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Donations to a Town's Fire Department *Avoiding Pitfalls*

By Rebecca Otto, State Auditor

The Office of the State Auditor has recently received several inquiries from local officials about town fire department purchasing and fundraising issues. One recurring question has concerned the roles of a town's board and its Fire Relief Association around the issue of donations.

Background

According to Minnesota Statute, a town is a public corporation. The governing body of a town is a Town Board of Supervisors. Minnesota law states:

The supervisors shall have charge of all town affairs not committed to other officers by law. They shall draw orders on the treasurer to disburse money to pay the town expenses, and to disburse money raised by the town for any other purpose.

Of course, a unique feature of town government is the degree to which the residents, also referred to as electors, are involved in the decision-making process. For example, it is the electors who grant a town's board authority to provide for the protection of public and private property or the promotion of health, safety, order, and convenience.

The law specifically provides that the electors may direct the town board to provide for fire protection and acquire, operate and maintain fire apparatus. A town fire department is part of town government and is controlled and governed by the Town Board of Supervisors.

Minnesota law also addresses Volunteer Firefighters Relief Associations. The law states:

A relief association is a governmental entity that receives and manages public money to provide retirement benefits for individuals providing the governmental services of firefighting and emergency first response.

Relief associations are usually organized as non-profit corporations. They are managed by governing boards of trustees, the membership of which is also mandated by statute.

Unlike a town board, a volunteer firefighters' relief association board of trustees does not govern the town fire department.

Town Boards and Acceptance of Donations

A town board has discretion to either accept or reject donations for any purpose, including donations for the town's fire department. Minnesota law does prescribe the manner in which donations must be accepted by the town board. A town board must accept donations by a resolution adopted by a two-thirds majority. If funds are donated to the town, the donor may want to limit the use of the funds so they can only be used for the fire department. Any conditions placed on the gift by the donor must be documented in the resolution considered by the board.

Once a piece of equipment is donated to the town it becomes town property. The town will need to maintain the equipment and may need to insure the equipment and add it to the town's asset list. As a result, an entity preparing to make a donation should work with the town board to determine whether the donation is one the town wants to accept. If a conflict arises about priorities for fire department purchases, the town board makes the final decision.

Fire Relief Association Donations to Towns

Every relief association has a special fund and may also have a general fund. A relief association's special fund is a restricted pension fund that may receive state and municipal money paid to the relief association. The special fund may only be spent for benefit payments and certain authorized administrative expenditures.

A relief association may also have a general fund for expenditures consistent with the relief association's bylaws. If permitted by the relief association's bylaws, a relief association may offer general fund money or equipment purchased with general fund money to the town board as donations. The town board decides whether donations for a town fire department are accepted, as described above. A relief association should not attempt to circumvent the town board's authority by purchasing and installing fire department equipment without town board approval.

Fire Relief Association Solicitations

If a fire relief association's bylaws permit it, the association may solicit donations or conduct fundraisers. In advertisements and solicitations, the association should identify itself as the entity conducting the solicitation or fundraiser and state the specific intended purpose for which funds are being raised.

If funds will be raised for specific types of fire department equipment, the town board should be consulted first to make sure the equipment is what the town board wants. Fundraising should not be used as a method of circumventing the town board's authority to determine priorities for town fire department.

Any advertisement or solicitation should state clearly whether a donation is to the relief association or to the town. Checks should be made payable to either the fire relief association or the town. Checks should not be made out to the fire department, or disputes may arise over whether the donated funds belong to the fire relief association or the town.

Township residents have traditionally been strong supporters of their towns' fire departments and relief associations, and have made many generous donations over the years. When issues arise over the roles of town boards and fire relief associations around these donations, Minnesota law provides clear guidance.