

BEMIDJI CITY COUNCIL
CANVASSING BOARD AND
Work Session Agenda
Monday, February 14, 2022

City Hall
317 4th Street NW
5:30 P.M.



1. CALL TO ORDER CANVASSING BOARD / ROLL CALL
2. APPROVE FEBRUARY 8, 2022 SPECIAL ELECTION RESULTS
3. ADJOURN CANVASSING BOARD
4. RECONVENE AS COUNCIL FOR WORK SESSION
5. LIQUOR STORE REVIEW
6. ADJOURN

**UNOFFICIAL - CITY OF BEMIDJI
CANVASSING BOARD**

SPECIAL ELECTION - FEBRUARY 8, 2022 - COUNCIL MEMBER WARD 5

	FIVE	TOTALS
Registered Voters at: 7 am	1828	1828
Voters Registering Election Day	1	1
Voters Registering Absentee	2	2
TOTAL REGISTERED VOTERS	1831	1831
Number Voting at Polling Place	162	162
Number Voting Absentee	91	91
TOTAL PERSONS VOTING 02/08/2022	253	253
Percentage of Voters Turnout	14%	14%

ABSENTEE - SPECIAL ELECTION

LYNN EATON	51	51
BILL BATCHELDER	31	31
KEVIN CAMPBELL	0	0
MICAIAH GRAHAM	2	2
DON HEINONEN	6	6
Write In	0	0
Over Votes	1	1
Under Votes (blank for this race)	0	0
TOTAL VOTES CAST	91	91

ELECTION DAY - SPECIAL ELECTION

LYNN EATON	83	83
BILL BATCHELDER	60	60
KEVIN CAMPBELL	1	1
MICAIAH GRAHAM	3	3
DON HEINONEN	15	15
Write In	0	0
Over Votes	0	0
Under Votes (blank for this race)	0	0
TOTAL VOTES CAST	162	162

TOTAL - SPECIAL ELECTION - WARD 5

LYNN EATON	134	134
BILL BATCHELDER	91	91
KEVIN CAMPBELL	1	1
MICAIAH GRAHAM	5	5
DON HEINONEN	21	21
Write In	0	0

53.0%

36.0%

0.4%

2.0%

8.3%

0.0%

Over Votes	1	1
Under Votes (blank for this race)	0	0
TOTAL VOTES CAST	253	253

We, the legally constituted city canvassing board, certify that we have herein specified the names of the persons and numbers of votes received by each office voted on at the Special Election held on Tuesday, February 8, 2022.

ATTESTED:

Michelle R. Miller, City Clerk

Section 3.11 AMENDMENT AND REPEAL OF ORDINANCES AND RESOLUTIONS. Every ordinance or resolution repealing all or part of a previous ordinance or resolution shall give the number, if any, and the title of the ordinance or resolution to be repealed in whole or in part. No ordinance or resolution shall be amended by reference to the title alone. Such an amending ordinance or resolution shall set forth in full each section or subdivision to be amended and shall indicate by appropriate type or symbols matter to be omitted or added.

Section 3.12 REVISION AND CODIFICATION OF ORDINANCES. The city may revise, rearrange, and codify its ordinances with such additions and deletions as may be deemed necessary. The ordinance code may be published in book, pamphlet, or continuously revised loose-leaf form. Copies shall be made available by the council at the office of the city clerk for general distribution to the public free or for a reasonable charge. Publication in such a code shall be a sufficient publication of any ordinance provision not previously published if a notice that copies of the codification are available at the office of the city clerk is published in the official newspaper for at least two successive weeks.

CHAPTER 4

NOMINATIONS AND ELECTIONS

Section 4.01 THE REGULAR MUNICIPAL ELECTION. A regular municipal election shall be held on the first Tuesday after the first Monday in November of each even numbered year commencing in 1984 at such place or places as the city council may designate. The city clerk shall give at least two weeks published notice pursuant to Minn. Stat. § 205.16, as the same may be revised, amended or re-codified, of the time and place of holding such election and of the officers to be elected. Failure to give such notice shall not invalidate the election.

Section 4.02 PRIMARY ELECTION. In accordance with Minnesota Stat. § 205.065, as the same may be revised, amended or re-codified from time to time, on the day and month set therein for holding a state primary election, there shall be a primary election for the selection of two nominees for elective office at the regular municipal election, unless only two nominees file for each elective office.

Section 4.03 SPECIAL ELECTIONS. The council may, by resolution, order a special election and provide all means for holding it in accordance with Minn. Stat. §205.10, as the same may be revised, amended or re-codified. The city clerk shall give at least two weeks published notice of a special election. The procedure at such election shall conform as nearly as possible to that prescribed for other city elections.

When a special election is required to fill a vacant office, the special election shall occur on a date established by the City Council per Minn. Stat. §205.10, as the same may be revised, amended or re-codified. A special primary election shall be held if more than two candidates file for such office, with the two candidates receiving the most votes proceeding to the special election, except that if one candidate receives greater than 50 percent of all votes cast at the special primary election, that candidate shall be declared the winner and no special election shall be held. When a special primary election is held and no candidate receives greater than 50 percent of all votes cast, the special election shall be held pursuant to Minn. Stat. §205.10, as the same may be revised, amended, or recodified.

Section 4.04 FILING FOR OFFICE. The City Clerk shall follow Minn. Stat. §205.13, as the same may be revised, amended or re-codified from time to time.

Section 4.05 PROCEDURE AT ELECTIONS. Subject to this Charter and applicable state laws, the council may by ordinance further regulate the conduct of municipal elections. Except as otherwise provided by this Charter and supplementary ordinances, general state laws on elections shall apply to municipal elections.

2021 Liquor Review



Meeting Purpose

- ▶ Background information
- ▶ Review financial results and position
- ▶ Discuss current use of liquor funds
- ▶ Review 2022 unfunded budget/current issues
- ▶ Discuss future utilization of liquor profits

Liquor Store Background

- ▶ Enterprise Fund in City financial system - “Business like”
- ▶ Control the sale of off-sale alcohol within City limits - 2 locations
- ▶ Geographic exclusivity but not competitive exclusivity
- ▶ 210 Cities in Minnesota with liquor operations
 - ▶ Bemidji ranked 7th in MN for sales - includes metro area
- ▶ Generates over \$900K annually in 2021 operating profits
- ▶ Profits provide revenue diversification
- ▶ Future concern - liquor law rewrite at State level in 2022
 - ▶ Wine in grocery store, etc.

Financial Results

DESCRIPTION	2019*	2020	2021
SALES/OTHER INCOME	6,509,736	8,423,238	8,609,193
COST OF GOODS	4,501,328	5,870,524	6,027,018
GROSS PROFIT	2,008,408	2,552,714	2,582,175
GROSS PROFIT %	30.9%	30.3%	30.0%
OPERATING EXPENSES	1,328,570	1,555,162	1,662,290
OPERATING PROFIT	679,838	997,552	919,885
OPERATING PROFIT %	10.4%	11.8%	10.7%
* First City Liquor store opened July 2019			
<u>OTHER EXPENDITURES</u>			
General Fund transfers (S65K more in 2022)	(450,758)	(462,758)	(462,758)
Veterans Home repayment		(50,000)	(50,000)
Energy Savings Program/Facilities transfer		(12,646)	(12,646)
Store Improvements/Equipment	(30,580)	(9,930)	(30,632)
New Store construction/Land Acquisition	(572,343)	-	-
Bond Payments	(174,019)	(256,563)	(255,813)
Street assessments and CSL Study	-	(24,671)	(63,928)
Total	(1,227,700)	(816,568)	(875,777)

Liquor Operations

- ▶ Excellent years at new store location
 - ▶ 29% increase in sales in 2020 - COVID impacts and new store opening
 - ▶ 2% increase in sales in 2021
 - ▶ Any increase is an accomplishment with opening of bars & restaurants
 - ▶ Excellent job by staff - concern - employee retain/recruitment
- ▶ Profits used to:
 - ▶ Reduce property taxes
 - ▶ 7% property tax savings (\$463,000) - 8% in 2022
 - ▶ Special projects
 - ▶ Park improvements, Veterans Home, Library, Depot, CSL, etc

2021 Balance Sheet

Description	Amount	
<u>Assets</u>		
Cash	1,949,325	
Interest Receivable	3,327	
NSF Receivable	1,519	
Inventory	1,063,382	
Prepaid Insurance	19,041	
Bldgs & Equipment	5,030,682	
Accum Depreciation	(601,424)	
Total		<u>7,465,852</u>
<u>Liabilities & Fund Balance</u>		
Accounts Payable	619,453	
Accrued Payroll	48,159	
Total Current payables	667,612	
Deferred Revenue	5,525	
Unamortized Bond Premium	76,435	
Accrued Interest	53,743	
Bonds Payable	3,240,000	
Accrued Termination Pay	67,811	
Fund Balance	3,354,726	
Total		<u>7,465,852</u>

Cash balance and obligations

Description	2019*	2020	2021
Cash Balance	\$ 1,080,750	\$ 1,347,293	\$ 1,949,325
<u>Less: restricted cash</u>			
Reserves per bond resolution (restricted)	(259,813)	(259,813)	(259,813)
Future Repairs/Improvements (restricted)	(185,000)	(185,000)	(262,000)
Debt Service account (restricted)	(451,781)	(338,304)	(331,721)
Remaining construction costs	(121,387)	-	-
Liquor store cash flow - to be discussed			TBD
February bond payments (discretionary)		(194,281)	-
Current payables due @ 12/31/21			(667,612)
Available cash	\$ 62,769	\$ 369,895	\$ 428,179

2022 issues/items not budgeted

- ▶ Building Maintenance/upgrades - \$240,000 annually
- ▶ Park Improvement/major maintenance - \$175,000 annually
 - ▶ Cameron Park upgrades - lift station, park building, etc
- ▶ Asst City Manager/Comm Development Director - 12 months - \$63,000
- ▶ Street Funding - property tax component - \$40,000 plus inflation
 - ▶ 100 year street rotation cycle with current funding
- ▶ Railroad Corridor Development/Wellness Center
 - ▶ Cleanup grant match, utilities, street and other unknown costs
- ▶ City Hall space study/remodel for staffing needs
- ▶ Public works parking lot
- ▶ Council initiatives

Other financial needs

- ▶ Sanford Center Capital and transition costs - (\$750K/year)
 - ▶ City has limited resources available for short term
- ▶ Tourist Info Center remodel - \$415K
- ▶ Paul Bunyan Park Plaza/Babe restoration - \$150K
- ▶ Other projects without funding sources
 - ▶ Solar Panels, etc
 - ▶ Council initiatives

Summary

- ▶ **Previous Council action/”moratorium”** - attached
 - ▶ Review and or change?
 - ▶ If changed, develop policy/guidelines to evaluate requests
 - ▶ State Auditor and LMC Cities attachments
 - ▶ Donations to Non-Profits Entities
 - ▶ Stmt of Position - Public Expenditures Donations and Dues
 - ▶ LMC Public Purpose expenditures
- ▶ Direction to staff

BSU STUDENT SENATE REPORT

Jason Swanson noted that several representatives from BSU attended the BYAC youth forum. Student Senate elections will be held this week. Swanson expressed appreciation to Councilmember Zachman for meeting with BSU students recently. Two candidates will be interviewed this week to fill the vacancy created by Gerald Amble's retirement.

PUBLIC AFFAIRS COMMITTEE

At the January 20th and February 2nd Council meetings, the Council heard complaints from Zard Wilfre regarding the issue of snowmobile traffic on Gould Avenue NE in front of his rental property. He requested that Gould Avenue NE be permanently closed to snowmobile traffic until a trail is established. He further requested that Snowmobile Regulations be amended to allow snowmobile traffic only on routes designed by the City Council -- that no other snowmobile traffic be allowed on city streets and that the ordinance be enforced including speeding, noise and trespass.

The Public Affairs Committee met on Thursday, February 12th to discuss the use of snowmobiles within city limits.

Meuers reported that the recommendation of the Public Affairs Committee was to increase enforcement along Gould Avenue, clarify the language of the current ordinance, and work towards a permanent solution that will reroute the trail out of residential areas.

The Police Department has been requested to increase enforcement along Gould Avenue, City staff will begin working on an ordinance amendment and the public was urged to contact their legislators to support the 2004 Local Sales Tax initiative for parkland and trail acquisition/improvement.

CONSIDERATION OF COUNCIL DONATION POLICY

City Manager Minke noted that the city has a history of donating to various organizations, but in 2001 that practice was suspended as a way to reduce expenses. He noted that the City does, however, provide many in-kind donations such as reduced or no-cost leases at the Depot, Visitors & Convention Center, Community Arts Council, and in some cases pays for utilities, etc. In light of the recent requests from the Boys and Girls Club and the Task Force on Youth Violence, Underage Drinking, and Drug Abuse, Minke suggested that the Council consider a formal donation policy and designate an amount of money to be budgeted for that purpose.

During discussion concerns were expressed that a formal donation policy might result in decisions for donations being done administratively, leaving the Council out of the loop. Zachman expressed the desire to have requests for donations come before the Council. Minke noted that organizations could still present their requests before the Council, but the policy would provide some standard guidelines for making a decision. He also suggested a line item in the budget for donations so that the total is a budgeted expenditure.

Motion by Erickson, second by Downs, to establish a written donation policy and to designate an amount of money in future budgets (beginning with the 2005 budget) which can be used to address the needs of future requests for donations. Motion carried by the following 5-2 vote: Ayes: Hellquist, Downs, Johnson, Lehmann, Erickson. Nays: Meuers, Zachman. Absent: none.

The City staff was directed to prepare a donation policy for review by the council at the March 8th work session.

**BOYS & GIRLS CLUB REQUEST FOR DONATION FOR OPERATING EXPENSES
(Tabled at February 2, 2004 meeting)**

Motion by Meuers, second by Johnson, to table the request for \$75,000 by the Boys & Girls Club until the donation policy has been adopted. Councilmember Hellquist suggested an amendment to the motion to table all requests for funding until the donation policy has been adopted. Meuers and Johnson agreed to the amendment. Motion carried by unanimous vote.



City Manager's Office

MEMORANDUM

TO: Mayor Lehmann and City Council

FROM: David J. Minke, City Manager 

DATE: February 17, 2004

RE: Donation Policy

It does not appear that the City Council has a formal policy for considering requests for donations. With the request from the Boys and Girls Club of the Bemidji Area, it is appropriate for the Council to consider a formal policy.

Going back as recently as 2000, the city had a history of donating to particular organizations. As the attached summary shows, the city donated \$33,000 to various organizations in 1999 and 2000. In 2001, the city suspended, for the most part, the practice of donating to organizations as a way to reduce expenses.

The city still gives \$10,000/year to the youth hockey association. The city also provides many "in-kind" donations such as providing facilities (Depot, Visitors and Convention Center, Community Arts Council) at reduced or no-cost leases and pays for the utilities in some cases. The city also provides services such as the labor for some of the holiday lights, support for events such as the Jaycees Water Carnival and Art in the Park. The point is not to dispute that these may be worthy community pursuits, but to highlight the fact that the city is a partner with many organizations and does "donate" to the community in many ways.

In developing a policy, consideration could be given to the following questions:

1. What core mission of the city will the donation further?
2. What is the interest of the taxpayer in funding the organization or agency?
3. What is the impact on the Bemidji property tax pay verses the impact on non-city residents in Beltrami County? Is the Bemidji resident funding it twice—once through the county and again through the city?
4. What is the benefit/participation of city residents versus non-city residents?
5. Does it meet the public purpose doctrine? Generally, a city is prohibited from donating to a private organization, as the benefit is assumed private rather than public.

Practically speaking, the Council will want to consider several issues including:

- Information required in a request for funding.
- One-time vs. ongoing donations.
- Timing of the requests. Few organizations would follow the city's budget process and timing so the Council may want to consider identifying a specific amount in the budget, which it can then consider to donate over the course of the year.

Recommendation

The Council should adopt a policy so requests for donations can be reviewed in accordance with some standard guidelines.

The Council should identify in the annual budget an amount of money it wants to "donate" so that the total is a budgeted expenditure.

The Council should consider using liquor store funds as one of the ways to increase the value of the stores to the community. For example, it would be good public relations if we committed to returning the money to the community and used that as a way to advertise the stores.

CITY OF BEMIDJI SUMMARY OF SPECIAL REQUESTS YEAR 2000


FILE NAME: SPECREQ00

ORGANIZATION	2000 REQUESTED AMOUNT	2000 APPROVED AMOUNTS	1999 APPROVED AMOUNT
Bemidji Amateur Radio	\$ 1,500	\$ 1,000	\$ 1,500
Youth Hockey	-	10,000	10,000
Bemidji Youth Advisory Council	1,146	1,000	-
Race Relations	10,000	8,000	10,000
Library Books	10,000	8,000	10,000
Bemidji Senior Center	1,500	1,500	1,500
Beltrami Co Humane Society	10,000	-	-
Bemidji Community Arts Council	25,000	3,000	-
North Country Regional Hospital	2,500	500	-
TOTAL	61,646	33,000	33,000
BUDGETED AMOUNT	33,000	33,000	33,000
DIFFERENCE	\$ 28,646	\$ -	\$ -



City Manager's Office

MEMORANDUM

TO: Mayor Lehmann and City Council
FROM: David J. Minke, City Manager 
DATE: February 17, 2004
RE: Request by Boys and Girls Club

At the February 2, 2004 meeting, the Council postponed a decision on this item to the February 17 meeting.

Recommendation

If the Council desires to make donations, it should adopt a policy that it can use to review the request. Therefore, the decision should be deferred until the Council has a written policy on donations.


If the Council does not desire to make donations, it should deny the request.



City Manager's Office

MEMORANDUM

TO: Mayor Lehmann and City Council

FROM: David J. Minke, City Manager 

DATE: February 17, 2004

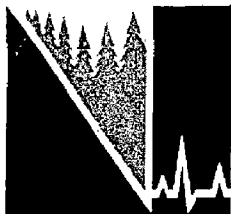
RE: Request for Donation from the Task Force on Youth Violence, Underage Drinking, and Illegal Drugs

Attached is a letter from Jim Hanko requesting financial support to the local task force dealing with the problems of youth violence, underage drinking, and illegal drugs. The request is for an unspecified amount not to exceed \$5,000 and is intended to show local support of the efforts of the task force as they seek other funding.

Councilor Erickson and officer Jon Hunt have been the city's representatives on this task force.

Recommendation

Until the city adopts a policy for evaluating these requests for donations, my recommendation will be that it is not budgeted. Also, the city has supported the task force by providing the value of a police officer, as well as the participation of a council member.



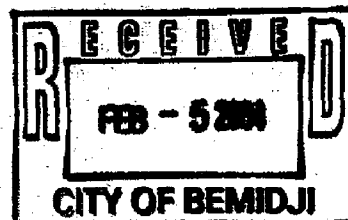
NORTH COUNTRY HEALTH SERVICES

Caring with Pride
Serving with Excellence

James F. Hanco, FACHE
President and CEO
1300 Anne Street NW
Bemidji, MN 56601
Direct Phone: 218-333-5504
Fax: 218-333-5880
jhanko@nchs.com

February 4, 2004

David Minke
Manager
City of Bemidji
317 4th St. NW
Bemidji, MN 56601



Dear David:

As you know I have been involved in representing North Country Health Services on a local task force to deal with the problems of youth violence, underage drinking, and illegal drugs. Students tell us these are the most serious problems that exist in our schools. The task force is composed of numerous interested citizens, with representation from city and county government, law enforcement, education, health services, corrections, youth-serving agencies, addiction counseling, and the like. We believe unless something is done to address the issues our community's attractiveness and health will suffer immeasurably.

The task force has been meeting for over a year now and last summer conducted an intensive two-day strategic planning retreat that resulted in these seven initiatives:

- Boys and Girls Club
- Crashed Vehicle Demonstration
- Halfway House
- Sober School
- Speakers Bureau
- Sober Camp
- Family-Centered Services

Committees of the Task Force are working on each of these projects and progress has been made. Progress reports are available upon request.

Already, we have placed drug urine test kits in several locations in the community for parents to use in confronting their sons and daughters. I'm told there has been a high demand for these kits. You may have seen articles and op-ed pieces in *The Pioneer* recently.

Our work has been greatly facilitated by a former Hazelden Foundation executive vice president, Jane Nakken, and local grant proposal writer, Celine Graham. To date, NCHS and its Foundation have underwritten the expenses of the task force to include the facilitator and grant proposal writer's fees.

We are developing applications for a planning grant from the Northwest Minnesota Foundation and a couple of significant federal grants. We will also be approaching the Neilson Foundation in the near future. Our chances of securing a NWMF grant (and others as well) are contingent on showing a broad coalition of financial and organizational support, and that's the premise for this letter, to seek a formal acknowledgement of the city's support of the task force's work to include financial assistance. Financial assistance of no more than \$5,000 would go a long way toward underwriting the expenses we forecast going forward. We believe this modest investment will more than pay for itself down the road as we tackle the serious issues we face in the area.

We are also seeking financial support from Beltrami County, other nearby cities and counties, service clubs, and other organizations. Already, the Bemidji Noon Rotary Club has made a sizeable donation. I would be happy to discuss this request with you at your convenience and am available to attend a meeting of the City Council to explain our challenges and initiatives.

Sincerely,



James F. Hanko
President and CEO

c: Richard Lehmann

City of Bemidji

City Council Work Session

March 8, 2004 – 5:30 p.m.

Present: Downs, Erickson, Hellquist, Johnson, Meuers
Absent: Lehmann, Zachman
Staff: Minke, Sherman, Felix, Eischens, Mack, Oakes

President Pro-tem Downs called the meeting to order at 5:30 PM.

Discussion on the SE Lake Bemidji Development was added to the agenda.

Council Means Statement

Councilmembers discussed the need for a Council Means Statement. Downs was concerned that it would be another layer of bureaucracy. Others felt the Council was already conducting itself in accordance with the outline. Meuers and Hellquist expressed the importance of the Means Statement, particularly for new council members.

Councilmembers Downs and Erickson agreed to meet on Thursday, March 11, 2004, at noon to review the policy and make recommendations for Council consideration.

SE Lake Bemidji Development

City Engineer Freeberg, City Attorney Felix, and Engineer Brian Grund representing Shore Quest developers presented a conceptual plan for development along SE Lake Bemidji in the Georgia Pacific area. The plan included a walking/bike trail, a snowmobile trail, public lake access, public parks and green space, commercial development and multi-family residential areas.

Council members expressed support for the concept noting that it generally meets the Council's expectations for the type of development they want to see for SE Lake Bemidji, particularly public lake access and trail connections. Motion by Hellquist, second by Meuers, directing city staff to meet with ShoreQuest to share the Council's vision and request feedback. Motion carried by unanimous vote.

2003 Year-end Budget Update

Ron Eischens provided an update on the 2003 year end financial results of the City's General Fund and Arena Fund. Eischens noted that the actual revenues exceeded expenditures for 2003, resulting in nearly \$497,000 in savings. He highlighted the various revenues and expenditures noting that much of the savings were a result of employee and departmental fiscal constraint, *elimination of recreation programs*, and increased user fees. He recommended allocations for those funds as per the attached (Exhibit 3).

Council reached consensus on the recommendations presented and also agreed to allocate \$55,000 to the Arena Subsidy and \$93,604 for Airport Subsidy from the General Fund.

Eischens also identified approximately \$1,000,000 of unmet needs including Building Repair/Replacement Fund, LEC Technology Costs, Police Radio System, Salt/Sand Storage Facility, and 2004 Equipment needs (see attached – Exhibit 3).

The Council will consider a resolution at the March 15th meeting to designate fund balances for the General Fund in accordance with the discussions and recommendations.

Discussion will continue on Utility Funds, Liquor Fund and review the 2004 budget process on March 22, 2004 at 5:30 pm in the City Hall Conference Room.

Donation Policy (Boys & Girls Club request)

Council briefly discussed the possibility of contributing to a community fund, which would handle requests for funding from various organizations. The funding request from the Boys and Girls Club will be placed on the March 15th Council Agenda for a decision.

Minke proposed developing a system that can be administered by the City and will be more objective and give the city the ability to address relative differences, with the benefit that employees will better understand the system.

Discussion followed and Council agreed that the current state job match system is difficult to understand. Support was expressed for the proposed pay equity and compensation study.

Motion by Erickson, second by Hellquist, authorizing the City Manager to solicit Requests for Proposals for consulting services to implement a pay equity system to address internal equity, and a compensation study to address external equity, and to recommend a consultant to the City Council to complete the study. Motion carried by unanimous vote.

AUTHORIZE USE OF EMINENT DOMAIN TO ACQUIRE RAILROAD PROPERTY

City Attorney Felix noted that the City has been negotiating for the last couple of years to acquire the former railroad corridor between the Mississippi River and the "Wye" at 1st Street S. for purposes of connecting the Paul Bunyan Trail Segments within the City as well as connecting that trail to the State Grant-in-Aid Trail System in the greater Bemidji area. In preparation for a closing the City learned that there may have been more than one owner on the leg of the Wye that extends southeast towards Washington Avenue. The City intends to use its DNR Local Trail Connection Grant (\$50,000) which expires on June 30, 2004, for this purpose. Felix expressed concerns that the question of title for property in that area could cause further delays. To ensure that the City has a property interest by the June 30th deadline, he suggested the Council consider the Quick Take procedure under the Eminent Domain Statute.

The council agreed and approved the following resolution.

RESOLUTION NO. 5135: A RESOLUTION AUTHORIZING THE EXERCISE OF THE POWER OF EMINENT DOMAIN PURSUANT TO MINNESOTA STATUTES, CHAPTER 117, TO ACQUIRE TITLE TO PROPERTY FOR PAUL BUNYAN STATE TRAIL AND STATE GRANT-IN-AID TRAIL CONNECTION PURPOSES was offered by Councilmember Downs, who moved its adoption, and upon due second by Councilmember Meurers, was passed by unanimous vote.

NEW LEGISLATION TO AUTHORIZE "STREET UTILITY" FUND

Council considered a resolution to continue supporting legislation to provide improved funding options for street improvements. Minke noted that the intent of this resolution is to support legislation that would provide cities more flexible spending options in an effort to expand the funding sources available for reconstruction of aging infrastructure in older parts of the City. The League of MN Cities requested support from cities throughout the state for a "street utility" concept as another tool to use for funding pavement maintenance and street reconstruction. The following resolution was passed.

RESOLUTION NO. 5136: A RESOLUTION TO CONTINUE SUPPORTING LEGISLATION TO PROVIDE IMPROVED FUNDING OPTIONS FOR CITY STREET IMPROVEMENTS was offered by Councilmember Meurers, who moved its adoption, and upon due second by Councilmember Hellquist, was passed by unanimous vote

BOYS & GIRLS CLUB REQUEST FOR DONATION (continued from the 2/2/04 and 2/17/04 meetings)

At the February 2 Council Meeting, the Boys & Girls Club of the Bemidji Area presented a request for funding in the amount of \$75,000 to be used for operating expenses. The Council postponed the item pending establishment of a Donation Policy. Minke noted that there are no funds available in the City's 2004 Budget for this item.

Councilmember Erickson expressed opposition to using property tax dollars for donations. However, she suggested that the city contribute funds to the Boys & Girls Club on a one-time basis. She suggested using a portion of the 2003 Liquor Funds, which were set aside for lobbying the sales tax issue in 2004. She noted that the City does not expect to use the entire \$10,000 for that purpose. Downs suggested that the City donate the entire \$10,000. Some discussion followed regarding the necessity for additional lobbying efforts for the sales tax issue. Lehmann noted that most of the lobbying on the sales tax issue has been done this year. Motion by Erickson, second by Downs, to use \$10,000 from the 2003

Liquor Store Funds as a donation to the Boys & Girls Club on a one-time basis. Motion carried by unanimous vote.

Erickson inquired about the status of a donation policy to handle future requests for donations. She suggested that the City adopt a policy that denies use of the General Fund for donations and further suggested that the City establish a community fund for the purpose of handling future requests for donations. Lehmann noted that a representative with the Northwest Minnesota Foundation expressed a willingness to work with the city in that regard. Council expressed support. Hellquist inquired whether the revolving loan fund could be used as seed money for a Community Fund. It was noted that the revolving loan fund must be used for economic development with conditions for repayment.

Motion by Erickson, second by Hellquist, to put a moratorium on any future donation requests excluding the ones that are already set up. Hellquist suggested an amendment to the motion to have the City Council annually review any reoccurring donations that are already in place. Erickson agreed to the amendment. Motion carried by unanimous vote.

DDA REPORT ON PARKING LOT #9

Mike Smith, representative for the Downtown Development Authority (DDA), provided an update on the proposal for tiered parking in Lot #4 to replace the parking lost in Lot #9 with the proposed construction of a County Administration Building. Smith estimated the cost of a very basic two-tier, precast concrete structure, with automated attendant, to be \$900,000. Smith noted that the committee is discussing various financing options and will hold some informational meetings over the next few weeks. He expected to be able to provide feedback to the Council at the May 17th meeting. Lehmann suggested that the DDA work with the City Manager, Planner, and other staff as well as the Public Works Committee as the project progresses.

ADOPTION OF VOLUNTEER FIRE DEPARTMENT BYLAWS (Postponed from the March 1 meeting)

A copy of the revised Volunteer Fire Department Bylaws was distributed at the March 1, 2004 Council meeting. Council action was postponed at that time to allow council members an opportunity to review the revisions.

Motion by Downs, second by Johnson, to approve the bylaws as presented. Motion carried by unanimous vote.

BUSINESS SUBSIDY POLICY

Pursuant to published notice, copy of which was placed on file in the City Clerk's Office, a public hearing was held to consider adoption of a Business Subsidy Policy. Mayor Lehmann opened the public hearing and invited those present to address the Council.

A copy of the proposed Business Subsidy Policy was presented for Council review.

Onan Markeson, 1502 Calihan Ave NE, expressed the need for fairness to other existing businesses in the community. He asked the Council to consider laboratories or manufacturing businesses rather than a competing business. He also suggested that the proposed level of wages required for new businesses in the Business Subsidy Policy is too low at 110% of Federal Poverty Guideline.

Minke explained that the policy requires any new business requesting a subsidy to submit a developer's agreement with certain qualifying factors. The business must be compatible or consistent with the Comprehensive Plan; must provide evidence that the project cannot proceed without the benefit of the subsidy; must remain at the site for a minimum of five years and maintain compliance with the specific job, wage and other goals established. Minke also noted that the Council has some flexibility in the process in the event a project doesn't meet some of the goals but would have other tremendous benefit that would be valuable to the community.

Discussion followed regarding the level of wages and whether the policy should reflect a requirement that benefits should be offered in addition to wages.

Minke explained the concept of using the Federal Poverty Level number as a base for wages. He noted that the information is indexed and calculated every year and it is uniform for the entire country. He supported using that number as the base and suggested the

COUNCIL AGENDA ITEM



Meeting Date: March 15, 2004

Action Requested: Consideration of Donation to the Boys and Girls Club

Prepared By: David J. Minke, City Manager 

At the February 2 council meeting, the Boys and Girls Club of the Bemidji Area made a presentation to the council and requested funding in the amount of \$75,000. The actual request from the letter of January 28, 2004 states "The amount of the request is \$75,000, which will be used for operating expenses."

The council postponed the item until the March 8 work session. At the March 8 work session the council requested additional information on the source of the county's donation to the Boys and Girls club.

Kay Mack, County Auditor/Treasurer stated that the county's donation would come from "Public Health Nursing reserves and from our [Beltrami County's] Development Fund. Those two sources will fund the first year, but no firm decision has been made on the second year of funding. "

It is clear that it is legal for the city to make a donation to the Boys and Girls Club. The decision is one that gets to the essence of the council's decision making—which good for which people at what cost?

Recommendation:

I will repeat my recommendation from the February 2 meeting that there is no money budgeted in the 2004 for this item.

The council should consider the request of the Boys and Girls Club. If the council wishes to make a donation, the council can state the amount and source of the funds, as well as the timing of the donation.

If the council chooses not to donate, a simple motion stating that position is appropriate.

CITY COUNCIL PROCEEDINGS

BEMIDJI, MINNESOTA

Work Session – April 14, 2008

Pursuant to due call and notice, a work session of the City Council of the City of Bemidji, Beltrami County, Minnesota, was held on Monday, April 14, 2008, at 5:30 p.m. in the Conference Room of City Hall, Mayor Lehmann presiding.

Upon roll call, the following Councilmembers were declared present: Lehmann, Markeson, Hellquist, Johnson, Erickson, Downs, Meuers.

Other & Staff Present: City Manager John Chatten, Finance Director Ron Eischens, City Attorney Alan Felix, City Engineer Brian Freeberg, City Engineer Craig Gray, City Clerk Kay Murphy.

Motion by Meuers, seconded by Johnson, to approve the agenda as presented. Motion carried unanimously.

Nonprofit Donation Policy

Mayor Lehmann stated that the purpose of the meeting was to discuss the City's nonprofit donation policy. He noted that the City currently has a moratorium on giving; however, the Council has made exceptions to that policy. He stated that staff has prepared a list showing monetary and in-kind donations.

Hellquist commented that the Council has tried to address the donation policy a couple of times and have a moratorium. He noted that the City has a finite amount of money and yet the Council continues to consider requests. He commented that he was appalled at the amount of overtime by the police department for various community events.

Johnson suggested that the Council consider dedicating a specific percentage of liquor store proceeds that would be given annually to nonprofit groups that request funding. The City would have to set criteria and the application could be reviewed by the Council or a committee. Donations would be based upon funding availability. He stated that if marketed right, it may increase sales at the City's liquor stores as it would promote the City's commitment to nonprofits in our community.

Erickson stating that the profits from the liquor store are added to the city's revenue, which fund city services. She further stated that although these dollars are not tax dollars they provide tax relief and affect the taxpayer.

Council discussed researching other city's donation policies. Staff noted that this has been done. Felix stated that the League of Minnesota Cities recommended either the City does not entertain requests or have a process whereby the group requesting the funds document how they meet the public purpose requirement.

Eischens commented that the issue comes down to priorities and how the Council feels City funds should be spent. He observed that department heads have unmet needs that they identified last year as part of the budgeting process.

Motion by Erickson, seconded by Hellquist, to continue the moratorium and to discontinue monetary contributions to Habitat for Humanity, Bemidji Senior Center and Beltrami Humane Society. Motion failed with the following vote: Ayes: Erickson, Hellquist, Lehmann. Nays: Downs, Johnson, Markeson, Meuers.

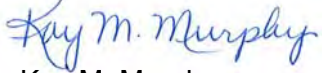
Motion by Johnson, seconded by Markeson, to keep moratorium in place as the city works to develop criteria that would be used to screen nonprofit groups that would request a contribution from a fund that would be generated from liquor store profits. Requests would be considered once a year. Motion failed with the following vote: Ayes: Johnson, Markeson, Meuers. Nays: Downs, Erickson, Lehmann, Hellquist.

Motion by Downs, seconded by Markeson, to keep moratorium in place, but waive the water and sewer bill for the Boys & Girls Club of the Bemidji Area. Motion failed with the following vote: Ayes: Downs, Markeson, Meuers. Nays: Johnson, Erickson, Lehmann, Hellquist.

ADJOURN

There being no further business, motion by Hellquist, seconded by Markeson, to adjourn the meeting. Motion carried. Meeting adjourned at 6:55 p.m.

Respectfully submitted,



Kay M. Murphy
City Clerk

BEMIDJI CITY COUNCIL

Work Session Agenda

Monday, April 14, 2008

**City Hall
Conference Room
5:30 P.M.**



5:30 p.m..... CALL TO ORDER

5:30 p.m. DISCUSS CITY'S NON-PROFIT DONATION POLICY

6:30 p.m..... ADJOURNMENT

Summary of Subsidized Events in the Community - 2007

Event	Monetary Assistance	Parks	Police	Refuse	Streets	Fire
Art in the Park		8 hrs.	5 hrs. overtime	3 hrs.		
Beaver Pride Tail Gate Parties		0	7 hrs overtime(reimbursed)	0		
Crazy Days		8 hrs.		3 hrs.	2 hrs.	
Dragon Boat Festival		8 hrs.	68 hrs. overtime	3 hrs.	2 hrs.	
First City of Lights		300 hrs**	26 hrs. overtime	0		
Fishing Has No Boundaries		16 hrs.		3 hrs.		
Habitat for Humanity	\$4,391.50***			0		
Humane Society	\$1,200 annual service fee			0		
Jaycees Water Carnival		80 hrs.	121 hrs. overtime	3 hrs.	2 hrs.	
June 7 Youth Day Event		4 hrs.	2 hrs. overtime	3 hrs.	2 hrs.	
Kraus-Anderson Walleye Classic		16 hrs.	1 hr. straight time	3 hrs.	2 hrs.	
Lions Feed		16 hrs.		3 hrs.		
Motorcycle Tour & Rally		?	?	0		
Nymore Days Street Dance		0	14 hrs. overtime	2 hrs.	2 hrs.	
Oktoberfest			42 hrs. overtime	2 hrs.	2 hrs.	
Operation Kid (Wal Mart)		0	12 hrs. overtime & 12 hrs. support staff	0		
Operation Kid ID (Boys & Girls Club)		0	6 hrs. straight time	0		
Operation Kid ID (Mall)		0	40 hrs. overtime	0		
Project Pride/Leaf Pickup				80 hrs.		
Senior Citizen Center	\$1,600 water/sewer bill			0		

*There are many other services city staff provides as needed for community events that are not listed.

**Includes 100 hrs of boom truck

***Building Permit and Mechanical Fees

[illegible]



REBECCA OTTO
STATE AUDITOR

STATE OF MINNESOTA OFFICE OF THE STATE AUDITOR

SUITE 500
525 PARK STREET
SAINT PAUL, MN 55103-2139

(651) 296-2551 (Voice)
(651) 296-4755 (Fax)
state.auditor@state.mn.us (E-mail)
1-800-627-3529 (Relay Service)

Statement of Position Public Expenditures Donations and Dues

Public entities are often asked to give funds to support various groups and activities. While the causes may be worthwhile, public entities need to be cautious when making any financial commitments involving public funds.

Generally, in order to spend money on something, a public entity must have authority to do so. Authority for an expenditure may be specifically stated in a statute or charter, or it may be implied as necessary to do what an express power authorizes. In addition, the expenditure must be for a "public purpose."

Gifts/Donations to Private Individuals/Organizations

Following these general principles, donations to people, non-profits, charities, or other groups are not permitted unless they are based upon specific statutory or charter authority. For example, the Minnesota Attorney General's Office has issued opinions finding that cities have no authority to donate city funds to 4-H Clubs, the Red Cross, or the Boy Scouts. The assumption is that a gift of public funds to an individual or private entity necessarily serves a private rather than a public purpose.

Before a public entity makes a contribution, it is important for that entity to determine that it has specific authorization to make the expenditure. Here are some examples of specific, statutorily authorized appropriations:

- **Artistic Organizations.** A county, city or town may appropriate money to support artistic organizations.
- **Historical Causes.** A town and most cities may annually appropriate a specified amount to a county historical society affiliated with, and approved by, the Minnesota Historical Society. The Attorney General's Office recognizes that a city can sponsor a centennial celebration. Cities have express authority to commemorate important and outstanding events in city history.
- **Senior/Youth Centers.** A county, city or town may appropriate money to support the facilities, programs, and services of a public or private, not-for-profit senior citizen center or youth center.
- **Promotion.** A city or urban town may appropriate up to \$50,000 annually to an incorporated development society or organization of this state, for promoting, advertising, improving, or developing the economic and agricultural resources of

Reviewed: March 2007
Revised: March 2007

2007-1017

the city or urban town.¹ Similarly, a county may appropriate an unlimited amount of money to such an entity for promoting, advertising, improving or developing the economic and agricultural resources of the county.

- **Public Recreation Programs.** Counties, cities, towns and school districts may spend funds to operate programs of public recreation, recreational facilities, and playgrounds. These programs may be conducted independently or with any nonprofit organization.

Public entities should consult with their attorney and cities should review the League of Minnesota Cities research memo “Public Purpose Expenditures” for a more comprehensive list of authorized city expenditures. If the public entity wants to make other donations, the entity may wish to seek specific statutory authority for them.

Additionally, public entities may enter into contracts with an organization to accomplish tasks that the entity is authorized to perform by statute or charter. For example, a city could not give money to the Boy Scouts for a recycling program, but the city could enter a contract with the Boy Scouts to do part of its recycling program. The amount of money paid to the Boy Scouts must be related to the value of the services they provide to the city.

Memberships and Dues

There is no general authorization for cities to join “private” organizations; but there may be specific statutory or charter authority to join specific organizations. For example, cities and urban towns in Minnesota may pay dues to become members of the League of Minnesota Cities. Similarly, cities, counties, and towns may appropriate money for membership in county, regional, state, and national associations of a civic, educational, or governmental nature. These associations must have as their purpose the betterment and improvement of municipal governmental operations. This authorization also allows public entities to participate in the meetings and activities of these associations.

The Attorney General’s Office has determined that local units of government may *not* pay dues to a local chamber of commerce. However, because cities may appropriate up to \$50,000 to an incorporated development society or organization for promotional activities, a city could contract with a local chamber of commerce for one of the purposes authorized by statute, such as promoting the city.² The chamber’s use of the public funds would be limited to the statutorily authorized activities. We urge cities to review documents submitted by the chamber of commerce to verify that the money is spent for contracted statutory purposes.

¹ In addition, Economic Development Authorities (EDAs) have authority to conduct activities advancing the city and its economic development, and to carry out other public relations activities to promote the city and its economic development.

² An EDA has broader authority to join an official, industrial, commercial or trade association, or other organization concerned with one of the EDA’s authorized purposes.

CITY COUNCIL PROCEEDINGS

BEMIDJI, MINNESOTA

Special Meeting/Work Session – June 6, 2011

Pursuant to due call and notice, a special meeting/work session of the City Council of the City of Bemidji, Beltrami County, Minnesota, was held on Monday, June 6, 2011, at 6:00 p.m. in the Conference Room of City Hall, Mayor Larson presiding.

Upon roll call, the following Councilmembers were declared present: Larson, Waldhausen, Johnson, Hellquist, Albrecht, Negard, Thompson

Staff Present: City Manager John Chattin, City Clerk Kay Murphy

Mayor Larson stated that the purpose of the special work session was to discuss the City's donation request guidelines.

Chattin stated that routinely staff is asked by other governmental and nonprofit organizations to put donation/fee waiver requests on the agenda. The City currently has a policy of no new donations and allowing such requests to be debated is contrary to that policy. Chattin stated that since exceptions have been made by the Council, staff have no clear guidelines to follow when considering such requests. He suggested that the Council consider using the public purpose expenditure guideline and beyond that be guided by 1) has another granting authority either suggested or required city participation before considering a grant, and/or does the request specifically address a need or priority identified by the council.

Council discussed the following:

- What are the Council priorities?
- Tax Increment Financing and JOBZ
- Waiving fees versus donation of money
- Utilizing a portion of liquor store profit similar to the County's use of timber sales

Motion by Negard, seconded by Waldhausen, to continue the moratorium on donation requests until January 1, 2013 and prefund future requests by designating 5 percent of the liquor store profits and develop a donation policy. Motion failed with the following vote: Ayes: Negard, Larson, Waldhausen. Nays: Albrecht, Hellquist, Johnson, Thompson.

Motion by Hellquist, seconded by Johnson, to continue the moratorium on donation requests effective June 7, 2011 until January 1, 2013 and prefund future requests by designating 5 percent of the liquor store profits and develop a donation policy. Motion carried unanimously.

ADJOURN

There being no further business, motion by Hellquist, seconded by Negard, to adjourn the meeting. Motion carried. Meeting adjourned at 6:50 p.m.

Respectfully submitted,


Kay M. Murphy
City Clerk

BEMIDJI CITY COUNCIL
Special Work Session Agenda
Monday, June 6, 2011

City Hall
Conference Room
6:00 p.m.



1. CALL TO ORDER
2. DISCUSS DONATION REQUEST GUIDELINES
3. ADJOURNMENT

Bemidji—Regional Center Amenities with Small Town Character



City Manager's Office

MEMORANDUM

TO: City Council
FROM: John Chattin, City Manager
DATE: June 6, 2011
RE: Donation Request Guidelines

Staff are routinely asked by other governmental and nonprofit organizations to put donation/fee waiver requests on the agenda. As the city currently has a policy of no new donations, allowing such requests to be debated is contrary to that policy. However, since exceptions have been made, staff have no clear guidelines to follow when considering such requests.

Staff must first determine if a request qualifies as a public purpose expenditure. To be an authorized expenditure, it must:

- Be specifically or implicitly authorized under statute or charter; or
- Benefit the community as a whole; and
- Be directly related to the functions of government; and
- Not benefit a private interest as its primary objective.

Although these can be a little "fuzzy" at times, staff can generally assess if a request qualifies as a public purpose. Beyond that assessment, we have little guidance.

I would suggest that, beyond the public purpose requirement, staff be guided by the following:

Has another granting authority either suggested or required city participation before considering a grant?

and/or

Does the request specifically address a need or priority identified by the council?

I believe these questions would provide adequate guidance in determining if a request is considered by the council.

Perhaps the council may also want to give staff guidance on priorities it would like to have when granting donation/fee waiver requests. For example:

- Owner occupied or rental multi-family housing projects that are affordable to individuals and families with incomes between 80% and 115% of the Beltrami County adjusted median income are a council priority.
- Projects that address homelessness and/or substance abuse/addiction are a council priority.

These are just a couple of examples and are not intended to advocate for or against these needs. However, these types of council statements give staff the guidance they need to ensure that council priorities are properly addressed.

Is the council open to both capital and operating donations? Most of our requests are for capital projects but requests for operating funds have also been made, i.e. Humane Society and Boys and Girls Club. Limiting donations to capital projects would be easier but perhaps donations contributing to sustainable operations would be considered?

The council should also discuss what criteria are considered when determining the amount of any donation/fee waiver. Should fee waivers be limited to a percentage of the fee or should each request be evaluated on its own merits? Should donations be limited to a percentage of the total project? Should any donation be limited to a percentage of the other grant funds leveraged?

Obviously, there are no easy answers to these questions. But establishing some guiding principles and priorities for staff to use would certainly simplify the process and prevent potentially awkward situations for all concerned.

CITY COUNCIL PROCEEDINGS

BEMIDJI, MINNESOTA

Work Session – November 13, 2012

Pursuant to due call and notice, a work session of the City Council of the City of Bemidji, Beltrami County, Minnesota, was held on Tuesday, November 13, 2012, at 5:30 p.m. in the Conference Room of City Hall, Mayor Pro-tem Hellquist presiding.

Upon roll call, the following Councilmembers were declared present: Hellquist, Albrecht, Negard, Thompson, Waldhausen; Johnson arrived at 6:00. Absent: Larson

Staff Present: City Manager John Chattin, City Attorney Alan Felix, Police Chief Mike Mastin, Deputy City Clerk Michelle Miller

Outdoor Music (Blue Ox)

Chattin stated that due to numerous calls for disturbing the peace from outdoor bands in the community Council should discuss how to handle outdoor music. Some solutions could include issuance of licenses for outdoor bands or limit the number of times of outdoor bands. He provided several examples of what other cities do for outdoor music. There is no “boiler plate” information on how this issue should be handled. Council discussed the following:

- Currently the nuisance ordinance is being used to enforce the loud noise complaints. The ordinance does not measure the decibel rating, therefore a decibel meter is not used.
- Change in speaker placement.
- Enacting a time limit/regulate hours.
- Decibel ratings can also be subjective.
- We will never be able to please everyone; it is trying to find a reasonable solution for the business owners and the residents.
- Establish permit/license for outdoor music.

Chief Mastin provided a history of the calls received from June-September. Noise calls are complaint driven and enforcement can be subjective and based on the officer’s opinion. The department has been working with the owner of the Blue Ox over the summer to try to solve the noise problem.

Michelle Soltis, owner of the Blue Ox, advised the Council of the various solutions she has tried to eliminate the noise complaints. Ironically, the noise complaints got worse after they put up the tent which they thought would muffle the sound; in fact, it seems the addition of the tent has amplified the sound.

Motion by Waldhausen, seconded by Thompson, for the owner of the Blue Ox to meet with the Public Affairs Committee at their February meeting to discuss possible resolutions for the noise issues. Motion carried unanimously.

Contribution Policy

Chattin presented a draft of a possible application for Liquor Store Grant Funds. At this time, 5% (or \$30,000) of the liquor store profits are set aside for contributing to community projects. Council discussed the following:

- Process of receiving applications and allocating funds is a difficult process.
- City has too many other expenses, i.e., bond payments, infrastructure, street repair.
- The current moratorium has simplified decisions.
- The City subsidizes other expenses in lieu of payment.
- City could set maximum funding levels and define who is eligible and who is not eligible.
- Helpful to have process in place because some non-profits need to show community support in matching funds in order to seek other grant opportunities.
- Council would need to establish priorities in order to limit eligibility.

Motion by Thompson, seconded by Waldhausen, to continue with the moratorium on donating funds but continue with the current donations (i.e. Habitat for Humanity building permit fees) that the City supports. Motion carried unanimously.

ADJOURN

There being no further business the meeting adjourned at 7:05 p.m.

Respectfully submitted,

A handwritten signature in blue ink that reads "Michelle R. Miller". The signature is written in a cursive, flowing style.

Michelle R. Miller
Deputy City Clerk

BEMIDJI CITY COUNCIL

Work Session

Tuesday, November 13, 2012

**City Hall
Conference Room
5:30 p.m.**



1. CALL TO ORDER
2. OUTDOOR MUSIC (BLUE OX)
3. CONTRIBUTION POLICY
4. ADJOURNMENT

Bemidji—Regional Center Amenities with Small Town Character



CITY OF BEMIDJI

Liquor Store Grant Fund Application

INVITATION TO APPLY

The City of Bemidji is accepting applications for grants from the City Liquor Store Fund. State Statute directs that funding must be used for activities that meet the definition of a public purpose and have specific or implied authority for the expenditure. To be an authorized expenditure it must:

- Be specifically or implicitly authorized under statute or city charter; or
- Benefit the community as a whole; and
- Be directly related to the functions of government; and
- Not benefit a private interest as its primary objective.

A couple of these requirements could be met if the request meets specific council objectives.

GRANT SUBMITTAL

Organizations applying for a Liquor Fund Grant must be located in Bemidji and be recognized as a nonprofit organization (i.e., governmental agency, association, public authority, or civic association). A complete application form, with supporting documentation, should be submitted to the City Clerk. The City Clerk's Office is located in the City Hall, 317 4th Street NW, Bemidji, MN 56601. Incomplete applications may not be considered.

GRANT REVIEW

Grant applications will be reviewed by the Bemidji City Council. The ultimate decision on the level of funding, or which requests receive funding, will be at the discretion of the Bemidji City Council.

GRANT REQUIREMENTS

The Bemidji City Council has established the following Liquor Fund Grant requirements:

- Funding requests must be used for specific activities as identified by the City Council;
- Grants that can be used as matching funds to leverage additional funds from other grant sources are a priority;
- Grant applicants must have no expectation of multi-year funding; and
- Grant funds should be project specific and may not be used for routine operating and administrative expenses.

QUESTIONS

Questions or concerns related to the Liquor Store Fund grant program should be directed to:

John Chattin, City Manager
317 4th Street NW
Bemidji, MN 56601-3178

Phone: (218) 759-3565

E-mail: jchattin@ci.bemidji.mn.us



CITY OF BEMIDJI

Liquor Store Grant Fund Application

GENERAL INFORMATION

Applicant Name: _____

Address: _____ State: _____ Zip: _____

Email: _____ Phone: _____

Attach additional sheets as needed to respond to the following:

Name of project or activity: _____

Grant funds requested: _____

Describe project or activity: _____

What is the project or activity budget? _____

How does this meet a need identified by the city council? _____

What are the expected outcomes and how will you measure them? _____

If applicable, how will this activity or project be sustained in the future? _____

Signature

Title

Date

The most recent financial statements for the applicant must be provided with the application.

I. Introduction

This information memo discusses the general criteria that must be met in order for a public expenditure to be valid. It also discusses specific expenditures and whether cities have specific authority to make them.

This memo is not intended to be an exhaustive list of lawful expenditures. Instead, it addresses the more common expenditures about which cities have questions. A city that has additional questions should contact the League of Minnesota Cities for further information, and consider getting a legal opinion from its city attorney or the attorney general.

II. Criteria for valid public expenditures

In order for an expenditure of public funds to be lawful, it should meet both of the following standards:

- **Public purpose.** There must be a public purpose for the expenditure.
- **Authority.** There must be specific or implied authority for the expenditure in statute or in the city's charter. Specific authority is usually fairly clear. In contrast, whether authority is implied by a particular statute or charter provision is subject to interpretation. Cities should consult with their city attorneys as to whether authority for a specific expenditure is implied.

Minn. Const. Art. X, § 1;
Minn. Const. Art. XI, § 2.

Minn. Const. Art. XII, § 1.

Visina v. Freeman, 252 Minn.
177, 89 N.W.2d 635 (1958).

The Minnesota Constitution requires that taxation must be for a public purpose. It also generally prohibits giving or loaning the credit of the state to aid any individual, association or corporation.

Although a state law may be passed to give a city authority to spend money on various purposes, the Minnesota Constitution prohibits the Legislature from passing any local or special law that authorizes public taxation for a private purpose. Thus, a public expenditure must always be for a public purpose.

This leads to the question of what is meant by "public purpose." The meaning of "public purpose" is constantly evolving. The Minnesota Supreme Court has followed a liberal approach, and has generally concluded that "public purpose" means an activity that meets all of the following standards:

- The activity will benefit the community as a body.
- The activity is directly related to functions of government.
- The activity does not have as its primary objective the benefit of a private interest.

City of Pipestone v. Madison,
287 Minn. 357, 178 N.W.2d
594 (1970).

The Minnesota Supreme Court has also held that the general objective of a public purpose is to promote the following for all of a city's residents:

- Public health
- Safety
- General welfare
- Security
- Prosperity
- Contentment

By no coincidence, these interests are the foundation of all legitimate council actions. Council members are elected or appointed to govern by and for these interests and to be the specialists on what best serves the local population. Therefore, a council's written determination of a valid public purpose based on reasonable findings of fact and the advice of the city attorney cannot and should not be underestimated. It is, after all, a city council's fundamental job to determine valid public purposes and to act in their service.

*Minnesota Energy & Economic
Dev. Auth. v. Prunty*, 351
N.W.2d 319 (Minn. 1984).

Attorney general opinions can be useful for guidance in determining whether a public expenditure is valid. However, the opinions are not legally binding and the courts make the final decision. The proper focus of inquiry for a court is whether the expenditure will benefit the community as a whole and if it is related to the functions of government.

If an invalid public expenditure is made, the city could find itself dealing with the following problems:

- **Taxpayer lawsuits.** The council could have the expense of defending itself in a taxpayer lawsuit. If the taxpayer is successful, the expenditure might be found to be illegal. Personal liability for the expenditure might also fall upon the individual council members in some situations since they have a fiduciary responsibility to spend the public's money for a public purpose.
- **Non-compliance finding by the state auditor.** The state auditor could find that the city has made an unauthorized expenditure of public funds. This could result in future special audits and embarrassment for the city.
- **Public mistrust.** The council could lose the trust of the people in the community.
- **Law changes.** If the violation is substantial, the event could prompt the adoption of more restrictive legislation on city expenditures.

See **Part V - Public Purpose
Expenditure Chart.**

A later section of this memo contains a checklist cities can use to make a preliminary determination of whether specific expenditures will be a proper use of public funds.

III. Common questions on public spending

This section outlines the areas where public officials have often had questions regarding public expenditures. Please note this section is not meant to be an exhaustive list of all valid or invalid city expenditures.

In many statutes, the ability to spend money in a particular way may be limited to certain types of cities. An example of this would be a statute that gives particular spending authority only to statutory cities or only to home rule charter cities.

Minn. Stat. § 410.01.

Many statutes give authority for certain expenditures only to cities of a certain class. A city's class is determined by its population. Cities are classified as follows:

- **First class cities.** A first class city has a population over 100,000. (Cities do not generally lose first class status if their population drops below 100,000, unless the population drops more than a certain amount.)
- **Second class cities.** A second class city has a population over 20,000, but not more than 100,000.
- **Third class cities.** A third class city has a population over 10,000, but not more than 20,000.
- **Fourth class cities.** A fourth class city has a population that is 10,000 or less.

This section is primarily designed for statutory cities since home rule charter cities may have additional authority for expenditures in their city charters. These cities should check their charters for more details. Home rule charter cities may use a general law that applies to statutory cities as authority for an expenditure, as long as all of the following conditions are met:

Minn. Stat. § 410.33.

- The city's charter is silent on the particular matter.
- There is no general law that prohibits a city charter from making the expenditure.
- There is no general law that expressly provides that a city's charter prevails over general law on the particular matter.

A.G. Op. 59-a-3 (Jan. 15, 1959).

Minn. Stat. § 471.93.

A last consideration in determining the validity of expenditures is that the attorney general has made a distinction between authority to spend money for a specific purpose and authority to give money to an organization generally committed to that purpose. For example, the attorney general said the authority to appropriate money for purposes of historical preservation permits a city to contract with a county historical society for specific services, but not to donate funds to the society to spend in its own discretion.

A. Advertising

Minn. Stat. §§ 469.187-.189.

City officials often ask if they may spend money on advertising. Generally, there is authority for making advertising expenditures. However, sometimes the authority may be limited to a particular kind of advertising.

A.G. Op. (January 30, 1930).

Although cities have authority to spend money on various types of advertising, council members should carefully review these expenditures beforehand to ensure the facts support that it is an advertising expenditure. The attorney general has said that a donation under the guise of advertising is not proper.

A city seeking to make advertising expenditures that are not outlined in this memo should contact the League for further information or consult its city attorney for a legal opinion.

1. Second and third class cities

Minn. Stat. § 469.188.

Minn. Stat. § 410.01.

Any second or third class city (whether a statutory or home rule charter city) may levy a tax for the purpose of advertising the following:

- Agricultural resources of the community.
- Industrial business of the community.
- All other resources of the community.

2. Second, third, and fourth class cities

Minn. Stat. § 469.189.

Minn. Stat. § 410.01.

The governing body of any second, third, or fourth class statutory or home rule charter city may annually appropriate money to advertise the city and its resources and advantages. The money may only be used:

- To advertise the city.
- For cooperative programs of promotion for the area by more than one municipality and its resources and advantages.

Minn. Stat. § 469.136;
Part III - GG - *Tourism*.

3. Statutory cities

Any statutory city may spend money to create a bureau of information and publicity for the purpose of furnishing tourists information and for outdoor advertising. In addition, these bureaus can serve the purpose of preparing, publishing, and circulating information and facts concerning the recreational facilities and business and industrial resources of the community.

B. Airports

Minn. Stat. § 360.032;
Minn. Stat. § 360.043;
Minn. Stat. §§ 360.011-.076.

All cities, towns, and counties in Minnesota have the power to acquire, maintain, and operate airports. In addition, cities, towns, and counties may assist other municipalities with powers that those municipalities have under the aeronautics code.

C. Bridges

Minn. Stat. § 441.26;
Minn. Stat. § 410.01.

All statutory cities may spend money to assist in the improvement and maintenance of roads and bridges outside the city limits, as long as they lead into the city. Fourth class home rule charter cities also have this authority.

Minn. Stat. § 441.48;
Minn. Stat. §§ 441.47-.55

All cities have the power to acquire, purchase, construct, maintain, and operate bridges and the bridges' approaches. In order to use this authority, however, a city must pass an ordinance determining to exercise powers granted by certain state statutes.

D. Businesses

Minn. Stat. Ch. 469;
See Part III - K - *Economic development*.
DEED can be reached at (651) 259-7114 or (800) 657-3858.

A number of statutes empower cities to provide money or real property for economic development purposes under various programs. Likewise, there is limited authority to provide low-cost land for housing redevelopment purposes. These different programs are briefly discussed in a later section of this memo. For further information, contact the League or the Minnesota Department of Employment and Economic Development (DEED).

E. Cemeteries

Minn. Stat. § 412.221, subcl. 9.

Statutory cities may acquire, hold, and manage cemetery grounds. Cemeteries may be acquired by purchase, gift, devise, condemnation, or otherwise.

Minn. Stat. § 471.34;
Minn. Stat. § 410.01.

Any statutory city, town, or fourth class home rule charter city may appropriate up to \$10,000 per year to any public or privately owned cemetery located within or outside the city's boundaries. The cemetery must be used for burial of the dead without restriction. The statute does not specify a particular use of the money by the cemetery.

F. Community celebrations

City officials often ask if the city may hold a celebration for the community or contribute to an organization that will be holding a community celebration. Although there is no general authorization for festival expenditures, there is some statutory authority to support these expenditures in limited circumstances.

1. County fairs

Minn. Stat. § 38.12.

Any city or town may appropriate money to a county and district agricultural society or association if the following conditions are met:

- The society or association must be a member of the Minnesota state agricultural society.
- The city or town must have a county fair held within its corporate limits or in close proximity.

2. Memorial Day observances

Minn. Stat. § 465.50.

All cities have the authority to spend money for Memorial Day observances in commemoration of the noble and valiant deeds of the nation's dead soldiers. Cities may spend up to \$300 annually for each 75,000 of population.

3. Centennial and historical celebrations

Minn. Stat. § 471.93.

See Part III - Q – *Historical*.

The statutes do not specifically authorize cities to spend money for city centennial celebrations. An argument can be made, however, that cities may spend money on such local celebrations under a statute allowing cities to spend money to commemorate important historical events that occurred in the city. A later section of this memo discusses this authority in more detail.

G. Community centers

Minn. Stat. § 471.935.

Minn. Stat. §§ 471.15-191.

Any city may appropriate money to support the facilities, programs, and services of a public or private nonprofit senior citizen or youth center. There is no specific authority for cities to finance other community centers, but many cities have done so through the state recreation statutes.

H. Decorations

Minn. Stat. § 412.221, subd. 34.

Statutory cities may spend money on decorations, signs, plaques, and attached accessories for public streets, buildings, and parks. Cities should be careful that decorations, such as those for the Christmas holidays, are not primarily religious in nature.

A.G. Op. 59-a-22 (Dec. 4, 1934).

I. Donations to organizations

Cities are often asked to make donations to organizations operating for good causes. Without express authority by charter or statutory provision, cities have no authority to appropriate or give away public funds as donations to any person, corporation or private institution. While there's no statutory authority to donate in general, there are some alternatives to consider. And there is statutory authority to donate for some specific causes or situations.

1. Nonprofit organizations in general

The attorney general has considered the question of donating public funds to various groups and found the following public expenditures to be improper due to a lack of specific authority to donate:

- To support the Boy Scouts.
- To sponsor a local bowling team.
- To sponsor a local kittenball team (similar to softball).
- To help the American Legion build a Legion Hall.
- To help support the Red Cross.
- To support a campaign to stop expansion of a neighboring city airport.

A.G. Op. 59-a-3 (May 21, 1948).

A.G. Op. 218-r (Aug. 15, 1951).

A.G. Op. 59-a-22 (Aug. 7, 1951).

A.G. Op. 476-b-2 (Apr. 20, 1944).

A.G. Op. 218-r (Feb. 10, 1942).

A.G. Op. 476-b-2 (Apr. 29, 1954).

Minn. Stat. § 412.221, subd. 2;
Minn. Stat. § 349.213.

There are, however, other options. One idea is for the city to use the contracting power to give effect to another power of council, such as contracting for a club to spend a Saturday cleaning up public grounds in exchange for money. Also, if a city maintains a fund created from gambling proceeds, those proceeds may be used for many types of charitable contributions.

2. Artistic organizations

Counties, cities, and townships may appropriate money to support artistic organizations. The appropriation may be divided among multiple artistic organizations in proportions determined by the governing body.

An "artistic organization" is an association, corporation, or other group that provides an opportunity for people to participate in the creation, performance, or appreciation of artistic activities. The statute provides examples of "artistic activities" cities can support with this appropriation, but it is by no means an exclusive list.

Minn. Stat. § 471.941.

Minn. Stat. § 469.191;
A.G. Op. (Jun. 27, 1997)
(informal letter opinion to
Staples);
See Part III - J - *Dues*.

3. Chamber of commerce

State law authorizes cities “to appropriate not more than \$50,000 annually to any incorporated development society or organization of the state for promoting, advertising, improving, or developing the economic and agricultural resources of the city.” The attorney general’s office has opined that while this authority allows a city to contribute up to \$50,000 annually to a chamber of commerce, it does not allow a city to become a member of the chamber of commerce, or to pay dues to it.

4. Community food shelves

Minn. Stat. § 465.039;
Minn. Stat. § 465.037;
Minn. Stat. § 469.191;
See Part III - R - *Hospitals* and
K - *Economic Development*.

Any city or county may appropriate an amount to provide grants to nonprofit organizations that operate community food shelves and provide food to the needy without charge. There is also authority to provide public money to support hospitals and certain economic development organizations. These circumstances are discussed in more detail in a later part of this memo.

5. Prevention of cruelty to animals

Minn. Stat. § 343.11

If a city contains a society for the prevention of cruelty to animals (SPCA), it may appropriate for the maintenance and support of that SPCA “in the transaction of the work for which they are organized” any sum of money not otherwise appropriated. However, no part of such an appropriation may be expended for the payment of the salary of any officer of the society.

6. Solicitation of donations by firefighters

Minn. Stat. § 465.90

In spite of any law or ordinance to the contrary, any city may by resolution allow full-time firefighters employed by the city while on duty, or volunteer firefighters serving the city while not on duty, to solicit charitable contributions from motorists. A city that wishes to do this must follow certain strict requirements provided in statute.

J. Dues

A.G. Op. 92-a-30 (Jan. 29,
1986);
A.G. Op. (Jun. 27, 1997)
(informal letter opinion to
Staples).

According to the attorney general, cities cannot join or become members of “private” organizations, absent specific statutory authority—even if there is specific authority to contribute to the organization. And without authorization for membership, there is no authority to pay for membership. However, as noted previously, instead of paying dues, a council may contract and pay for services generally provided by an organization if doing so achieves one of council’s powers.

Minn. Stat. § 471.96.

All cities, counties, and towns may appropriate money for membership in county, regional, state, and national associations of a civic, educational, or governmental nature. The associations must have as their purpose the betterment and improvement of municipal governmental operations. This authorization also allows these public entities to participate in the meetings and activities of these associations.

Minn. Stat. § 465.58.

All cities and urban towns in Minnesota may appropriate money to pay dues to become members of the League of Minnesota Cities.

K. Economic development

Minn. Stat. Ch. 469.

A number of statutes empower cities to provide money or real property for economic development purposes under various programs. Although the specific requirements of these statutes are not within the scope of this memo, the following is a summary of some of the more common tools available:

Minn. Stat. § 469.185.

- Conveyance of city-owned land for a nominal amount to encourage business and industry, under certain conditions.

Minn. Stat. §§ 116J.993- 995.

- “Business subsidies,” including contributions of personal property, real property and/or infrastructure.

Minn. Stats. § 469.191.

- Grants to certain economic development organizations.

Minn. Stat. §§ 469.124- 134.

- Creation of development districts.

Minn. Stat. §§ 469.090- 1081.

- Economic Development Authority programs.

Minn. Stat. § 469.192.

- Economic development loans.

Minn. Stat. §§ 469.1812- 1816.

- Tax abatement.

DEED can be reached at (651) 259-7114 or (800) 657-3858F.

For further information about economic development programs, contact the League or the Minnesota Department of Employment and Economic Development (DEED).

L. Elections

Cities can spend money to hold general and special elections they are authorized by law to conduct.

1. Special elections/advisory elections

A.G. Op. 472-o (Jul. 31, 1959); A.G. Op. 185-b-2 (Jun. 28, 1962); and A.G. Op. 185-b-2 (Apr. 6, 1962);

See I.MC information memo, *City Special Elections*

Special elections that are authorized by statutes or charter provisions are considered a valid public expenditure. But elections on questions the public is not authorized by statute or charter provision to answer are considered advisory elections and are prohibited. Therefore, no public money may be spent on them.



INFORMATION MEMO

Public Purpose Expenditures

Find general criteria that must be met in order for a public expenditure to be valid such as having a public purpose and direct or implied authority in law. Specific common expenditures are analyzed for the city's ability to make payment. Examples include donations to organizations, economic development activity, certain employee expenses and more.

RELEVANT LINKS:

[Minn. Const. art. X, § 1.](#)
[Minn. Const. art. XI, § 2.](#)

[Minn. Const. art. XII, § 1.](#)

[Visina v. Freeman](#), 252 Minn.
177, 89 N.W.2d 635 (1958).

[City of Pipestone v. Madsen](#),
287 Minn. 357, 178 N.W.2d
594 (1970).

I. Criteria for valid public expenditures

In order for an expenditure of public funds to be lawful, it should meet both of the following standards:

- Public purpose. There must be a public purpose for the expenditure.
- Authority. There must be specific or implied authority for the expenditure in statute or in the city's charter. Specific authority is usually fairly clear. In contrast, whether authority is implied by a particular statute or charter provision is subject to interpretation. Cities should consult with their city attorneys as to whether authority for a specific expenditure is implied.

The Minnesota Constitution requires that taxation must be for a public purpose. It also generally prohibits giving or loaning the credit of the state to aid any individual, association or corporation.

Although a state law may be passed to give a city authority to spend money on various purposes, the Minnesota Constitution prohibits the Legislature from passing any local or special law that authorizes public taxation for a private purpose. Thus, a public expenditure must always be for a public purpose.

This leads to the question of what is meant by "public purpose." The meaning of "public purpose" is constantly evolving. The Minnesota Supreme Court has followed a liberal approach, and has generally concluded that "public purpose" means an activity that meets all of the following standards:

- The activity will benefit the community as a body.
- The activity is directly related to functions of government.
- The activity does not have as its primary objective the benefit of a private interest.

The Minnesota Supreme Court has also held that the general objective of a public purpose is to promote the following for all of a city's residents:

This material is provided as general information and is not a substitute for legal advice. Consult your attorney for advice concerning specific situations.

RELEVANT LINKS:

*Minnesota Energy &
Economic Dev. Auth. v.
Printy*, 351 N.W.2d 319
(Minn. 1984).

Appendix A, Public Purpose
Expenditure Chart.

- Public health.
- Safety.
- General welfare.
- Security.
- Prosperity.
- Contentment.

By no coincidence, these interests are the foundation of all legitimate council actions. Council members are elected or appointed to govern by and for these interests and to be the specialists on what best serves the local population. Therefore, a council's written determination of a valid public purpose based on reasonable findings of fact and the advice of the city attorney cannot and should not be underestimated. It is, after all, a city council's fundamental job to determine valid public purposes and to act in their service.

Attorney general opinions can be useful for guidance in determining whether a public expenditure is valid. However, the opinions are not legally binding and the courts make the final decision. The proper focus of inquiry for a court is whether the expenditure will benefit the community as a whole and if it is related to the functions of government.

If an invalid public expenditure is made, the city could find itself dealing with the following problems:

- Taxpayer lawsuits. The council could have the expense of defending itself in a taxpayer lawsuit. If the taxpayer is successful, the expenditure might be found to be illegal. Personal liability for the expenditure might also fall upon the individual council members in some situations since they have a fiduciary responsibility to spend the public's money for a public purpose.
- Non-compliance finding by the state auditor. The state auditor could find that the city has made an unauthorized expenditure of public funds. This could result in future special audits and embarrassment for the city.
- Public mistrust. The council could lose the trust of the people in the community.
- Law changes. If the violation is substantial, the event could prompt the adoption of more restrictive legislation on city expenditures.

A later section of this memo contains a checklist cities can use to make a preliminary determination of whether specific expenditures will be a proper use of public funds.

RELEVANT LINKS:

[Minn. Stat. § 410.01.](#)

[Minn. Stat. § 410.33.](#)

[A.G. Op. 59-a-3 \(Jan. 15, 1959\).](#)
[Minn. Stat. § 471.93.](#)

II. Common questions on public spending

This section outlines the areas where public officials have often had questions regarding public expenditures. Please note this section is not meant to be an exhaustive list of all valid or invalid city expenditures.

In many statutes, the ability to spend money in a particular way may be limited to certain types of cities. An example of this would be a statute that gives particular spending authority only to statutory cities or only to home rule charter cities.

Many statutes give authority for certain expenditures only to cities of a certain class. A city's class is determined by its population. Cities are classified as follows:

- First class cities. A first class city has a population over 100,000. (Cities do not generally lose first class status if their population drops below 100,000, unless the population drops more than a certain amount).
- Second class cities. A second class city has a population over 20,000, but not more than 100,000.
- Third class cities. A third class city has a population over 10,000, but not more than 20,000.
- Fourth class cities. A fourth class city has a population that is 10,000 or less.

This section is primarily designed for statutory cities since home rule charter cities may have additional authority for expenditures in their city charters. These cities should check their charters for more details. Home rule charter cities may use a general law that applies to statutory cities as authority for an expenditure, as long as all of the following conditions are met:

- The city's charter is silent on the particular matter.
- There is no general law that prohibits a city charter from making the expenditure.
- There is no general law that expressly provides that a city's charter prevails over general law on the particular matter.

A last consideration in determining the validity of expenditures is that the attorney general has made a distinction between authority to spend money for a specific purpose and authority to give money to an organization generally committed to that purpose. For example, the attorney general said the authority to appropriate money for purposes of historical preservation permits a city to contract with a county historical society for specific services, but not to donate funds to the society to spend in its own discretion.

RELEVANT LINKS:

[Minn. Stat. §§ 469.187-.189.](#)

[A.G. Op. \(Jan. 30, 1930\).](#)

[Minn. Stat. § 469.188.](#)
[Minn. Stat. § 410.01.](#)

[Minn. Stat. § 469.189.](#)
[Minn. Stat. § 410.01.](#)

[Minn. Stat. § 469.186.](#)
Section II–GG, *Tourism*.

A. Advertising

City officials often ask if they may spend money on advertising. Generally, there is authority for making advertising expenditures. However, sometimes the authority may be limited to a particular kind of advertising.

Although cities have authority to spend money on various types of advertising, council members should carefully review these expenditures beforehand to ensure the facts support that it is an advertising expenditure. The attorney general has said that a donation under the guise of advertising is not proper.

A city seeking to make advertising expenditures that are not outlined in this memo should contact the League for further information or consult its city attorney for a legal opinion.

1. Second and third class cities

Any second or third class city (whether a statutory or home rule charter city) may levy a tax for the purpose of advertising the following:

- Agricultural resources of the community.
- Industrial business of the community.
- All other resources of the community.

2. Second, third, and fourth class cities

The governing body of any second, third, or fourth class statutory or home rule charter city may annually appropriate money to advertise the city and its resources and advantages. The money may only be used:

- To advertise the city.
- For cooperative programs of promotion for the area by more than one municipality and its resources and advantages.

3. Statutory cities

Any statutory city may spend money to create a bureau of information and publicity for the purpose of furnishing tourists information and for outdoor advertising. In addition, these bureaus can serve the purpose of preparing, publishing, and circulating information and facts concerning the recreational facilities and business and industrial resources of the community.

RELEVANT LINKS:

[Minn. Stat. § 360.032.](#)
[Minn. Stat. § 360.043.](#)
[Minn. Stat. §§ 360.011-.076.](#)

[Minn. Stat. § 441.26.](#)
[Minn. Stat. § 410.01.](#)

[Minn. Stat. § 441.48.](#)
[Minn. Stat. §§ 441.47-.55.](#)

[Minn. Stat. ch. 469.](#)
[Section II-K, *Economic development*.](#)
[Minnesota Department of Employment and Economic Development, 332 Minnesota Street, Suite E-200, St. Paul, MN 55101; \(651\) 259-7114 or \(800\) 657-3858.](#)

[Minn. Stat. § 412.221, subd. 9.](#)

[Minn. Stat. § 471.84.](#)
[Minn. Stat. § 410.01.](#)

B. Airports

All cities, towns, and counties in Minnesota have the power to acquire, maintain, and operate airports. In addition, cities, towns, and counties may assist other municipalities with powers that those municipalities have under the aeronautics code.

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All statutory cities may spend money to assist in the improvement and maintenance of roads and bridges outside the city limits, as long as they lead into the city. Fourth class home rule charter cities also have this authority.

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A number of statutes empower cities to provide money or real property for economic development purposes under various programs. Likewise, there is limited authority to provide low-cost land for housing redevelopment purposes. These different programs are briefly discussed in a later section of this memo. For further information, contact the League or the Minnesota Department of Employment and Economic Development (DEED).

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F. Community celebrations

City officials often ask if the city may hold a celebration for the community or contribute to an organization that will be holding a community celebration. Although there is no general authorization for festival expenditures, there is some statutory authority to support these expenditures in limited circumstances.

RELEVANT LINKS:

[Minn. Stat. § 38.12.](#)

[Minn. Stat. § 465.50.](#)

[Minn. Stat. § 471.93.](#)
[Section II-Q, *Historical*.](#)

[Minn. Stat. § 471.935.](#)
[Minn. Stat. §§ 471.15-.191.](#)

[Minn. Stat. § 412.221, subd. 34.](#)

[A.G. Op. 59-a-22 \(Dec. 4, 1934\).](#)

1. County fairs

Any city or town may appropriate money to a county and district agricultural society or association if the following conditions are met:

- The society or association must be a member of the Minnesota State Agricultural Society.
- The city or town must have a county fair held within its corporate limits or in close proximity.

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All cities have the authority to spend money for Memorial Day observances in commemoration of the noble and valiant deeds of the nation's dead soldiers. Cities may spend up to \$300 annually for each 75,000 of population.

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The statutes do not specifically authorize cities to spend money for city centennial celebrations. An argument can be made, however, that cities may spend money on such local celebrations under a statute allowing cities to spend money to commemorate important historical events that occurred in the city. A later section of this memo discusses this authority in more detail.

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Any city may appropriate money to support the facilities, programs, and services of a public or private nonprofit senior citizen or youth center. There is no specific authority for cities to finance other community centers, but many cities have done so through the state recreation statutes.

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Statutory cities may spend money on decorations, signs, plaques, and attached accessories for public streets, buildings, and parks. Cities should be careful that decorations, such as those for the Christmas holidays, are not primarily religious in nature.

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Cities are often asked to make donations to organizations operating for good causes. Without express authority by charter or statutory provision, cities have no authority to appropriate or give away public funds as donations to any person, corporation or private institution. While there's no statutory authority to donate in general, there are some alternatives to consider. And there is statutory authority to donate for some specific causes or situations.

RELEVANT LINKS:

A.G. Op. 59-a-3 (May 21, 1948).
A.G. Op. 218-r (Aug. 15, 1951).
A.G. Op. 59-a-22 (Aug. 7, 1951).
A.G. Op. 476-b-2 (Apr. 20, 1944).
A.G. Op. 218-r (Feb. 10, 1942).
A.G. Op. 476-b-2 (Apr. 29, 1954).

Minn. Stat. § 412.221, subd. 2.
Minn. Stat. § 349.213.

Minn. Stat. § 471.941.

Minn. Stat. § 469.191.
A.G. Op. (June 27, 1997) (informal letter opinion to Staples).
Section II-J, *Dues*.

1. Nonprofit organizations in general

The attorney general has considered the question of donating public funds to various groups and found the following public expenditures to be improper due to a lack of specific authority to donate:

- To support the Boy Scouts.
- To sponsor a local bowling team.
- To sponsor a local kittenball team (similar to softball).
- To help the American Legion build a Legion Hall.
- To help support the Red Cross.
- To support a campaign to stop expansion of a neighboring city airport.

There are, however, other options. One idea is for the city to use the contracting power to give effect to another power of council, such as contracting for a club to spend a Saturday cleaning up public grounds in exchange for money. Also, if a city maintains a fund created from gambling proceeds, those proceeds may be used for many types of charitable contributions.

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Counties, cities, and townships may appropriate money to support artistic organizations. The appropriation may be divided among multiple artistic organizations in proportions determined by the governing body.

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3. Chamber of commerce

State law authorizes cities “to appropriate not more than \$50,000 annually to any incorporated development society or organization of the state for promoting, advertising, improving, or developing the economic and agricultural resources of the city.” The attorney general’s office has opined that while this authority allows a city to contribute up to \$50,000 annually to a chamber of commerce, it does not allow a city to become a member of the chamber of commerce, or to pay dues to it.

RELEVANT LINKS:

Minn. Stat. § 465.039.
Minn. Stat. § 465.037.
Minn. Stat. § 469.191.
Sections II-R, *Hospitals and EMS* and II-K, *Economic development*.

Minn. Stat. § 343.11.

Minn. Stat. § 465.90.

A.G. Op. (June 27, 1997)
(informal letter opinion to Staples).

Minn. Stat. § 471.96.

Minn. Stat. § 465.58.

4. Community food shelves

Any city or county may appropriate an amount to provide grants to nonprofit organizations that operate community food shelves and provide food to the needy without charge. There is also authority to provide public money to support hospitals and certain economic development organizations. These circumstances are discussed in more detail in a later part of this memo.

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According to the attorney general, cities cannot join or become members of “private” organizations, absent specific statutory authority—even if there is specific authority to contribute to the organization. And without authorization for membership, there is no authority to pay for membership. However, as noted previously, instead of paying dues, a council may contract and pay for services generally provided by an organization if doing so achieves one of council’s powers.

All cities, counties, and towns may appropriate money for membership in county, regional, state, and national associations of a civic, educational, or governmental nature. The associations must have as their purpose the betterment and improvement of municipal governmental operations. This authorization also allows these public entities to participate in the meetings and activities of these associations.

All cities and urban towns in Minnesota may appropriate money to pay dues to become members of the League of Minnesota Cities.

RELEVANT LINKS:

[Minn. Stat. ch. 469.](#)

[Minn. Stat. § 469.185.](#)

[Minn. Stat. §§ 116J.993-995.](#)

[Minn. Stat. § 469.191.](#)
[Minn. Stat. §§ 469.124-.134.](#)

[Minn. Stat. §§ 469.090-.1082.](#)
[Minn. Stat. § 469.192.](#)
[Minn. Stat. §§ 469.1812-.1816.](#)

[Minnesota Department of Employment and Economic Development, 332 Minnesota Street, Suite E-200, St. Paul, MN 55101; \(651\) 259-7114 or \(800\) 657-3858.](#)

[A.G. Op. 472-o \(July 31, 1959\).](#) [A.G. Op. 185-b-2 \(June 28, 1962\).](#) [A.G. Op. 185-b-2 \(Apr. 6, 1962\).](#)
[LMC information memo, City Special Elections.](#)

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A number of statutes empower cities to provide money or real property for economic development purposes under various programs. Although the specific requirements of these statutes are not within the scope of this memo, the following is a summary of some of the more common tools available:

- Conveyance of city-owned land for a nominal amount to encourage business and industry, under certain conditions.
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- Economic development loans.
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Cities can spend money to hold general and special elections they are authorized by law to conduct.

1. Special elections/advisory elections

Special elections that are authorized by statutes or charter provisions are considered a valid public expenditure. But elections on questions the public is not authorized by statute or charter provision to answer are considered advisory elections and are prohibited. Therefore, no public money may be spent on them.

Many home rule charter cities have charters containing initiative and referendum provisions. These provisions give these cities additional powers with regard to the types of questions that can be put on the ballot at a special election. Voters in these cities often have the right to petition for special elections in certain circumstances.

2. Advocating/educating on a ballot question

A common question is whether a city can spend money for advertisements encouraging voters to support the city’s position on a local ballot question, such as a “yes” vote for a special election to issue bonds or a “no” vote on a city charter issue.

RELEVANT LINKS:

A.G. Op. 159-a-3 (May 24, 1966).
Office of the State Auditor,
Statement of Position:
Expenditure of Public Funds
on Ballot Issue Advocacy,
Apr. 2014.

*Abrahamson v. St. Louis
Cnty. Sch. Dist. 2142*, 819
N.W.2d 129 (Minn. 2012).

A.G. Op. 442-a-20 (July 10,
1952).

Office of the State Auditor,
Statement of Position:
Expenditure of Public Funds
on Ballot Issue Advocacy,
Apr. 2014.
A.G. Op. (June 30, 2006)
(informal letter opinion).

A related question is whether a city can spend money either to support or oppose a state constitutional amendment ballot initiative.

a. Local ballot initiatives

Traditionally, case law and the attorney general have held that publications intended merely to inform the public of financial conditions and potential effects of the passage or failure of a ballot question may be published and distributed by the local subdivision. And cities have generally never been allowed to expend funds to promote or defeat passage of a local ballot question by presenting one-sided information on the issue. At the same time, the state auditor has opined that elected officials may appear before citizens to orally advocate for a particular position so long as no expenditure of public funds is involved.

However, cities should be aware that a recent Minnesota Supreme Court case throws into doubt to what extent a city can inform of a ballot measure or warn its citizens of the direct financial consequences that may occur should a ballot measure succeed or fail. While the court declined to say whether a city could legally spend money to promote a position on a ballot measure, the court did say that any such expenditures would subject the city to campaign finance laws. Furthermore, any statement made by a city “with reckless disregard of whether it is false” could be punishable as a misdemeanor.

Given the uncertainty left by this decision, cities are encouraged to consult their city attorney prior to any expenditures associated with efforts to inform voters about any ballot question.

b. State constitutional ballot initiatives

Historically, the attorney general has also frowned on expenditures to support a position on a state constitutional ballot initiative. A 1952 opinion addresses a situation where a town wanted to spend money to advocate the adoption of a constitutional amendment. The attorney general found the expenditure illegal, stressing that use of taxpayer money to support one political position was improper since taxpayers can have differing opinions about almost any political question.

At the same time, the attorney general has said there are limited circumstances where spending money to advocate a position could be proper. The attorney general and the state auditor recognize that where a state action or proposal could have a “direct and substantial effect” on the interests of a local government entity, the public entity could spend public funds to protect or promote its interests—even by financially supporting one side of a ballot issue.

RELEVANT LINKS:

*Abrahamson v. St. Louis
Cnty. Sch. Dist.* 2142, 819
N.W.2d 129 (Minn. 2012).

Minn. Stat. § 297A.99, subd.
1(d), (e).

Minn. Stat. § 412.111.

A.G. Op. 270-d (Aug. 12,
1977).
A.G. Op. 107-a-3 (Jan. 22,
1980).

The attorney general and state auditor quickly point out that public funds cannot be spent for advocacy for a position where the proposed measures' effect would be "only indirect and in common with the public at large."

It is up to the city council to make findings as to whether or not a measure has a "direct and substantial effect." Therefore, cities that wish to spend money to encourage a particular vote on a local ballot initiative should first consult with their city attorneys.

Lastly, because of 2012 Minnesota Supreme Court case law, cities that spend any money in promotion of a position on a state constitutional amendment are subject to campaign finance and fair campaign practice laws.

c. Local sales tax

Statute currently bans cities from expending funds to promote or otherwise advertise a referendum to support special legislation imposing a local option sales tax. Cities can, however, expend money to:

- Conduct the referendum.
- Disseminate information included in the resolution indicating the city council's approval of the local sales tax.
- Provide notice of and conduct public forums at which proponents and opponents on the merits of the referendum are given equal time to express their opinions on the merits of the referendum.
- Provide facts and data on the impact of the proposed sales tax on consumer purchases.
- Provide facts and data related to the programs and projects to be funded with the sales tax.

M. Employees/staff/public officials

Cities often ask about a number of different types of employee costs. These include:

- Pay, expenses, and benefits.
- Miscellaneous items (bonds, recognition events, and flowers).

1. Pay, expenses, and benefits

Statutory cities may define the duties of its staff, as well as fix the compensation for those positions.

a. Bonuses

The attorney general has said that a bonus for past services is void as a gratuity in the absence of some type of agreement or understanding.

RELEVANT LINKS:

A.G. Op. (Feb. 6, 1998)
(informal letter opinion to
Champlin).

Minn. Stat. § 471.61, subd. 1.
Minn. Stat. § 471.61, subd.
2a.
Minn. Stat. § 471.61, subd. 5.

Minn. Stat. § 471.665.

Minn. Stat. § 15.46.

Office of the Minnesota State
Auditor, [Statement of
Position: Employee
Recognition Programs and
Events](#), Feb. 2014.

However, it would appear a bonus could become payable if it followed a prior agreement or understanding that such a bonus would become payable. Most recently, the attorney general's office has opined that "an agreed monetary bonus might be provided as part of a salary plan to employees who meet performance or longevity standards."

b. Insurance benefits

Municipalities may insure or protect their officers and employees and their dependents under group health insurance, life insurance, and accident insurance. The city may pay all or any part of the premium or charges on the insurance or protection. Such a payment is deemed to be additional compensation paid to the officer or employee, but is not considered income for the purpose of determining contributions or benefits under a public pension or retirement system. Any city or town may insure or protect its retired officers and employees and their dependents under a group life, health, accident, medical and surgical benefits, or hospitalization insurance or benefits. A city may also contract with an insurance company for the voluntary purchase of long-term care insurance by employees and their dependents.

c. Mileage reimbursement

Cities may pay a mileage reimbursement for staff who travel for city business and use their own vehicles. The maximum amount to be reimbursed must be set by the city council. The Internal Revenue Service (IRS) sets the rate that is tax deductible for business use. If a city sets its rate higher than the IRS rate, any additional amounts must be treated as income to the employee. In lieu of the mileage allowance, the council may pay a monthly or periodic allowance to any officer or employee for using his or her personal vehicle for city business. However, no allowance in lieu of mileage may be paid to council members.

d. Preventive health and employee recognition (plaques, dinners, parties)

State law allows a statutory or home rule charter city to establish and operate a program of preventive health and employee recognition services for its employees and to provide necessary staff, equipment, and facilities and to expend funds as necessary to achieve the objectives of the program. The state auditor has released a statement of position construing this authority narrowly.

RELEVANT LINKS:

[Minn. Stat. § 465.54.](#)

[Minn. Stat. § 465.72.](#)
[LMC Research and Information Services](#) at (800) 925-1122 or (651) 281-1200.

[Minn. Stat. § 471.66.](#)

[Minn. Stat. § 415.18.](#)

[Minn. Stat. § 471.895.](#)

[LMC information memo, Official Conflict of Interest.](#)

e. Public officials' expenses

Statutory cities may pay the expenses incurred by council members for their official duties relating to their city's bureau of information and tourism. This does not include trips for lobbying purposes, meetings, and conventions unless they are connected with specific municipal projects pending before the official who is making the trip.

f. Severance pay

Cities may pay severance pay to their employees, and adopt rules for the payment of severance pay to employees who leave employment. Severance pay cannot be more than the equivalent of one year of pay. It must be paid in a manner mutually agreeable to the employee and the employer, and must be paid over a period not more than five years from retirement or termination. For more information regarding the requirements for these types of severance pay situations, contact the League.

g. Vacation leave

Any city council may grant paid vacations to its regularly employed employees and officers. Vacation policies may be adopted by ordinance or resolution. The council may determine the terms and conditions under which vacations are granted.

2. Miscellaneous items

Cities often ask if it is proper to spend money on the following miscellaneous items for their officers and staff:

a. Bonds

City councils may pay to provide fidelity or faithful performance bonds for city officers and employees who are required to furnish them.

b. Flowers

There is no specific authority for purchasing flowers for a staff member or city official who is ill or has lost a family member. Although city staff might contribute their own money, there is a potential problem with employees purchasing gifts for a supervisor under the state's gift law.

The gift law prohibits a person from giving a gift to an elected or appointed official if the official has the power to make a decision that is of financial interest to the person giving the gift.

RELEVANT LINKS:

Minn. Stat. § 412.221, subd. 15.
Minn. Stat. § 410.33.

Minn. Stat. § 449.06.
Minn. Stat. § 410.01.

Minn. Stat. § 449.08.
Minn. Stat. § 410.01.

Minn. Stat. § 449.09.
Minn. Stat. § 410.01.

Minn. Stat. § 449.10.
Minn. Stat. § 449.11.

Minn. Stat. § 449.09.

Minn. Stat. § 412.221, subd. 1.

Minn. Stat. § 412.221, subd. 22.
Minn. Stat. § 410.33.

Since supervisors could be considered “appointed” officials and could give feedback that directly affects salary raises for the staff they manage, there is a potential for violation of the gift law if staff give the supervisor any gift beyond those authorized by law.

N. Entertainment (musical)

Statutory city councils may spend money to provide free musical entertainment. Many home rule charter cities contain similar authority in their charters. If the city’s charter is silent on the matter, it may use the same statute as statutory cities.

Fourth class home rule charter cities may levy a tax for the purpose of providing musical entertainment to the public in public buildings or on public grounds. The maximum amount that may be spent in any year is \$3,500.

Any third class city may levy a tax to pay to provide free musical entertainment to the public. The annual expenditure is limited to \$3,000.

There is also a more general law that permits towns, statutory cities, and home rule charter cities of the second, third, and fourth class to levy a tax for funding a band, orchestra or chorus. In order to use this authority, the council must get permission from the city’s voters.

In order to put the question on the ballot, it must be proposed by a petition signed by 10 percent of the voters. The statute provides the language of the ballot question. Once the city receives the petition, the council must put the question to the voters at the next general municipal election.

If the majority of voters who vote on the question approve it, the tax is levied and the money must be kept in a special fund. The money may be used for maintenance, transportation and employment of a band, orchestra, or chorus for municipal purposes. If the musical group is discontinued or by vote the city decides not to employ a band, orchestra, or chorus, the governing body may transfer the sums already levied and collected to the general fund

O. Furniture and office supplies

Statutory cities may purchase office supplies, such as furniture, equipment, and stationary supplies that are necessary for city purposes. Charters of home rule charter cities usually have similar authority.

P. Garbage

Statutory cities may adopt ordinances to regulate or provide for the disposal of sewage, garbage, and other refuse.

RELEVANT LINKS:

Minn. Stat. § 471.93.
Minn. Stat. § 410.01.

Minn. Stat. § 412.221, subd.
16.
Minn. Stat. §§ 447.05-.06.
Minn. Stat. § 410.01.

Minn. Stat. § 447.045.

Minn. Stat. § 465.037.

Minn. Stat. § 447.45.

Minn. Stat. ch. 462C.

Home rule charter cities often have similar authority in their charters. If their charter is silent on the matter, they may use the authority for statutory cities.

Q. Historical

All statutory cities and second, third, or fourth class home rule charter cities may appropriate money for the purpose of commemorating the anniversary of any important and outstanding event in the city's history. This authority allows cities to spend money on:

- Collecting data and material pertaining to the history of the city.
- Preserving, storing, and housing data and material pertaining to the history of the city.
- Printing and publishing data and material pertaining to the history of the city.
- Commemorating the anniversary of any important and outstanding event in the city's history.
- Preserving historic data for future generations.

R. Hospitals and EMS

All statutory cities may spend money to provide hospitals. Third and fourth class home rule charter cities may establish, acquire, and operate hospitals. These cities may also acquire property by gift, purchase, or condemnation for the location of a municipal hospital.

Cities with municipal liquor stores may spend money from the liquor dispensary fund to construct a community hospital. The dollar amounts vary depending upon the class and type of city and the type of liquor store. In some cases, a city must get voter approval before proceeding.

Any city or town may make grants for the use of a private, nonprofit or public hospital or to an emergency medical services agency that serves the city or town. The city council or town board must authorize the grant (after an affirmative vote of the town electors at the annual or special town meeting).

Cities may issue revenue bonds to finance the acquisition and betterment of nursing homes and related facilities. Cities may jointly create hospital districts with the power to own and operate hospitals, nursing homes, and similar facilities.

S. Housing

Cities may adopt and develop municipal housing programs that can do the following:

RELEVANT LINKS:

LMC Research and Information Service at (800) 925-1122 or (651) 281-1200. Minn. Stat. §§ 469.001-.047. Section II-K, *Economic development*.

Part I, *Criteria for valid public expenditures*.

Minn. Stat. § 435.193. LMC information memo, *Special Assessment Guide*.

Minn. Stat. §§ 469.1812-.1816.

Section II-I, *Donations to organizations*. A.G. Op. 218-r (Feb. 10, 1942). A.G. Op. 476-b-2 (Oct. 11, 1946).

- Make or purchase mortgage or rehabilitation loans to finance the acquisition or rehabilitation of single family housing for low- and moderate-income individuals and families.
- Make or purchase loans to finance multifamily housing developments or the rehabilitation of multifamily housing developments if the program is submitted for review.

Cities and participants in these programs must meet various criteria in order to qualify. Contact the League for more information. Housing and Redevelopment Authorities (HRAs) also have special authority to encourage the recovery and rehabilitation of blighted housing.

T. Individuals and public entities

The basic principle of valid public expenditures is that public money must be spent for a public purpose. It is thus understandable that public money may not generally be used for the benefit of an individual, although there are some limited exceptions. This section discusses some of the more common questions city officials have asked about using city money to help individuals.

1. Forgiving property taxes and special assessments

Cities generally lack authority to forgive taxes or special assessments that have been levied to properties. However, state statutes do permit cities to defer special assessments for property owned by persons 65 years of age or older, persons retired by virtue of permanent or total disability, or members of the National Guard or other military reserves called to active duty if certain conditions are met.

Property tax abatement is an economic development tool that is available to cities, counties, and school districts. Each taxing authority may abate its portion of taxes against a property that will be developed for a limited number of years. There are several criteria that must be met in order to use this tool. For further information about property tax abatement, contact the League.

2. Aid to remedy emergency situations

There is no specific statutory authority for cities to spend money to help individuals who may have suffered losses due to a natural disaster, such as a flood or tornado. As mentioned earlier, the attorney general has found that a city cannot donate money to the Red Cross or to similar organizations for the purpose of helping people recovering from a natural disaster.

RELEVANT LINKS:

Minn. Stat. § 12.02, subd. 1(3).
Minn. Stat. § 12.37.

Minn. Stat. § 12.331.
Minn. Stat. § 12.03, subds. 3, 2.

Minn. Stat. § 38.345.
Minn. Stat. § 38.331, subd. 2.

Minn. Stat. § 465.035.

Minn. Stat. § 471.85.

A.G. Op. 904 (June 27, 1963).
A.G. Op. 1011 (Dec. 27, 1968).

Although direct financial assistance to individuals may be prohibited, cities may be able to assist other cities recovering from natural disasters. The emergency management statutes provide for rendering of mutual aid among political subdivisions of the state. Under one of these statutes, a political subdivision may enter into contracts and incur obligations to combat disaster and provide emergency assistance to victims of disasters. The statute also allows political subdivisions to provide this assistance without complying with the normal formalities, including those pertaining to the appropriation and expenditure of public funds.

There is statutory authority for cities to provide personnel, equipment, and supplies to another political subdivision that requests assistance because of an emergency. “Emergency” is defined as an unforeseen combination of circumstances that calls for immediate action to prevent a disaster from developing or occurring. Disaster is defined as a situation that creates an actual or imminent serious threat to the health and safety of persons, or a situation that has resulted or is likely to result in catastrophic loss to property or the environment, and for which traditional sources of relief and assistance within the affected area are unable to repair or prevent the injury or loss.

3. Public entities

The council of any city may spend money on county extension work. “County extension work” is defined by statute as “educational programs and services provided by extension educators in the areas of agriculture; agricultural finance; economic development; nutrition; youth leadership development including 4-H programs; leadership; and environment and natural resources.”

Any public corporation may lease or convey its land for nominal consideration to the U.S. government, the state or any government subdivision. This authority also allows public land to be similarly conveyed without consideration or for an agreed upon amount.

Any city, town, county, or school district may transfer its personal property to another public corporation for public use. The transfer may be made without consideration or for a nominal amount, and must first be authorized by the governing body.

In a 1963 opinion, the attorney general concluded that this statute did not authorize the transfer of money between a county and a city. However, the opinion was modified in a 1968 opinion, where the attorney general said money could be donated from one public entity to another. But this opinion also said money could not be transferred between public bodies without considering other legal limitations, as well as the purposes for which the money was originally obtained.

RELEVANT LINKS:

[Minn. Stat. § 466.06.](#)

[Minn. Stat. § 471.61, subd. 1, Section II–M, Employees/staff/public officials.](#)

[Minn. Stat. § 412.221, subd. 5, Minn. Stat. § 465.13, Minn. Stat. § 466.08, Minn. Stat. § 466.09.](#)

[Minn. Stat. § 466.07.](#)
[Minn. Stat. § 465.76.](#)

[Minn. Stat. § 134.07.](#)

[Minn. Stat. § 429.021.](#)
[LMC information memo, Special Assessment Guide.](#)

The opinion also cautioned against broadening the definition of “public purpose” by stressing that the use to which the donated property is to be put must be directly related to the public purposes of the transferring governing body.

As with other donations, cities should first seek a legal opinion from their city attorneys or from the attorney general.

U. Insurance

A governing body of any municipality may get insurance against liability of the municipality and its officers, employees, and agents for damages. Municipalities may insure in amounts above the liability limits imposed by statute.

Municipalities may also insure or protect their officers and employees and their dependents. This topic is discussed in more detail in another section of this memo.

V. Legal

All cities have general authority to spend money on legal costs, including hiring attorneys, defending or prosecuting lawsuits, and paying court judgments or settlements.

All cities must pay to defend and indemnify for damages claimed or levied against their officers and employees if the damages resulted while the officer or employee was acting in performance of the duties of his or her position; and the officer or employee was not guilty of malfeasance, willful neglect, or bad faith. All cities may reimburse their officers and employees for legal costs incurred to defend them against criminal charges that arise out of reasonable and lawful performance of their duties. Certain conditions must be met before such costs may be paid. The costs may include reasonable attorney’s fees to defend the person against the criminal charges.

W. Libraries

Any city or county may establish and maintain a library. All statutory cities and second, third, or fourth class home rule charter cities may establish and contribute to a library fund.

X. Local improvements

Municipalities may spend money to make local improvements. Certain procedures must be followed, such as notice and public hearings if the project will be paid for with special assessments.

RELEVANT LINKS:

Minn. Stat. § 429.021, subd. 1(8). LMC information memo, *Special Assessment Guide* and LMC Model Nuisance Ordinance.

Minn. Stat. §§ 416.01-.06.

Minn. Stat. § 465.50. Section II-F, *Memorial Day observances*.

Minn. Stat. § 412.491.

Minn. Stat. §§ 471.15-.191.

A.G. Op. 59-a-3 (July 12, 1948).

A.G. Op. 218-r (Aug. 15, 1951). A.G. Op. 59-a-22 (Aug. 7, 1951). Section II-I, *Donations to organizations*.

Minn. Stat. § 459.14.

Y. Nuisance abatement

Municipalities may spend money to abate public nuisances. They may also recover the costs through special assessments to the property in question if they wish.

Z. Memorials

All city councils may spend money to erect buildings, monuments, and parks to recognize those who served in the military. If necessary, council may acquire a site within the city for this purpose.

All cities may spend money for the purpose of aiding in the observance of Memorial Day in an annual commemoration to honor the noble deeds of the nation's dead soldiers. The dollar amount is limited to \$300 for each 75,000 in population.

AA. Park and recreation

Statutory cities may spend money to establish, improve, ornament, maintain, and manage parks, parkways, and recreational facilities.

All cities, towns, counties, and school districts may spend money to operate public recreational facilities. The statutes also permit up to \$800 per year to be spent for awards and trophies as part of these programs. Cities, towns, counties, and school districts may also join to operate public recreational facilities and programs with other government entities, American Legions, incorporated veterans' organizations, or nonprofit organizations.

The attorney general has concluded that the above statutes do not permit a city to make donations to the Boy Scouts to assist with their private recreational programs.

The attorney general has also determined that cities cannot sponsor local sports teams, including bowling teams or kittenball teams (similar to softball).

BB. Parking

All statutory cities and home rule charter cities of the second, third, and fourth class may spend money to acquire or build automobile parking facilities. Such facilities may be within or outside the city's corporate limits. Minneapolis and St. Paul have similar authority, but the facilities must be within these cities' corporate limits.

RELEVANT LINKS:

Minn. Stat. § 412.221, subd. 14.
Minn. Stat. § 469.176, subd. 4g(b).

Minn. Stat. § 412.221, subd. 32.

Minn. Stat. § 412.153.

Minn. Stat. § 412.111.

Minn. Stat. § 410.33.

Minn. Stat. § 436.05.
Minn. Stat. § 436.06.

Minn. Stat. § 412.221, subd. 17.

Minn. Stat. § 438.11.

All statutory cities have the power to acquire, improve, and operate automobile parking facilities and tourist camps. Publicly owned parking facilities can be financed with tax increment revenues.

CC. Public safety

All statutory cities have the power to provide for the suppression of vice and immorality, the prevention of crime, and the protection of public and private property.

Statutory cities may expend public funds to acquire or lease residential property for housing or otherwise provide housing assistance in the city for one or more volunteer firefighters or ambulance personnel. The expenditure may only be made to attract and retain the qualified personnel necessary to ensure a city has timely public safety and related services. A city may make the expenditure only after the need for the expenditure has been established and approved at a public hearing.

Statutory cities also may create, as the council deems necessary, such offices and employment positions for city functions. Presumably, this authority would permit statutory cities to create positions dealing with public safety.

Home rule charter cities may have similar authority in their charters. If the charter is silent on this issue, a city may use the same authority as statutory cities.

1. Police

Any city, town, or county may contract for police services with another city, town, or county. Adjacent cities may establish, equip, and operate joint municipal police departments unless located within a county that contains a first class city.

2. Fire

All statutory cities may establish fire departments and provide equipment and apparatus needed to prevent, control, or extinguish fires.

All cities may appropriate money to defray the expenses of members of the city's fire department for attending:

- The state convention of the Minnesota State Fire Department Association.
- The Minnesota State Fire School.
- The meetings of regional firefighters' associations.

RELEVANT LINKS:

[Minn. Stat. § 471.476.](#)

[Minn. Stat. § 412.221, subd. 21.](#)

[Minn. Stat. § 465.69.](#)

[Minn. Stat. § 412.221, subd. 3.](#)
[LMC information memo, Purchase and Sale of Real Property.](#)

[Minn. Stat. § 463.152.](#)

[Minn. Stat. § 465.01.](#)
[Minn. Stat. ch. 117.](#)

[Minn. Stat. § 463.02.](#)

[Minn. Stat. § 471.631.](#)

[A.G. Op. 355-a \(Aug. 23, 1972\).](#)

3. Ambulance

All cities, towns, hospital districts, and counties (except for Hennepin County) have the authority to provide ambulance services.

4. Animal pounds

All statutory cities have the authority to establish animal pounds.

5. School patrols

Statutory cities may pay for the cost of training of school patrol members, including attendance at any authorized school patrol camp within Minnesota.

DD. Real property

All statutory cities have the power to buy or lease land and buildings. Charter cities usually have similar powers in their city charters. To receive a copy of the LMC research information memo on city real estate transactions, contact the League.

State statute permits all cities, towns, and counties to spend money to acquire hazardous buildings and real estate using eminent domain. The statute specifically declares this action to be a public purpose.

Any city may acquire private property using eminent domain, whether it is located inside or outside the city limits.

Any city may acquire building line easements by purchase, grant, or condemnation.

EE. Rewards

Any city may offer a reward for information leading to the apprehension, charging, or conviction of an individual who has committed a felony crime within the city's limits. The statute also allows a city to fund the payment of a reward that is offered by a nonprofit organization for the same information. The dollar amount is not set by statute, but must be one deemed appropriate by the council.

In a 1972 attorney general opinion, it was determined a city had the authority to offer a reward for information leading to the arrest and conviction of the person who had shot at animals in the city's zoo. In this opinion, the attorney general concluded that the general welfare clause in the city's charter permitted the city to take reasonable measures of self-protection to preserve its property due to threats.

RELEVANT LINKS:

[Minn. Stat. § 412.221, subd. 32.](#)

[Minn. Stat. § 412.221, subd. 6.](#)

[Minn. Stat. § 441.26.](#)

[Minn. Stat. § 429.021.](#)
[LMC information memo,](#)
[Special Assessment Guide.](#)
[Section III-X, Local](#)
[improvements.](#)

[Minn. Stat. § 469.186.](#)

[Minn. Stat. § 450.19.](#)

[Minn. Stat. § 469.190.](#)

[Minn. Stat. § 412.221, subd. 14.](#)

In this attorney general opinion, the language of the city's charter provision was similar to the general welfare clause in the statutory city code, so this opinion might be appropriate for statutory cities. However, cities that wish to offer rewards for information regarding crimes should first contact their city attorneys.

FF. Streets and sidewalks

Statutory cities have broad authority to establish, construct, alter, and maintain city streets, sidewalks, and sewers. Charter cities usually have similar authority in their charters.

Statutory cities and fourth class home rule charter cities have the power to appropriate and spend reasonable sums of money to assist in improving or maintaining roads outside city limits that lead into the city.

The local improvement code authorizes municipalities to undertake a variety of local improvements, including street and sidewalk improvements. Although municipalities may choose to pay for the cost of these improvements, they may also assess benefited properties for these costs. However, the assessment may not be more than the increase in market value of the benefited property due to the improvement.

GG. Tourism

Any statutory city council may establish and maintain a bureau of information and publicity for the purpose of furnishing:

- Information for tourists.
- Outdoor advertising of tourist and city information.
- Preparing, publishing, and circulating information and facts concerning recreational facilities and business and industrial conditions of the community.

All cities and towns may establish and maintain public tourist campgrounds. The land acquired for these campgrounds may be inside or outside the city or town's corporate limits. The amount of money that may be spent per year for maintenance, improvement, or operation may not exceed 0.00806 percent of estimated market value.

Any city may impose a lodging tax to fund a local convention or visitor's bureau for the purpose of marketing the city as a tourist or convention center.

Statutory cities may spend money to acquire, improve, and operate parking facilities and tourist camps.

RELEVANT LINKS:

[Minn. Stat. § 412.321.](#)
[Minn. Stat. § 465.74.](#)

[Minn. Stat. § 444.075.](#)

[Minn. Stat. § 444.075.](#)
[Minn. Stat. § 412.221, subd. 11.](#)

[Minn. Stat. § 444.075.](#)

HH. Utilities

Any statutory city may own and operate any utility, including waterworks, district heating system or gas, light, power, or heat plant. There is also specific authority for other cities to operate district heating systems, under certain conditions.

All towns and cities (except for first class cities) may build, construct, reconstruct, repair, enlarge, improve, or obtain the following types of water or sewer systems:

- **Waterworks.** This includes mains, valves, hydrants, service connections, wells, pumps, reservoirs, tanks, treatment plants, and other appurtenances of a waterworks system. In addition, statutory cities may also provide wells, cisterns, reservoirs, waterworks, and other means of water supplies.
- **Sewer systems.** This includes sewage treatment works, disposal systems, and other facilities for disposing of sewage, industrial waste, and other wastes.
- **Storm sewer systems.** This includes mains, holding areas and ponds, and other appurtenances and related facilities for the collection and disposal of storm water.

III. Conclusion

Cities have broad authority to make a wide variety of expenditures. In order to be valid, these expenditures must be made for a public purpose, and have specific or implied statutory or charter authority. A city with questions about the validity of a specific public expenditure should contact the League for further information and seek a legal opinion from its city attorney or from the attorney general.

Appendix A: Public purpose expenditure chart

This chart provides a summary of tests a public expenditure should meet in order to be valid. If an expenditure does not pass all of the following questions, the expenditure may be doubtful. In this case, a city should consult its city attorney before making the expenditure.

Also see Part I for a discussion of the criteria for public purpose expenditures.

Test	Answer	Public expenditure <u>NOT</u> authorized	Public expenditure authorized
1. Does a statute or charter provision specifically or implicitly authorize the specific expenditure?	Yes		✓
	No	✓	
2. Does the expenditure benefit the community as a whole?	Yes		✓
	No	✓	
3. Is the expenditure directly related to the functions of government?	Yes		✓
	No	✓	
4. Does the expenditure have as its primary objective the benefit of a private interest?	Yes	✓	
	No		✓

Donations to Non-Profit Entities by Governmental Units

An expenditure of public funds must have both a public purpose and specific statutory or charter authority. Although charities and other non-profit entities may benefit their communities, government entities may not donate to them without specific statutory or charter authority.

Public entities may contract with a non-profit entity for a particular service that the public entity is authorized to provide. To avoid allegations that an impermissible donation has been made, the public entity should enter into a written agreement with the non-profit entity, documenting what the public entity is receiving in exchange for the payment.

For more information on this topic, [see our Statement of Position entitled Public Expenditures: Donations and Dues, here.](#)

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Statement of Position Public Expenditures: Donations and Dues

Public entities are often asked to give funds to support various groups and activities. While the causes may be worthwhile, public entities need to be cautious when making any financial commitments involving public funds.

In most circumstances, public entities have no authority to give away public funds as donations. Generally, in order to spend money on anything, a public entity must have authority to do so. Authority for an expenditure may be specifically stated in a statute or charter, or it may be implied as necessary to do what an express power authorizes. In addition, the expenditure must be for a "public purpose."

Gifts/Donations to Private Individuals/Organizations

Following these general principles, donations to people, non-profits, charities, or other groups are not permitted unless they are based upon specific statutory or charter authority. For example, the Minnesota Attorney General's Office has issued opinions finding that cities have no authority to donate city funds to organizations such as the Red Cross or the Boy Scouts.¹ The assumption is that a gift of public funds to an individual or private entity serves a private rather than a public purpose.

Before a public entity makes a contribution, it is important for that entity to determine that it has specific authorization to make the expenditure. Here are some examples of specific, statutorily authorized appropriations:

- **Artistic Organizations.** A county, city or town may appropriate money to support artistic organizations.²
- **Historical Causes.** A town or city may annually appropriate a specified amount to a county historical society so long as the society is affiliated with, and approved by, the Minnesota Historical Society.³ Cities have express authority to commemorate important and outstanding events in city history, and to appropriate money to collect, preserve and distribute its history data for future generations.⁴ The Attorney General's Office recognizes that a city can advance money to a nonprofit to sponsor a centennial celebration.⁵

¹ See, for example, Op. Att'y Gen. 59-A-3 (May 21, 1948).

² Minn. Stat. § 471.941.

³ Minn. Stat. § 138.053.

⁴ Minn. Stat. § 471.93.

⁵ See Op. Att'y Gen. 59a-3 (Jan. 18, 1968) (citing Minn. Stat. § 471.93).

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- **Prevention of Cruelty to Animals.** A county may appropriate money for maintenance and support of the local society for the prevention of cruelty to animals.⁶
- **Food Shelves.** Cities and counties may donate funds in the form of grants to food shelves providing food to the needy without charge.⁷
- **Senior/Youth Centers.** A county, city or town may appropriate money to support the facilities, programs, and services of a public or private, not-for-profit senior citizen center or youth center.⁸
- **Public Recreation Programs.** Counties, cities, towns and school districts may spend funds to operate programs of public recreation, recreational facilities, and playgrounds.⁹ These programs may be conducted independently or with any nonprofit organization.
- **Promotion.** A city or urban town may appropriate up to \$50,000 annually to an incorporated development society or organization of this State, for promoting, advertising, improving, or developing the economic and agricultural resources of the city or urban town.¹⁰ A city may appropriate money to advertise the city and its resources and advantages.¹¹ Similarly, a county may appropriate funds to a similar entity for promoting, advertising, improving or developing the economic and agricultural resources of the county.¹² The county statute does not contain an annual spending limit.
- **Employee Recognition.** Towns may spend funds to recognize volunteers, service efforts, and retiring town officers.¹³ Counties and cities may spend funds for preventive health and employee recognition services.¹⁴
- **Community Celebrations.** Towns may spend funds to host or support a community celebration.¹⁵ Cities or towns may spend funds on Memorial Day observances,¹⁶ and may appropriate money for county or district fairs,¹⁷ centennial and historical celebrations.¹⁸ Statutory cities may spend funds to provide free musical entertainment.¹⁹ The authority to purchase fireworks seems to be implied.²⁰

As an alternative to a donation, a public entity may enter into a contract with an organization to accomplish tasks that the entity is authorized to perform by statute or

⁶ Minn. Stat. § 343.11.

⁷ Minn. Stat. § 465.039.

⁸ Minn. Stat. § 471.935.

⁹ See generally, Minn. Stat. §§ 471.15 to .1911. Minn. Stat. § 469.189., and 471.16, subd. 1.

¹⁰ Minn. Stat. § 469.191. In addition, Economic Development Authorities (EDAs) have authority to conduct activities advancing the city and its economic development, and to carry out other public relations activities to promote the city and its economic development. See generally, Minn. Stat. §§ 469.090-.1081 and Minn. Stat. § 469.1082 (county EDAs).

¹¹ Minn. Stat. § 375.83.

¹² Minn. Stat. § 469.189.

¹³ Minn. Stat. § 365.10, subd. 12 (but electors must approve).

¹⁴ Minn. Stat. § 15.46.

¹⁵ Minn. Stat. § 365.10, subd. 12 (but electors must approve).

¹⁶ Minn. Stat. § 465.50.

¹⁷ Minn. Stat. § 38.12.

¹⁸ Minn. Stat. § 471.93.

¹⁹ Minn. Stat. § 412.221, subd. 15.

²⁰ Minn. Stat. § 624.22, subd. 1(a) (2) (A municipality may stage a fireworks display after obtaining a permit).

charter. For example, a city could not give money to the Boy Scouts for a recycling program, but the city could enter a contract with the Boy Scouts to do part of its recycling program. The amount of money paid to the Boy Scouts must be related to the value of the services they provide to the city.

Memberships and Dues

There is no general authorization for cities to join “private” organizations; but there may be specific statutory or charter authority to join specific organizations. For example, cities and urban towns in Minnesota may pay dues to become members of the League of Minnesota Cities.²¹

Similarly, cities, counties, and towns may appropriate money for membership in county, regional, state, and national associations of a civic, educational, or governmental nature. These associations must have as their purpose the betterment and improvement of municipal governmental operations.²² This authorization also allows public entities to participate in the meetings and activities of these associations.

A school board may authorize and pay for the membership of the school district or of any district representative designated by the board in those local economic development associations or other community or civic organizations that the board deems appropriate.²³

The Attorney General’s Office has determined that local units of government may *not* pay dues to a local chamber of commerce. However, because cities and urban towns may appropriate up to \$50,000 to an incorporated development society or organization for promotional activities, a city or urban town could contribute to a local chamber of commerce for one of the purposes authorized by statute, such as promoting the city or urban town.²⁴ Counties have similar authority but do not have the \$50,000 monetary cap.²⁵ The use of public funds would be limited to statutorily authorized activities. As a result, the OSA recommends that counties, cities, and urban towns create and maintain documentation that shows the funds have been given for specific statutory purposes.²⁶

²¹ Minn. Stat. § 465.58.

²² Minn. Stat. § 471.96.

²³ Minn. Stat. § 23B.02, subd. 24.

²⁴ Minn. Stat. § 469.191. An EDA has broader authority to join an official, industrial, commercial or trade association, or other organization concerned with one of the EDA’s authorized purposes.

²⁵ Minn. Stat. § 375.83.

²⁶ Documentation includes, but is not limited, to minutes, resolutions and contracts.