.07, Revised Code. This is true even though no additional money or new materials are required. See Opinion No. 3701, Opinions of the Attorney General for 1934, p. 1853.

In light of the above, it is my opinion and you are advised that when a township and a village located in said township desire to jointly construct a public building, an application must be made by the freeholders of the township and of the village as provided for in Section 511.05, Revised Code, a vote must be held pursuant to Section 511.06, Revised Code, and a two-thirds majority must be obtained in such election as provided in Section 511.70, Revised Code, in order to authorize such joint action, whether or not a tax is to be levied to cover the cost of such project.

Respectfully,

WILLIAM SAXBE  
Attorney General