

**Opinion No. [29-55]**

March 4, 1929

**BY:** M. A. OTERO, JR., Attorney General

**TO:** Mr. O. R. Tanner, Hagerman, New Mexico.

MUNICIPAL CORPORATIONS -- Vacancy in office of mayor filled by special election.

**OPINION**

I am just in receipt of your favor of the 1st inst. informing me that the Mayor of your town has resigned and that the President of your Board of Trustees has requested you to write me for advice as to whether or not the Board of Trustees continue on for the balance of the unexpired term, which would be about one year until the next town election, with the President of your Board acting as Mayor, or should the Board call a special election and elect a Mayor for the unexpired term.

In reply thereto will state that section 3599 of the Code of 1915 provides that in case of the mayor's death, disability, **resignation** or other vacancy of his office, the city council shall order a special election as soon as practicable to fill the vacancy for the remainder of the term of office, and that meanwhile they may appoint some qualified elector to serve as mayor until such special election.

You, therefore, see from the foregoing that the proper procedure would be for your Board of Trustees to call a special election at the earliest possible moment to elect someone to fill out the unexpired term.