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## **CONTRIBUTIONS & DONATIONS BY TOWNSHIPS**

### **Introduction**

A common item of business at annual town meetings is handling the variety of requests made to the town for contributions or donations. In fact, towns are presented with so many requests from so many sources that it is often difficult to determine which ones the town may fund. The goal of this paper is to help town boards identify which among the requests for donations they receive are actually authorized by law. It is important to note that even if a donation is authorized by law does not mean the town necessarily needs to make the donation. The question of whether the town should make the donation is still left to, in most cases, the town board.

Although the title of this paper refers to contributions and donations, some of the items listed include expenditures and appropriations that are not strictly contributions. Furthermore, it must be kept in mind that each contribution, donation, appropriation, etc. is accompanied by its own set of conditions and requirements. Not all requested contributions can be made and not all contributions can be made in the same way. As always, a board should seek the appropriate legal assistance before making any contribution.

### **Determining Authority**

Expenditures by towns are limited to those authorized by statute. Town expenditures must also be for a “public purpose.” Because of these underlying requirements, a town board should ask itself three questions whenever it reviews a contribution request:

- (1) Is the particular contribution statutorily authorized?
- (2) Is the contribution for a public purpose and in the town’s interest?
- (3) Is the town board able to satisfy all of the conditions, requirements, and procedures associated with the contribution?

The board may not make the contribution if the answer to any of these questions is no. If the answer to all of these questions is yes, then the next question the board needs to answer is whether the town should make the donation. That, of course, is a policy question the board must answer on behalf of the best interests of the town.

#### **(1) Is the particular contribution statutorily authorized?**

This question reflects the statutory basis of town authority. As a creature of the legislature, a town’s authority is limited to that which is provided by statute. In order to answer this question affirmatively, the board must be able find a statute that expressly, or in a few instances impliedly

authorizes the contribution. A list of **some** of the authorized expenditures is provided later in this paper.

**(2) Is the contribution for a public purpose and in the town’s interest?**

The public purpose doctrine is based on a number of constitutional provisions and essentially states that public funds may only be spent for public purposes. City of Pipestone v. Madsen, 178 N.W.2d 594, 599 (Minn. 1970). Although “public purpose” cannot be precisely defined, the courts typically define it to mean “such an activity as will serve as a benefit to the community as a body and which, at the same time, is directly related to the functions of government.” Id. (quoting Visina v. Freeman, 89 N.W.2d 635, 643 (Minn. 1958)). The primary object of the expenditure must serve a public purpose rather than promote some private end. Whether something is a public purpose is ultimately decided by the courts.

Determining if an expenditure is in the town’s interest is typically decided by the board. This aspect of the question reflects that even though a contribution may be statutorily authorized and for a public purpose, a board may still decide not make the contribution on the basis that it is not in the town’s interest.

**(3) Is the town board able to satisfy all of the conditions, requirements, and procedures associated with the contribution?**

Each authorized contribution carries its own set of conditions and requirements. Some contributions are very simple and straight forward while others are much more complicated and may involve elector authorization, a written agreement, or a variety of other requirements. If a town board is not able to satisfy all of the statutory requirements, the contribution may not be made.

As a town board works through the procedure to make a contribution, it should carefully document in its minutes that each statutory requirement has been satisfied. Such documentation will serve both as working checklist for the board to make sure all of the steps have been completed, and as a defense against claims that the board is not authorized to make the contribution.

**Authorized Contributions/Appropriations**<sup>1</sup>

Airports

- \* A town board may assist another town, city, or county in the building and operation of an airport by giving or leasing the political subdivision real or personal property or by appropriating money. Minn. Stat. § 360.043.

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<sup>1</sup> **PLEASE NOTE:** This list provides only a summary of the statutory authority and does not contain all of the requirements associated with each contribution. The full text of the statute should be referred to and appropriate legal advice obtained before any contribution is made. Furthermore, this list is not comprehensive.

### Ambulance

- \* A town board may provide ambulance service directly, by contract with a private or public entity, or in cooperating with other local governments. A town may also levy for this purpose. Minn. Stat. § 471.476.

### Artistic Organizations

- \* A town board appropriate money to support “artistic organizations.” What qualifies as an artistic organization is set out in the statute. Minn. Stat. § 471.941.

### Cemeteries

- \* A town board may disburse funds for general maintenance of abandoned or neglected cemeteries. Minn. Stat. § 306.246.
- \* A town board may appropriate up to \$2,500 a year to a public or privately owned cemetery located in or out of the town that is used to bury the dead of the town without restriction. Minn. Stat. § 471.84.
- \* A town board may operate a cemetery jointly with another town or city and levy a tax or appropriate up to \$10,000 a year. Minn. Stat. § 471.24.

### Civil Defense

- \* A town board may levy a tax and make appropriations for the expenses of local civil defense organizations and a local civil air patrol contingent. Minn. Stat. § 12.26.

### County Fairs

- \* A town board may appropriate money to a county agricultural society that is a member of the state agricultural society that holds a fair in the town or in close proximity to the town. Minn. Stat. § 38.12. This authority is supplemental to any other existing appropriation authority. Minn. Stat. § 38.20.
- \* A town board of a town with a taxable market value of over \$105,000,000 may appropriate and pay the county up to \$10,000 to aid in the improvement of county fairgrounds located in the town. Minn. Stat. §§ 38.18-.19.

### County Historical Society

- \* A town board may annually appropriate from its general fund up to 0.02418 percent of its taxable market value to be paid to the county historical society if the society is approved by the state historical society. Minn. Stat. § 138.053.

### County Park

- \* A town board may make a contribution to any county park. Minn. Stat. § 398.33.

### Economic Development

- \* An urban town board may appropriate up to \$50,000 a year out of the general fund to be paid to any incorporated development society or organization of this state for promoting and developing the economic and agricultural resources of the town. Minn. Stat. § 469.191.

### Entertainment

- \* Upon a petition and positive vote of the electors, a town board may levy a tax to create a fund to employ a band, orchestra, or chorus for town purposes. Minn. Stat. § 449.09-.10.
- \* The electors may authorize the board an approve funds to commemorate an event of historical significance to the town, or host a community celebration. Minn. Stat. § 365.10, subd. 12.

### Gifts to Municipalities

- \* A town board may accept a grant or devise of real or personal property and maintain such property for the benefit of its citizens in accordance with the terms prescribed by the donor. Acceptance must be by resolution adopted by a two-thirds majority of the board. Minn. Stat. § 465.03.
- \* A town board may lease or convey its lands without consideration or for nominal consideration to the state, any political subdivision, or to the United States. Minn. Stat. § 465.035.
- \* Any county, city, town, or school district may transfer its personal property for a nominal or without consideration to another public corporation for public use when duly authorized by its governing body. Minn. Stat. § 471.85. The Attorney General's office issued an opinion a number of years ago indicating "personal property" as used in this statute includes cash so that a listed public entity could give cash to another public corporation. Op.Atty.Gen., 904, June 27, 1963.
- \* A Minnesota corporation may make a contribution to a political subdivision for exclusive public purposes. Minn. Stat. § 300.66.
- \* A lawful gambling organization may expend gross profits from their lawful gambling operation by making a contribution to a town (such contributions are considered a "lawful purpose" for the use of gambling proceeds). Minn. Stat. §§ 349.15, subd. 1; 349.12, subd. 25(10).

## Health

- \* The electors may authorize the town board to make a grant to a private, nonprofit, or public hospital, or emergency medical services agency (including first responders), that serves the town. Minn. Stat. § 465.037.
- \* The electors may authorize the town board to contract with a nonprofit organization for up to \$10,000 a year to provide health services. The board must consider the services to be in the public interest and good for the town. Minn. Stat. § 365.10, subd. 14.
- \* A town board may expend funds or levy a tax for vocational rehabilitation facilities. Minn. Stat. § 268A.06.

## Library

- \* The electors may authorize the town board to enter into an agreement to expend funds or levy a tax to discharge the costs incurred in the construction of a library. Minn. Stat. § 134.41.
- \* Towns have the authority to contract with a library board to loan materials to residents of the town. Minn. Stat. § 134.12, subd. 2.

## Membership Fees & Dues

- \* A town board may appropriate out of its general fund to pay the dues of the Minnesota Association of Townships or a county unit that belongs to the Association. The board may also pay the actual and necessary expenses of its officers to attend meetings related to town business, including meetings of the Association. Minn. Stat. § 366.01, subd. 3.
- \* A town board may appropriate necessary funds to provide membership in county, regional, state, and national associations of a civic, educational, or governmental nature, which have as their purpose the betterment and improvement of municipal governmental operations. Expenses of town officers to participate in related meetings may be paid. Minn. Stat. § 471.96.

## Pest Control

- \* A town board may appropriate and levy a tax to control insect pests, plant diseases, bee diseases, or destructive or nuisance animals when recommended to do so by the Commissioner of Agriculture. Minn. Stat. § 18.022.

## Rail Service Improvement

- \* The governing body of a political subdivision may appropriate money for rail service improvement when approved by the Commissioner of Transportation. Minn. Stat. § 222.51. Note: “Political Subdivision” is not specifically defined in the section, but is commonly understood to include towns.

### Recreation

- \* A town board may, independently or jointly with another political subdivision, operate a program of public recreation and playgrounds. Land, facilities, and equipment may be purchased and up to \$800 a year may be spent on the purchase of awards and trophies. Minn. Stat. §§ 471.15-.16.
- \* The electors may authorize the board to contract with a nonprofit organization for up to \$10,000 a year to provide social and recreational services. The board must consider the services to be in the public interest and good for the town. Minn. Stat. § 365.10, subd. 14.

### Safety Council

- \* A municipality in certain counties may appropriate or set aside funds to help defray the cost of necessary supplies and administrative expenses of a local safety council that is recognized by the state safety council. Minn. Stat. § 471.63. Note: “Municipality” is not specifically defined in the section, but appears to include towns.

### Senior Centers

- \* A statutory or home rule charter city, county, or town may appropriate money to support the facilities, programs, and services of a public or private, not-for-profit senior citizen center. Minn. Stat. § 471.935.

### Watershed Districts

- \* A town board may appropriate money necessary to pay its proportional share of the preliminary expenses of a watershed district. Minn. Stat. § 103D.921, subd. 4.

### Youth Centers

- \* A statutory or home rule charter city, county, or town may appropriate money to support the facilities, programs, and services of a public or private, not-for-profit youth center. Minn. Stat. § 471.935.