City of North St. Paul
Economic Development Authority
Regular Meeting Agenda

April 11, 2023
3:00 PM

The April 11, 2023 Economic Development Authority meeting will be conducted at 3:00 p.m. The meeting location is the Council Chambers at City Hall, located at 2400 Margaret St., North St. Paul.

Members of the public are permitted to attend the meeting in person. However, it is encouraged to view the meeting remotely. Instructions can be found below.

April 11, 2023 **Zoom meeting can be accessed via:** https://tinyurl.com/NSPEconDevAuth
(from a PC, Mac, tablet, iPhone or Android device)
or by phone at US: +1 929 205 6099 or +1 301 715 8592
Participants joining the meeting by phone please use the following passcode: 86929140679

The Economic Development Authority Zoom meeting will be 'open to the public to listen in but will be muted from contributing at all times with the exception of a Public Hearing and open to the public forum.

Please join the meeting early to test your audio and video settings. If you join via a device and your audio is not working, you may need to use the dial-in phone number option in order to be heard.

I. Call to Order

II. Roll Call

Robert Dew, Chair
Terry Furlong, Vice Chair
Josef Matthews
Tom Schifsky
Chris Thorsen
Tim Cole, Council Representative
John Monge, Mayor

STAFF/EX OFFICIO MEMBERS

Brian Frandle, Executive Director
Brandy Howe, Treasurer/Community Development Director
Brett Garry, Business Association Representative
Chris Cherne, EDA Secretary

III. Adopt Agenda

IV. **Presentation**

A. Recognition of Donald Jensen

V. **Approval of Minutes**

A. Approval of 03-14-2023 Meeting Minutes

VI. **Meeting Open to the Public**

VII. **Action Items**

VIII. **Discussion Items**

A. Fall Roundup Parade

B. EDA Bylaws

C. EDA Advertisements

D. Facade Improvement Program

IX. **Treasurer's Report**

A. March 2023 Treasurer's Report

X. **Updates**

A. Community Development Director Updates

XI. **Adjournment**

XII. **Closed Session**

The next regularly scheduled Economic Development Authority meeting is Tuesday, May 9th, 2023 at 3:00 PM.

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Agenda Information Memorandum

To	Date
Executive Director and Authority Members	April 11, 2023

Agenda Placement # IV.A

Presentation

Subject

Recognition of Donald Jensen

Background/Facts

The Economic Development Authority wishes to recognize and thank Donald Jensen for his 4 years of dedicated service to the EDA.

Recommended Action

N/A

Attachments

None

Respectfully submitted,
Chris Cherne, Planning Commission/EDA Secretary

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Agenda Information Memorandum

To	Date
Executive Director and Authority Members	April 11, 2023

Agenda Placement # V.A

Approval of Minutes

Subject

Approval of 03-14-2023 Meeting Minutes

Background/Facts

N/A

Recommended Action

Staff recommends approval of the March 14, 2023 EDA Meeting Minutes

Attachments

1. EDA Minutes 03-14-2023

Respectfully submitted,
Chris Cherne, Planning Commission/EDA Secretary

City of North St. Paul
Economic Development Authority
Regular Meeting Minutes

March 14, 2023
3:00 PM

I. Call to Order

Chair Robert Dew called the meeting to order at 3:00 PM.

II. Roll Call

Robert Dew, Chair
Terry Furlong, Vice Chair
Josef Matthews
Tom Schifsky
Chris Thorsen
Tim Cole, Council Representative
John Monge, Mayor

STAFF/EX OFFICIO MEMBERS
Brian Frandle, Executive Director
Brandy Howe, Treasurer/Community Development Director
Brett Garry, Business Association Representative
Chris Cherne, EDA Secretary

Members Present:	Robert Dew, Chair Terry Furlong, Vice-Chair Josef Matthews Chris Thorsen Tim Cole, Council Representative John Monge, Mayor
Members Absent:	Tom Schifsky
Staff/Ex-Officio Members Present:	Brian Frandle, Executive Director Brandy Howe, Treasurer/Community Development Director Brett Garry, Business Association Representative Chris Cherne, EDA Secretary

III. Adopt Agenda

Chair Dew asked for a motion to adopt the 03-14-2023 EDA meeting agenda.
M/Monge, S/Cole.
Motion carried 6-0.

IV. Presentation

A. Recognition of Departing Members

Mayor Monge recognized outgoing EDA members Archie Vickerman and Kevin Fuller with a certificate and thanked them for their dedicated service to the EDA.

V. Approval of Minutes

A. Approval of 02-14-2023 Meeting Minutes

Chair Dew asked for a motion to approve the 02-14-2023 EDA meeting minutes.
M/Furlong, S/Monge.
Motion carried 6-0.

VI. Commissioner Training

City Attorney Soren Mattick provided training on the responsibilities of the EDA. Mr. Mattick covered open meeting law, data practices, conflicts of interest, gift law, the role of the City Manager and the rules of order. After questions from the EDA, Mr. Mattick provided the following information:

- When the EDA is in a closed session, the group cannot vote. Consensus can be gained, but a motion cannot be made. Staff get directions from a closed session and there will be bare-bone minutes. If a motion is made, it needs to be listed in minutes. Any paperwork needs to come back in open session as that is when financial approval occurs.
- If there is a conflict of interest, the EDA member must refrain from comment and abstain from any vote on the matter.
- If the EDA does not have a quorum, it is recommended they should postpone or wait until the next meeting for discussion.
- If an EDA member wants to participate via zoom and does not vote, they are allowed to do so. Members of the public are free to join virtually as they wish.

VII. Meeting Open to the Public

This Open Forum is an opportunity for persons to address the Economic Development Authority on items not on the agenda. A completed public comment form should be presented to the staff liaison prior to the meeting. Comments will be limited to 3 minutes per person. While the Authority may ask clarifying questions of the speaker, no formal action by the Authority or discussion will be held on these items.

No public comment.

VIII. Action Items

A. Pizza Factory

Chair Dew recounted the previous meeting's discussion regarding the Pine Tree Center and Pizza Factory's future at that site. Chair Dew, Furlong and Howe met with the owner of the Pizza factory and

Tracy Luther, owner of the property at 2543 7th Ave E, to try and facilitate an opportunity to keep Pizza Factory within the city and move them downtown. Both parties expressed interest in exploring the possibility. Dew and Furlong asked staff to get a proposal from an architect for a rough drawing to see if the building would work for both parties. Howe contacted a few architecture groups to get a quote and received one from Little Box. Little Box Architecture specializes in small-scale downtown restaurants.

Dew stated that the EDA has an option to either do nothing or follow their charter and attract/retain business, especially downtown. Dew proposes the EDA authorize funds to get the process started and show that there is a win-win deal for both parties. Member Thorsen asked if the EDA has a set policy about helping existing businesses stay in business or if there is a specific procedure. He stated he is all for keeping the restaurant and he has equal concern for other businesses in the City. Dew responded that there is not a general process. Over the years, the EDA has helped a number of businesses. The EDA tries to be proactive, but it does not have a checklist of criteria for EDA assistance.

Member Thorsen asked how the EDA can come up with a process that is fair to everyone and ensures that everyone is heard. Dew suggested the City use the weekly newsletter to advertise the EDA or give more presentations to the Business Association. The EDA wishes to help connect the dots for folks and provide them with guidance and expertise. It is an open invitation to all businesses. If the EDA wishes to be more proactive, they should do formal outreach. Dew asked staff to draft sample newsletter/promotion content that can be provided at the next meeting.

Chair Dew requested a motion to approve the proposal from Little Box Architecture.
M/Thorsen, S/Matthews.
Motion passed 6-0.

IX. Discussion Items

A. Pine Tree Center

Howe reached out to Crossroads Realty to contact the owner of the Pine Tree Center. The owner believes it is a good residential site for approximately 40 condominiums. He is looking to sell it for $1.1 million.

Chair Dew stated the property is in a state of blight. This is a situation where the EDA could do a number of things: do nothing, get involved and attempt to steer it in some direction or get the word out to developers. There is a fairly significant shortfall in affordable housing in the community, and the Pine Tree Center could fill this void.

Member Thorsen stated that relocation of Pizza Factory leaves the site vacant. He expressed faith that the market will take care of the parcel.

Cole and Matthews expressed the opinion that the EDA should move forward to dip their toes into the situation. Staff have been requested to look at next steps through Crossroads Realty and connect with the property owner to find out their intent and whether they want to redevelop. If they do not intend to redevelop the property, there should be a discussion about whether the EDA can gain some control over it for a period of time in order to go through an RFP process and see who is willing to come into that spot.

B. Downtown Green Space (2579 7th Ave)

Howe stated that she reached out to the Public Works Director to get updated cost estimates. Staff are still working on getting those items.

C. River of God Church

Chair Dew stated there was a meeting with the Pastor of River of God Church and his brother, a board member, to discuss their facility and the neighboring property's desire to expand. Dew stated that they were understanding as it was premised around the Redevelopment Master Plan. They enjoy being downtown and would like to remain central downtown. Vice-Chair Furlong stated the meeting went well. The Pastor is aware of Reflex Medical's desired expansion. There might be an opportunity for that to happen. The Pastor would like the EDA to assist him with staying in North St. Paul.

Dew questioned what the Church would need if they were to move. They weren't entirely sure. Dew stated it would be good to go back to Reflex Medical and let them know the Church would be open to move. It may be beneficial to ask Reflex to fund the initial information gathering for the Church's potential relocation.

D. Margaret Street Development Site

Dew explained that the City had a development agreement with JB Vang, who let the agreement lapse. Dew presented a concept layout by Gary Mulcahy to create man-cave condos. Gary Mulcahy owns the adjacent property. Dew stated that he agreed to test the waters with the EDA before Mulcahy takes the next steps. He assured Dew it would be architecturally top notch and would pair well with events such as the car show. One of the things that the Redevelopment Master Plan identifies for that area is structured parking and downtown green space. Mulcahy was open to preserving the north end of that site for green space. Dew stated it is probably not the use people typically think of for those parcels. If the EDA wishes, his team will bring information to the next meeting about how this use has benefited other communities.

Thorsen noted that Mr. Mulcahy has been a client of his for many years, and he would abstain from any comment or vote. Cole, Furlong and Matthews look forward to hearing more.

X. Treasurer's Report

A. February 2023 Treasurer's Report

Howe provided the February Treasurer's Report to the EDA.

XI. Adjournment

Chair Dew requested a motion to adjourn the meeting.
On motion by Vice-Chair Furlong, seconded by Council Representative Cole, with EDA members Matthews, Mayor Monge, and Chair Dew voting aye, EDA member Thorsen voting nay.
Motion carried 5-1 to adjourn the meeting at 4:48 PM.

The next EDA meeting is scheduled for Tuesday, April 11, 2023 at 3:00 PM.

Members, please notify any planned absences to: Chris Cherne
EDA Secretary
651-747-2440
chris.cherne@northstpaul.org

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Agenda Information Memorandum

To	Date
Executive Director and Authority Members	April 11, 2023

Agenda Placement # VIII.A

Discussion Items

Subject

Fall Roundup Parade

Background/Facts

The Fall Round Up Parade is a long-standing North St. Paul tradition. Over the years, the event has been hosted by the History Cruzers Car Show and the North St. Paul Business Association with assistance from the City. The parade is partly funded by unit participation fees and generous sponsors from the community.

City staff have assisted with the parade for many years and took on a more active role in the planning after the parade was canceled in 2020 due to the Covid pandemic. This support included staff time and the use of the City's online registration tools. Recent audits have questioned the City's participation and support of the Business Association and the parade in this matter.

Staff have reviewed current statutes and guidelines from the League of Minnesota City and spoken to other cities who are facing similar challenges with their City events.

Although state statute does not strictly forbid City support for community celebrations, the League of Minnesota Cities cautions against such spending.

The League of Minnesota Cities points to a number of statutes that empower cities to provide money for economic development, including grants to certain economic development organizations and Economic Development Authority programs.

Recommended Action

Staff requests input and ideas from the EDA to determine if this is an activity that may support its goals.

Attachments

1. Public-Purpose-Expenditures
2. Fall Round Up Parade Financial Summary

Respectfully submitted,
Kari Erpenbach, Communications

LEAGUE of MINNESOTA CITIES

INFORMATION MEMO

Public Purpose Expenditures

Understand the general criteria for a valid public expenditure. Find a list of commonly analyzed expenditures, including factors relied upon to determine the validity or invalidity of donations to organizations, contributions toward economic development, expenditures on certain employee expenses, and more.

RELEVANT LINKS:

I. Criteria for valid public expenditures

For an expenditure of public funds to qualify as a lawful expenditure, it should have:

- A public purpose. A public purpose for the expenditure must exist.
- Authority. Specific or implied authority for the expenditure must arise out of a statute or from the city's charter. Specific authority usually is clear. In contrast, whether a statute or charter provision implicitly provides authority for an expenditure often becomes subject to interpretation. Cities should consult with their city attorneys regarding whether implied authority for a specific expenditure exists.

Minn. Const. art. X, § 1.
Minn. Const. art. XI, § 2.

Minn. Const. art. XII, § 1.

Minn. Stat. § 469.191.

The Minnesota Constitution allows taxation for furthering a public purpose, but generally prohibits enacting local or special ordinances or laws to tax for a private purpose. Minnesota's Constitution also generally prohibits cities from donating money or loaning the credit of the state for the specific purpose to aid an individual, an association, or a corporation. This does not mean, however, that a city can never contribute to an association or a corporation; but, in order to do so, the expenditure must further a public purpose and must be authorized by a statute or charter.

Handbook, *Community Development and Redevelopment*.

For example, a specific state law allows cities to give donations (of up to $50,000 per year) to any incorporated developmental society or organization for promoting, advertising, improving, or developing the economic and agricultural resources. Also, various statutory economic development tools make it possible for cities to make certain contributions toward development and redevelopment. Again, cities should consult with their city attorneys or bond attorneys regarding allowable expenditures for development.

Since, as stated above, a public expenditure must always further a public purpose, analysis of what qualifies as a "public purpose" becomes crucial.

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

The meaning of "public purpose" constantly is evolving. The Minnesota Supreme Court has followed a liberal approach, generally finding a "public purpose" when the activity in question meets all the following:

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www.lmc.org
(651) 281-1200 or (800) 925-1122

7/13/2020

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

R.E. Short Co. v. City of Minneapolis, 269 N.W.2d 331 (Minn. 1978).

The Minnesota Supreme Court has recognized that an incidental benefit to a private interest does not, per se, deprive the spending activity of its public nature, if the primary purpose of the expenditure is public.

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

The Minnesota Supreme Court further clarified that activities that promote the following objectives for the benefit of all the city's residents further a public purpose:

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

By no coincidence, these interests also represent the foundation of all legitimate council actions. Councilmembers are elected or appointed to govern by and for these interests, acting as specialists on what best serves the local population. Therefore, it is wise for a city council to work with its city attorney and to document, in writing, reasonable findings of the council in its determination of a valid public.

Abrahamson v. St. Louis Sch. Dist., 802 N.W.2d 393 (Minn. App. 2011), affirmed in part and reversed in part in *Abrahamson v. St. Louis Cnty. Sch. Dist. 2142*, 819 N.W.2d 129 (Minn. 2012).

Attorney general (AG) opinions provide guidance in analyzing the validity of a public expenditure. However, the AG opinions serve only as guideposts, with courts making the final decision if an expenditure gets challenged. Judicial review focuses on (1) whether the expenditure benefits the community as a whole; and (2) whether the expenditure relates to the functions of government.

The following issues could arise from an invalid expenditure:

Walser Auto Sales v. City of Richfield, 635 N.W.2d 391 (Minn. App. 2001) (taxpayer lawsuit).

- Taxpayer lawsuits. Depending on the outcome, a council may have to cover the expense of defending itself in a taxpayer lawsuit and, if the taxpayer wins, dealing with a court order finding the expenditure not valid. Personal liability for the expenditure also might fall upon individual councilmembers in some situations since they have a fiduciary responsibility to spend the public's money for a public purpose.

See generally, State Auditor's Statements of Position.

- Non-compliance finding by the state auditor. The state auditor has the authority to find that the city 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.
- Changes in law. Substantial violations may prompt the adoption of more restrictive legislation on city expenditures.

Appendix A, 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 qualify as a proper use of public funds.

II. Common questions on public spending

Common questions often arise regarding certain public expenditures. Please note this section does not represent an exhaustive list of all valid or invalid city expenditures.

Many statutes limit the authority to spend money by type of cities. For example, some statutes specifically give spending authority only to statutory cities or only to home rule charter cities.

Minn. Stat. § 410.01.

Also, many statutes give authority for certain expenditures only to cities of a certain class. Population determines which of the following class a city falls under:

- 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.

Minn. Stat. § 410.33.

The analyses of the expenditures in this section primarily apply to statutory cities since home rule charter cities may have additional authority for expenditures in their city charters. Charter cities should check their charters for more details. Generally, home rule charter cities will consult the general statutory law that provides statutory cities with authority for an expenditure when the following conditions exist:

- The city's charter is silent on the particular matter.
- No general law exists prohibiting a charter city from making the expenditure.
- No general law exists that expressly states a city's charter must prevail over general law on that particular matter.

A. Advertising

Minn. Stat. §§ 469.187-.189.

City officials often ask if they may spend money on advertising. Generally, cities have statutory authority for advertising expenditures. In some instances, however, this authority may be limited to a certain type of advertising for a specific purpose or also may vary based on the class of the city.

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

Councilmembers should carefully review an expenditure beforehand to ensure it qualifies as an advertising expenditure anticipated by the statutes. The attorney general has deemed a donation, under the guise of advertising, improper.

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

1. First class cities

Minn. Stat. § 469.187.

Any first-class city may levy a tax, not exceeding 0.00080 percent of the estimated market value, and the council may direct the use of the proceeds for city publicity purposes. The council may establish and provide for a publicity board or bureau to administer the fund, subject to the conditions and limitations that the council prescribes by ordinance.

2. 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 to use for advertising:

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

3. 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, its resources and advantages. Limitations on the appropriations include using the money:

- to advertise the city; or
- for cooperative programs that involve promotion of the area by more than one municipality and its resources and advantages.

4. Statutory cities

Minn. Stat. § 469.186.
Section II–HH, Tourism.

Any statutory city may spend money to create a bureau of information and publicity to (1) furnish tourists with information;

(2) provide outdoor advertising and (3) prepare, publish, and circulate information and facts concerning community recreational facilities, business resources and industrial resources.

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 in exercising the powers and authority those other municipalities have under the aeronautics code. This assistance may take the form of a gift or lease of real property, a donation or loan of personal property, or the appropriation of money.

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, so long as the roads 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. To use this authority, however, a city must pass an ordinance determining to exercise powers granted by certain state statutes.

D. Ports, Docks

Minn. Stat. § 458.02. Minn. Stat. § 458.03.

All cities with a population from 4,000 to 50,000 may acquire land on a navigable stream in the city by purchase or condemnation. The city may, on this land or on a portion of this land, construct, erect, and maintain:

- Docks, quays, levees, wharves, landing places, railroads, and other transportation loading and unloading places.
- Water freight and passenger stations.
- Terminals and terminal buildings for carriers.
- Necessary equipment and appurtenances.

E. Businesses

Minn. Stat. Ch. 469.

Several statutes empower cities to provide money or real property for economic development purposes under various programs.

Section II-L, *Economic development.*

Likewise, there is limited authority to provide low-cost land for housing redevelopment purposes.

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

These different programs are discussed briefly in a later section of this memo. For further information, contact the League or the Minnesota Department of Employment and Economic Development (DEED).

Minn. Stat. § 412.221, subd. 9.

Minn. Stat. § 471.84. Minn. Stat. § 410.01.

F. Cemeteries

Statutory cities may acquire, hold, and manage cemetery grounds. These cities may acquire cemeteries by purchase, gift, devise, condemnation, or otherwise.

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. Alternatively, a city may enter a joint powers agreement with another governmental entity for the operation of a cemetery. In addition to the joint powers agreement, neighboring cities and towns may jointly agree to maintain a cemetery, with the same $10,000-per-year restriction for each.

MN State Auditor, Statement of Position Public Expenditure: Donations and Dues.

G. 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 no general authorization exists for festival expenditures, some statutory authority does support these types of expenditures in limited circumstances. The League cautions against spending money on celebrations outside of parameters set forth below and recommends consulting with city attorneys regarding expenditures on fairs or celebrations.

Minn. Stat. § 38.12.

1. County fairs

Any city or town hosting the fairs of county and district agricultural societies or associations may appropriate money to the agricultural society or association if both:

- The society or association is a member of the Minnesota State Agricultural Society; and
- The fair is held within the city's or town's corporate limits or within close-proximity to the corporate limits.

Minn. Stat. § 465.50.

2. Memorial Day observances

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.

Minn. Stat. § 471.93. Section II-R, *Historical*.

3. Centennial and historical celebrations

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.

Minn. Stat. § 471.935. Minn. Stat. §§ 471.15-.191. Office of State Auditor, Statement of Position: Expenditure of Public Funds to Schools and Senior Programs, Oct. 14, 2016.

H. Community centers

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

Minn. Stat. § 412.221, subd. 34.

I. Decorations

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

J. Donations

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

MN State Auditor, Statement of Position Public Expenditure: Donations and Dues.

Cities often get asked to make donations to organizations operating for good causes. Generally, without express authority by charter or statute, cities do not have authority to appropriate or give away public funds as donations to any person, corporation or private institution. This does not mean, however, that a city can never contribute to an association or a corporation; but, to do so, the expenditure must further a public purpose and must be authorized by a statute or charter. Indeed, some statutes specifically allow support for certain organizations and causes.

Minn. Stat. § 469.191.

For example, a specific state law exists that allows cities to give donations (of up to $50,000 per year) to any incorporated developmental society or organization.

Handbook, *Community Development and Redevelopment*.

Also, various statutory economic development tools make it possible for cities to make certain contributions toward development and redevelopment. Again, cities should consult with their city attorneys or bond attorneys regarding allowable expenditures for development.

Minn. Stat. § 465.03. Minn. Stat. § 465.04. Minn. Stat. § 471.895.

Accepting Donations, LMC Model Resolution.

Cities may also accept gifts of real or personal property, including money, and use them in accordance with the terms prescribed by the donor. However, a city may not accept or use gifts for religious or sectarian purposes. A resolution accepting the gift and the donor's terms must receive an affirmative vote of two-thirds of the members of the council.

1. Nonprofit organizations in general

The attorney general and the state auditor, over the years, have considered the question of whether cities can donate public funds to various groups. Public expenditures to the following groups or organizations do not have statutory authority and are invalid:

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). Office of State Auditor, Statement of Position: Expenditure of Public Funds to Schools and Senior Programs, Oct. 14, 2016.

- Supporting the Boy Scouts.
- Sponsoring a local bowling team.
- Sponsoring a local kittenball team (like softball).
- Helping the American Legion build a Legion Hall.
- Supporting the Red Cross.
- Supporting a campaign to stop expansion of a neighboring city airport.
- Supporting schools.

Minn. Stat. § 412.221, subd. 2.

Minn. Stat. § 349.213.

Minn. Stat. § 349.12.

Cities have other options to support nonprofits. For example, the city could use its contracting power to indirectly support nonprofits, such as contracting with 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 that further a lawful purpose. The city should consult with its city attorney to ensure that the use of gambling proceeds complies with the statutory requirements of a lawful purpose expenditure.

2. Artistic organizations

Minn. Stat. § 471.941.

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

An association, corporation, or other group that provides an opportunity for people to participate in the creation, performance, or appreciation of artistic activities qualifies as an "artistic organization". The statute provides examples of "artistic activities" that cities can support; however, it, by no means, represents an exclusive list.

3. Incorporated development societies or organizations

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

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."

Because of the limitations regarding donations, cities interested in donating up to $50,000 in any given year to an incorporated development society or organization should consult their city attorney. For example, 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. Sections II-S, *Hospitals and EMS* and II-L, *Economic development*.

Any city, town, 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. Authority also exists 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 has a society for the prevention of cruelty to animals ("SPCA"), it may appropriate monies, not otherwise appropriated, for the maintenance and support of that SPCA "in the transaction of the work for which they are organized". However, no part of such an appropriation may go to pay the salary of any officer of the society.

6. Solicitation of donations by firefighters

Minn. Stat. § 465.90.

Despite any law or ordinance to the contrary, any city may, by resolution, allow full-time firefighters employed by the city and 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 set forth in the statute, including restrictions on type of charitable organization, frequency and time frame of solicitations and proof of insurance.

7. Surplus city equipment

Minn. Stat. § 471.3459.

Donation of Surplus City Equipment to a Nonprofit Organization, LMC Model Policy.

In 2016, the Minnesota Legislature passed a law allowing a "local government," including statutory and home rule charter cities, to donate "surplus equipment" to a "nonprofit organization." Surplus equipment includes equipment used by a local government public works department, and also includes cellular phones, emergency medical and firefighting equipment no longer needed by the local government (because the phones or equipment no longer meet industry standards for emergency medical services, police, or fire departments; have minimal value; or have no resale value).

Before donating surplus equipment, a city must adopt a policy on how it will determine what qualifies as surplus eligible for donation and how it will select nonprofit organizations eligible to receive donations. One caveat worth mentioning—the policy "must address the obligations of the local government to disclose to the nonprofit that the surplus equipment may be defective and cannot be relied upon for safety purposes."

K. Dues

A.G. Op. (June 27, 1997) (informal letter opinion to Staples). MN State Auditor, Statement of Position Public Expenditure: Donations and Dues.

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. Without authorization for membership, cities do not have authority to pay for membership.

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.

L. 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, including up to $50,000 to an incorporated development society or organization discussed in II(J)(3) above.

An analysis of the economic development statutes and their requirements fall outside the scope of this memo; however, cities should know that, in certain circumstances, the statutes permit contributions for economic development.

The following list provides a broad summary of some of the more common tools available for encouraging development:

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.

- Conveyance of city-owned land for a nominal amount to encourage business and industry, under certain conditions.
- "Business subsidies," including contributions of personal property, real property and/or infrastructure.
- Grants to certain economic development organizations.
- Creation of development districts.
- Economic Development Authority programs.
- Economic development loans.
- Tax abatement.

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

Handbook, *Community Development and Redevelopment*.

The League recommends consulting with city attorneys or city bond counsel when considering any of these tools. Also, for further information about economic development programs, contact the League or the Minnesota Department of Employment and Economic Development (DEED). Finally, Chapter 14 of the Handbook for Minnesota Cities, entitled Community Development and Redevelopment, provides guidance on awarding business subsidies or utilizing various development tools.

M. Elections

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

1. Special elections/advisory elections

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*.

Special elections, whether authorized by statutes or by charter provisions, represent a valid public expenditure. In the alternative, elections on questions that the public has no authority to answer, either by statute or charter provision, constitute advisory elections, which are prohibited, and expenditures on these types of elections are not valid.

Many home rule charter cities have charters containing initiative and referendum provisions. These provisions give these charter cities additional powers regarding 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 regarding ballot issues revolves around 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. A related question arises, as well, as to whether a city can spend money either to support or oppose a state constitutional amendment ballot initiative.

a. Local ballot initiatives

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.

Traditionally, case law and the attorney general have allowed local subdivisions to publish and distribute publications intended merely to inform the public of financial conditions and the potential effects of the passage or failure of a ballot question. However, cities generally have not been allowed to expend funds to promote or defeat passage of a local ballot question by presenting one-sided information on the issue.

The state auditor acknowledged an exception to this, stating elected officials may appear before citizens to orally advocate for a position, so long as no expenditure of public funds has occurred.

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

A 2012 Minnesota Supreme Court decision, however, questioned the extent to which a city either can inform its residents 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 opine on whether a city could legally spend money to promote a position on a ballot measure, the court cautioned that any such expenditures would be subject the city to campaign finance laws. Furthermore, the court stated 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 should consult their city attorney prior to any expenditures associated with efforts to inform voters about any ballot question.

b. State constitutional ballot initiatives

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

Historically, the attorney general also has frowned upon expenditures made to support a position on a state constitutional ballot initiative. A 1952 opinion addressed 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.

A.G. Op. (June 30, 2006) (informal letter opinion).

In a later opinion, however, the attorney general has recognized that, in limited circumstances, spending money to advocate a position could be proper.

Office of the State Auditor, Statement of Position: Expenditure of Public Funds on Ballot Issue Advocacy, Apr. 2014.

The attorney general and the state auditor both have stated that, where a state action or proposal could have a "direct and substantial effect" on the interests of a local governmental entity, that entity could spend public funds to protect or promote its interests—even by financially supporting one side of a ballot issue.

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

The city council has the discretion to make findings as to whether 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.

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

Lastly, in light of the 2012 Minnesota Supreme Court case, cities that spend any money to promote a position on a state constitutional amendment must do so in compliance with campaign finance and fair campaign practice laws.

c. Local sales tax

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

State statutes currently ban 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 and indicating the city council's approval of the local sales tax, but only if the disseminated information includes a list of specific projects and the cost of each individual project.
- Provide notice of and conduct public forums at which both proponents and opponents of the referendum have equal time to express their opinions on the merits of the referendum.
- Provide facts and data on the impact of the proposed local sales tax on consumer purchases.
- Provide facts and data related to the individual programs and projects to be funded with the local sales tax.

N. Employees/staff/public officials

Cities often ask about various employee costs. These include:

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

1. Pay, expenses, and benefits

Minn. Stat. § 412.111.

Statutory cities may create departments and advisory boards and appoint officers, employees and agents as deemed necessary for the proper management and operation of city affairs. In doing so, the council may define the duties of its officers, employees and other staff, as well as fix the compensation for those positions.

a. Bonuses

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

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.

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

However, the attorney general acknowledged the possibility of paying a bonus to employees and opined that "an agreed monetary bonus might be provided as part of a salary plan to employees who meet performance or longevity standards".

MN State Auditor, Petition Report: City of Becker.

Based on this AG opinion, it seems reasonable to assume that, if the bonus arose from a prior agreement or understanding of how or when payment of the bonus would occur, then the bonus would be valid.

b. Discounted or free items or services from city-owned business

The state auditor has determined that no specific authority permits offering discounts to city employees because of their status as city employees on merchandise sold by city-owned businesses, such as discounts on clothes in a city-owned golf course pro shop. Discounts on merchandise to nonemployees or employees for reasons other than status of employees (like any season pass holder) may pass muster so long as the city's council has approved a policy outlining the discounting practice.

c. Insurance benefits

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

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 represents additional compensation paid to the officer or employee, but does not qualify as income for purposes 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 also may contract with an insurance company for the voluntary purchase of long-term care insurance by employees and their dependents.

d. Mileage reimbursement

Minn. Stat. § 471.665.

Cities may pay a mileage reimbursement for staff who travel for city business and use their own vehicles. The city council sets the maximum amount to be reimbursed. The Internal Revenue Service (IRS) sets the rate considered tax deductible for business use. If a city sets its rate higher than the IRS rate, any additional amounts represents 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 councilmembers unless provided by special law or the city's charter.

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

Minn. Stat. § 15.46.

Office of the Minnesota State Auditor, Statement of Position: Employee Recognition Programs and Events, Feb. 2014.

State law allows a statutory or home rule charter city to (1) establish and operate a program of preventive health and employee recognition services for its employees; (2) to provide necessary staff, equipment, and facilities and (3) to expend funds, as necessary, to achieve the objectives of the program.

The state auditor has released a statement of position that narrowly interprets this statute, requiring the programs to be in writing and to state clear wellness and recognition objections. The city council must approve the program, with the council determining the amount necessary to achieve the objectives of the program. The state auditor also cautions that "in-kind" benefits to employees of statutory cities must have express authorizations by statute. Cities should consult with their city attorneys before offering in-kind benefits, such as employee privileges (like free rounds of golf) or discounts on items (like season passes) as part of wellness programs.

MN State Auditor, Petition Report: City of Becker.

f. Public officials' expenses

Minn. Stat. § 465.54.

Statutory cities may pay the expenses incurred by councilmembers for their official duties relating to their city's bureau of information and tourism. This does not include trips for lobbying purposes or for meetings and conventions not connected with specific municipal projects pending before the official making the trip. This also does not include paying for employees to participate in events, such as playing in golf tournaments.

MN State Auditor, Petition Report: City of Becker.

g. Severance pay

Minn. Stat. § 465.72.

LMC Research and Information Services at (800) 925-1122 or (651) 281-1200.

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 exceed the equivalent of one year of pay. Severance pay does not include compensation for accumulated sick leave or other payments in the form of contributions by an employer toward premiums for group insurance policies for former employee. The city must pay severance pay in a manner mutually agreeable to the employee and the employer and must pay it over a period of 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.

h. Vacation leave

Minn. Stat. § 471.66.

Any city council may grant paid or unpaid vacations to its regularly employed employees and officers. The city council may adopt vacation policies by ordinance or resolution, including determining the terms and conditions of vacations. No elected official may receive monetary compensation for unused vacation or sick leave accruals.

2. Miscellaneous items

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

a. Official Performance Bonds

Minn. Stat. § 415.18.

Minn. Stat. § 412.111.

City councils may pay to provide fidelity or faithful performance bonds for city officers and employees who, by statute, must furnish them.

b. Flowers

Minn. Stat. § 471.895.

No specific authority exists for purchasing flowers for a staff member or city official who is ill or has lost a family member.

Additionally, even if employees contribute their own money towards flowers, potential problems could arise if purchased for a supervisor under the state's gift law.

LMC information memo, *Official Conflict of Interest*.

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 could impact a financial interest of the person giving the gift.

Since many city supervisors qualify as "appointed" officials and, those supervisors often give feedback that directly affects salary raises for the staff they manage, a potential violation of the gift law may result when staff members give the supervisor any gift beyond those authorized by law.

O. Entertainment (musical)

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

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 turn to the same statute relied upon by statutory cities to get authorization for providing free musical entertainment.

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

Fourth class home rule charter cities may levy a tax for 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.

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

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

Minn. Stat. § 449.09. Minn. Stat. § 410.01.
A.G. Op. No. 107, p. 188 (1950).

There also is 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. To use this authority, the council must get permission from the city's voters.

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

To put the question on the ballot, the city first must have received a petition signed by 10 percent of the voters proposing the funding. 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.

Minn. Stat. § 449.09.

If a majority of voters, who vote on the question, approve it, the city levies the tax 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, the city decides, by vote, not to employ a band, orchestra, or chorus, the governing body may transfer the sums already levied and collected to the general fund

P. Furniture, office supplies

Minn. Stat. § 412.221, subd. 1.

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

Minn. Stat. § 410.32. Minn. Stat. § 412.301.

Notwithstanding any contrary provision of other law or the charter, all statutory cities and charter cities may, by resolution and without public referendum, issue capital notes subject to the city debt limit to purchase capital equipment, which includes computer hardware and software, whether bundled with machinery or equipment or unbundled, together with application development services and training related to the use of the computer hardware and software. Cities should work with their city attorney or bond counsel to make sure these capital notes comply with the specific statutory requirements, including the required two-thirds vote of the governing body.

Q. Garbage

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

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

Home rule charter cities often have similar authority in their charters. If their charter is silent on the matter, they may rely upon the authority set forth in statute for statutory cities.

R. Historical

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

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

- 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, publishing distributing and exhibiting data and material pertaining to the history of the city.
- Preserving historic data for future generations.

Minn. Stat. § 138.053.

The governing body of any home rule charter or statutory city may annually appropriate, from its general fund, an amount not to exceed .02418 percent of estimated market value, derived from ad valorem taxes on property or other revenues, to the historical society of its respective city, town, or county to further the promotion of historical work and to aid in defraying the expenses of carrying on the historical work in the city, town, or county. However, the city may only appropriate these funds to a historical society affiliated with and approved by the Minnesota Historical Society.

S. Hospitals and EMS

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

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.

Minn. Stat. § 447.045.

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.

Minn. Stat. § 465.037.

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).

Minn. Stat. § 447.45.

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.

T. Housing

Minn. Stat. Ch. 462C.

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

- 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.
- Establish, by ordinance, a local housing trust fund or participate in a joint powers agreement to establish a regional housing trust fund.

Minn. Stat. § 462C.16.

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

Cities and participants in these programs must meet various criteria 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.

Minn. Stat. § 462C.16.

With respect to local housing trust funds, a nonprofit organization may administer the fund, which then can encourage private charitable donations to the fund. Money in the local or regional house trust fund may pay for administrative expenses, as long as not more than 10 percent of the balance of the fund goes toward these administrative expenses. The money in this fund may also: fund grants, loans, and loan guarantees for the development, rehabilitation, or financing of housing; match other funds from federal, state, or private resources for housing projects; or provide down payment assistance, rental assistance, and homebuyer counseling services.

U. Individuals and public entities

Part I, Criteria for valid public expenditures.

As a reminder, the basic principle of valid public expenditures requires spending public money to further a public purpose. As a result, it makes sense that public money may not generally be used for the benefit of an individual. Of course, some limited exceptions exist. 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

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

Cities generally lack authority to forgive taxes or special assessments that have been levied to properties. However, state statutes allow for hardship assessment deferral in certain situations and permit cities to defer special assessments on property owned by persons 65 years of age or older, persons retired because of permanent or total disability, or, in some instances, members of the National Guard or other military reserves called to active duty. To do so, the city must adopt an ordinance or resolution establishing standards and guidelines for determining the existence of a hardship and for determining the existence of a disability.

Minn. Stat. §§ 469.1812-.1815.

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

2. Aid to remedy emergency situations

Section II–J, *Donations to organizations*.

No specific statutory authority permits cities to spend money to help individuals who may have suffered losses due to a natural disaster, such as a flood or tornado.

A.G. Op. 218-r (Feb. 10, 1942). A.G. Op. 476-b-2 (Oct. 11, 1946).

As mentioned earlier, the attorney general has found that a city cannot donate money directly to the Red Cross or to similar organizations; however, the statutes allow cities to assist other cities recovering from natural disasters.

Minn. Stat. § 12.02, subd. 1(3).

The emergency management statutes provide for rendering of mutual aid among political subdivisions of the state.

Minn. Stat. § 12.37.

Also, under one of the emergency management statutes, a political subdivision may enter contracts and incur obligations to combat disaster and provide emergency assistance to victims of disasters. In these situations, political subdivisions can provide this assistance without complying with the normal formalities, including those pertaining to the appropriation and expenditure of public funds.

Minn. Stat. § 12.331.

Minn. Stat. § 12.03, subds. 2, 3.

Under the emergency management statutes, cities may 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 (1) a situation that creates an actual or imminent serious threat to the health and safety of persons; or (2) 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

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

The council of any city may spend money on county extension work. The statute defines "county extension work" 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."

Minn. Stat. § 465.035.

Any public corporation may lease or convey its land for nominal consideration to the state of Minnesota or any government subdivision; to the U.S. government or any agency of the federal government; to another public corporation or to the Minnesota State Armory Building Commission. This authority also allows public land to be similarly conveyed without consideration or for an agreed upon amount.

Minn. Stat. § 471.85.

Any city, town, county, or school district may transfer its personal property to another public corporation for public use. This transfer may occur without consideration or, in the alternative, for a nominal amount; but the governing body must authorize it first.

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

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, in a subsequent 1968 opinion, the attorney general modified this position, opining that one public entity could, in fact, donate money to another public entity as long as the transferring entity did so in compliance with other legal limitations and in furtherance of the purposes for which the money originally was obtained.

The 1968 opinion also cautioned against broadening the definition of "public purpose", stressing that the planned use for the donated property must directly relate 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.

V. Insurance

Minn. Stat. § 466.06.

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

Minn. Stat. § 471.61, subd. 1.

As discussed in Section II(N)(1)(c) above, municipalities also may insure or protect its officers and employees, and their dependents, or any class or classes of officers, employees, or dependents, under a policy (or policies) or contract (or contracts) of group insurance or benefits covering life, health, and accident for employees and medical and surgical benefits and hospitalization insurance or benefits for both employees and dependents (including dependents of an employee whose death was due to causes arising out of and in the course of employment).

W. Legal

Minn. Stat. § 412.221, subd. 5. Minn. Stat. § 465.13. Minn. Stat. § 466.08. Minn. Stat. § 466.09.

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

Minn. Stat. § 466.07. Minn. Stat. § 465.76.

Douglas v. City of Minneapolis, 230 N.W.2d 577 (Minn. 1975).

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 acted in performance of the duties of his or her position and the officer or employee did not act with 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 the reasonable and lawful performance of their duties, including reasonable attorney's fees. Certain conditions must be met before such costs may be paid.

X. Libraries

Minn. Stat. § 134.07.

Any city or county may establish and maintain a library. The city may pass an ordinance or resolution setting aside public property for a library. All statutory cities and second, third, or fourth class home rule charter cities may levy an annual tax on all taxable property to establish a library fund.

Y. Local improvements

Minn. Stat. § 429.021. LMC information memo, *Special Assessment Toolkit.*

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

Z. Nuisance abatement

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

Municipalities may spend money to abate public nuisances or to drain or fill swamps, marshes, and ponds. They also may recover the costs through special assessments to the property in question.

AA. Memorials

Minn. Stat. §§ 416.01-.06.

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

Minn. Stat. § 465.50. Section II–G, *Memorial Day observances*.

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

BB. Park and recreation

Minn. Stat. § 412.491.

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

Minn. Stat. §§ 471.15-.191.
Minn. Stat. § 471.15.

All cities, towns, counties, and school districts may spend money to operate public recreational facilities and programs of public recreation and playgrounds. The statutes also permit any home rule charter or statutory city to spend funds available to it for awards and trophies as part of these programs. Cities, towns, counties, and school districts may jointly operate public recreational facilities and programs with other government entities, American Legions, incorporated veterans' organizations, or nonprofit organizations. The city may issue bonds to operate these recreational facilities.

A.G. Op. 59-a-3 (July 12, 1948).
MN State Auditor, Statement of Position Public Expenditure: Donations and Dues.

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.

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

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

CC. Parking

Minn. Stat. § 459.14.

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 located inside or outside the city's corporate limits. Minneapolis and St. Paul have similar authority, but, for those two cities, the facilities must lie within these cities' corporate limits.

Minn. Stat. § 412.221, subd. 14.
Minn. Stat. § 469.176, subd. 4g(b).
Minn. Stat. § 459.14.

All statutory cities have the power to not only acquire or build automobile parking facilities; but also, to improve and operate those facilities, as well as tourist camps. Publicly owned parking facilities can be financed with tax increment revenues. The city also may acquire, by purchase or lease, parking meters or other parking or traffic-control devices.

DD. Public safety

Minn. Stat. § 412.221, subd. 32.

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

Minn. Stat. § 412.153.

Statutory cities may expend public funds to acquire or lease residential property for the housing of volunteer firefighters or ambulance personnel or otherwise provide housing assistance in the city for them. 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 approve the expenditure only after the need for the expenditure has been established and approved at a public hearing.

Minn. Stat. § 412.111.

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

Minn. Stat. § 410.33.

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

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

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

Minn. Stat. § 412.221, subd. 17.

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

Minn. Stat. § 438.11.

All cities may appropriate reasonable sums of 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.

3. Ambulance

Minn. Stat. § 471.476.

All cities, towns, hospital districts, and counties (except for Hennepin County) have the authority to provide ambulance services, either singly or jointly, by agreement. In providing such service, the city may purchase, rent, or lease ambulances and related equipment and supplies; may contract for such service with any person, firm, corporation, or other political subdivision upon such terms and conditions as may be agreed upon; and may employ and train personnel for such service. The ambulance service authorized by this section may be provided both inside and outside the boundaries of the city and to nonresidents as well as residents.

4. Animal pounds

Minn. Stat. § 412.221, subd. 21.

All statutory cities have the authority to establish animal pounds.

5. School patrols

Minn. Stat. § 465.69.

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

6. Capital equipment

Minn. Stat. § 410.32. Minn. Stat. § 412.301.

Notwithstanding any contrary provision of other law or charter, all statutory cities and charter cities may, by resolution and without public referendum, issue capital notes subject to the city debt limit to purchase capital equipment, identified as public safety equipment, ambulance and other medical equipment, road construction and maintenance equipment and other capital equipment. Cities should work with their city attorney or bond counsel to make sure these capital notes comply with the specific statutory requirements, including the required two-thirds vote of the governing body.

7. National Night Out

Minn. Stat. § 471.198.

Any home rule charter or statutory city may spend money for National Night Out events held within the city's boundaries.

Authorizing Solicitation of Contributions, LMC Model Resolution.

Any home rule charter or statutory city also may spend money for any event or purpose that the governing body determines will foster positive relationships between law enforcement and the community. Notwithstanding any law or ordinance to the contrary, any home rule charter city, statutory city, town, county, or school district may, by resolution, authorize officials and staff to solicit contributions for these events.

EE. Real property

Minn. Stat. § 412.221, subd. 3.

All statutory cities have the power to buy or lease land and buildings. Charter cities usually have similar powers in their city charters.

LMC information memo, *Purchase and Sale of Real Property*.

To receive a copy of the LMC research information memo on city real estate transactions, contact the League.

Minn. Stat. § 463.152.

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 "a public purpose".

Minn. Stat. § 465.01. Minn. Stat. Ch. 117.

Any city may acquire private property using eminent domain, whether located inside or outside the city limits, so long as the city acquires that property for the same purposes that the law otherwise would have allowed the city to either purchase it or receive it as a gift. The city also may use eminent domain to acquire a right-of-way for sewer or drainage, whether inside or outside the city limits. The procedure for condemnation shall follow the process prescribed by chapter 117, or that prescribed by the charter of such city.

Minn. Stat. § 463.02.

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

FF. Rewards

Minn. Stat. § 471.631.

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 offered by a nonprofit organization for the same information. The statute does not set a dollar amount, giving the council the discretion to establish an appropriate amount.

A.G. Op. 355-a (Aug. 23, 1972).

A 1972 attorney general opinion stated 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.

Minn. Stat. § 412.221, subd. 32.

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, making the Attorney General's opinion arguably applicable to statutory cities. However, cities that wish to offer rewards for information regarding crimes should first contact their city attorneys.

GG. Streets and sidewalks

Minn. Stat. § 412.221, subd. 6.

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.

Minn. Stat. 412.221, Subd. 7.

This authority includes providing for lighting on streets, buildings, or grounds by gas, electricity, or other means, and to contract with anyone engaged in the business of furnishing gas or electric service for the supply of such service to the city.

Minn. Stat. § 441.26.

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.

Minn. Stat. § 429.021. LMC information memo, *Special Assessment Toolkit*.

The local improvement code also 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 also may 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.

HH. Tourism

Minn. Stat. § 469.186.

Any statutory city council may establish and maintain a bureau of information and publicity to:

- Provide information for tourists.
- Provide outdoor advertising of tourist and city information.
- Prepare, publish, and circulate information and facts concerning recreational facilities and business and industrial conditions of the community.

Minn. Stat. § 450.19.

Both statutory and charter cities may establish and maintain public tourist campgrounds. The city may acquire land for these campgrounds either by lease, purchase or gift, and the campgrounds may lie inside or outside the city or town's corporate limits. The amount of money a city may spend per year for maintenance, improvement, or operation may not exceed 0.00806 percent of estimated market value.

Minn. Stat. § 469.190.

Any city, whether statutory or home charter rule, may impose a lodging tax of up to three percent on the gross receipts from staying at a hotel, motel, rooming house, tourist court or resort to fund a local convention or visitor's bureau (other than the renting or leasing of it for a continuous period of 30 days or more). The city shall use at least ninety-five percent of the gross proceeds from any such tax imposed to fund a local convention or tourism bureau for the purpose of marketing and promoting the city or town as a tourist or convention center. Any city, by ordinance, may also impose this tax on the camping site receipts of a municipal campground.

Minn. Stat. § 412.221, subd. 14.

Also, statutory cities may spend money to acquire, improve, and operate parking facilities and tourist camps and, by ordinance, regulate those camps and parking facilities.

II. Utilities

Minn. Stat. § 412.321.

Any statutory city may own and operate any utility, including waterworks, district heating system or gas, light, power, or heat plant.

Minn. Stat. § 465.74.

Specific statutory authority allows city operation of district heating systems under certain conditions and subject to certain restrictions based upon classification of the city and, in one instance, number of inhabitants.

Minn. Stat. § 444.075.

All towns and cities may build, construct, reconstruct, repair, enlarge, improve, or obtain the following types of water or sewer systems:

Minn. Stat. § 444.075. Minn. Stat. § 412.221, subd. 11.

- 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.

Minn. Stat. § 444.075.

- 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. For these expenditures to qualify as lawful expenditures, they must further or promote 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 sets forth criteria to help determine the validity of a public expenditure. An expenditure that does not meet the tests below may not represent a proper public expenditure. In those instances, a city should consult its city attorney before authorizing the expenditure.

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

Test	Answer	Public expenditure NOT 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		✓

Fall Round Up Parade Financial Summary

2021

Sponsorship Dollars	$8,900
Parade Unit Fees	$2,075
Fees Paid Out	$6,025
Parade Signs Expense	$425
Remaining Balance	$4525

2022

Sponsorship Dollars	$6,450
Parade Unit Fees	$1,400
Fees Paid Out	$4,275
Parade Signs Expense	$425
Remaining Balance	$3150

These figures do not include staff time from police, fire, public works.

The parade lineup has been managed by volunteers.

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Agenda Information Memorandum

To	Date
Executive Director and Authority Members	April 11, 2023

Agenda Placement # VIII.B

Discussion Items

Subject

EDA Bylaws

Background/Facts

Staff was directed to include the EDA Bylaws on the April EDA meeting agenda for review. Please see the attached EDA Bylaws, which were adopted in March 2010. Chapter 34: Economic Development Authority of the City Code of North St. Paul is also attached for reference.

Recommended Action

Attachments

1. Adopted EDA Bylaws
2. City Code - Economic Development Authority

Respectfully submitted,
Chris Cherne, Planning Commission/EDA Secretary

BY-LAWS OF THE NORTH ST. PAUL ECONOMIC DEVELOPMENT AUTHORITY

1. The Authority

Section 1.1. Name of Authority. The name of the Authority shall be the North St. Paul Economic Development Authority (hereinafter, the "Authority"), and its governing body shall be called the Board of Commissioners (hereinafter, the "Board").

Section 1.2. Office. The principal office of the Authority shall be at City Hall, 2400 Margaret Street, North St. Paul, Minnesota.

Section 1.3. Seal. The Authority shall have an official seal.

2. Organization

Section 2.1. Board. The Board of Commissioners for the Authority shall shall consist of seven (7) members of which one (1) shall be the Mayor and at least one (1) a City Councilmember. The Mayor shall present candidates for the Economic Development Authority to the City Council for consideration of approval. The Mayor and member of the City Council shall be co-terminant with their office term. Candidates for the Economic Development Authority shall have an interest in advancing the business and economic climate of the City but need not be residents of the City.

Section 2.2. Officers. The officers of the Authority shall consist of an elected Chairperson (Chair)and Vice-Chair. The offices of Secretary, Treasurer and an Assistant Treasurer will be appointed by the EDA Board. The Chair and Vice-Chair shall be members of the Board and shall be elected at the annual meeting of the Board. No Commissioner may serve as Chair and Vice-Chair at the same time. The offices of Treasurer, Secretary and Assistant Treasurer need not be held by a Commissioner.

Section 2.3. Chairperson. The Chairperson (Chair) shall preside at all meetings of the Board.

Section 2.4. Vice-Chair. The Vice-Chair shall preside at any meeting of the Board in the absence of the Chair and may exercise all powers and perform all responsibilities of the Chair if the Chair cannot exercise or perform the same due to absence or other inability.

Section 2.5. Treasurer. The Treasurer shall receive and be responsible for Authority money, shall disburse authority money by check only, keep an account of all Authority receipts and disbursements and the nature and purpose relating thereto, shall file the Authority's financial statement with its Secretary at least once a year as set by the Authority, and be responsible for the acts of the Assistant Treasurer.

Section 2.6. Assistant Treasurer. The Finance Director for the City shall serve as the Assistant Treasurer to the Authority and shall have all powers and duties of the Treasurer if the Treasurer is absent or disabled.

Section 2.7. Secretary. Shall keep the minutes of all meetings of the Board and shall maintain or cause to be maintained all records of the Authority. The Secretary shall also have such additional duties and responsibilities as the Board may from time to time and by resolution prescribe.

Section 2.8. Executive Director. The City Manager or designee shall serve as the Executive Director of the Authority, shall be chief appointed executive officer of the Authority, and shall have such additional responsibilities and authority as the Board may from time to time by resolution prescribe. The City Manager may designate an assistant.

3. Procedures of Board of Commissioners

Section 3.1. Annual Meeting. The annual meeting of the Board shall be held annually.

Section 3.2. Regular Meetings. The board shall hold regular meetings on the second Tuesday of each month, commencing at a regular time as the Board determines at the beginning of year. In the event such date shall fall on a legal holiday, the meeting shall be held on a designated alternate day as determined by the Board.

Section 3.3. Special Meetings. Special meetings of the Authority may be called by the Chair, the Executive Director or four members of the Board for the purpose of transacting any business designated in the call.

The call for a special meeting may be delivered at any time prior to the time of the proposed meeting to each Commissioner or may be mailed to the business or home address of each Commissioner at least two (2) days prior to the date of such special meeting.

At least three days prior to a special meeting, written notice of its date, time, place and purpose shall be (a) mailed or delivered to anyone who has specifically requested notice of special meetings or, as an alternative (b) posted on the "principal bulletin board" of the Authority or, if there is none, on the door of the Commissioner's "usual meeting room." At such special meeting, no business shall be considered other than as designated in the call, but if all of the members of the Authority are present at a special meeting, any and all business may be transacted at such special meeting.

Section 3.4. Emergency Meetings. Meetings regarding matters which, in the judgment of those calling the meeting pursuant to Section 3.3, above, require the immediate consideration of the Authority may be held without regard to the notice requirements otherwise applicable to special meetings. The Authority shall make good faith effort to give notice of such emergency meeting, including the purpose thereof, to any news medium that has filed such a written request with the Authority. If matters other than those related to the emergency are permitted to be discussed under Section 3.3, above, and so are discussed, the minutes of the meeting shall include a specific description of such matters.

Section 3.5. Quorum. A quorum of the seven member Board shall consist of four Commissioners. In the absence of a quorum, no official action may be taken by, on behalf of, or in the name of the Board or Authority.

Section 3.6. Adoption of Resolutions. Resolutions of the Board shall be deemed adopted if approved by not less than simple majority of all Commissioners present and constituting a quorum.

Section 3.7. Rules of Order. The meetings of the Board shall be governed by the most recent edition of Robert's Rules of Order.

4. Duties and Powers

Section 4.1. Duties and powers. The Officers shall have the duties and powers of their offices and other powers and duties as may be delegated by the Authority, the Bylaws, and Minnesota State Statutes (the Act). No action of the Authority may be in conflict with the City's current Comprehensive Plan or controls instituted to effectuate the Plan. All modifications of the Enabling EDA Resolution must be presented as a recommendation to the City Council.

Section 4.1.1 Executive Director. The Executive Director shall attend all meetings of the Authority, shall serve as a consultant and advisor to the Authority and shall make quarterly reports to the City Council.

Section 4.1.2 Conflicts of Interest. Except as authorized by Minnesota Statute 471.88, a Member, Officer or employee of the Authority may not have a substantial conflict of interest, in projects undertaken by the Authority.

Section 4.1.3. Report to Council. The Authority shall submit a written report of its activities to the City Council at least annually.

Section 4.2. Development Districts. The Authority may create and define the boundaries of economic development districts and use the powers as allowed by city ordinance granted to carry out economic development in these districts.

Section 4.3. Acquire property. The Authority may acquire, by lease, purchase, devise or through condemnation proceedings, title in property to create economic development in the Development Districts. Property acquired, leased, owned, controlled, used or occupied by the Authority for any of the purposes of Section 469.101, Subd. 2 of Minnesota Statutes is for public purposes and is exempt from taxation by the state or its political subdivisions. The exemption from property taxes only applies while the Authority holds the property for its own purpose(s).

Section 4.3.1. Options. The Authority may negotiate and acquire options to purchase, sell or lease property for the purpose of economic development.

Section 4.4. Contracts. The Authority may make contracts for the purpose of economic development.

Section 4.5. Limited partnerships. The Authority may become a limited partner in a partnership.

Section 4.6. Rights and easements. The Authority may acquire rights or easements for a term of years or perpetually.

Section 4.7. Receive public property. The Authority may accept land, money or other assistance, whether by gift, grant, loan or otherwise in any form from federal, state, local government, any agency of either or a local division of state government.

Section 4.8. Public facilities. The Authority may operate, maintain a public parking facility, housing facility or other public facilities to promote economic development in the area.

Section 4.9. Other powers. The Authority shall have such other powers as authorized as described in the Act.

5. Limit of Powers

Section 5.1. General obligation and revenue bonds. The Authority may issue general obligation bonds or revenue bonds after receiving the approval and authorization through a majority vote of City Council and in accordance with the Act.

Section 5.2. Comprehensive Plan. The official actions of the Authority must be consistent with the adopted comprehensive plan of the City, and any official controls implementing the comprehensive plan.

6. Budget

Section 6.1. Fiscal Year. The fiscal year of the Authority shall be the same as the City's fiscal year.

Section 6.2. Fiscal budget. The Authority shall prepare an annual budget to coincide with the City's budget process. The City shall establish a special fund designated as the "Economic Development Authority Fund." The Authority shall recommend a budget and submit it to the City

Council for final approval. The City Council shall appropriate to the fund money it deems necessary for the Authority's purposes. All payments drawn on the account of the Authority shall be by written statement signed by two officers of the Authority, directing the Executive Director to prepare and deliver payment. All expenditures shall be consistent with the operation of the Authority pursuant to the Act.

Section 6.3. Levy. Levy authority shall be consistent with Minnesota Statute 469.033, Subd. 6. and rest with the City Council.

Section 6.4. Audit. All financial records of the Authority shall be prepared, audited, and filed with the City, said records being coordinated by the City Finance Department at the direction of the City Manager.

Section 6.5. Treasurer's Bonds. The Treasurer shall give bond to the state conditioned for the faithful discharge of official duties. The bond must be approved as to form and surety by the Authority and filed with the Secretary and must be for twice the amount of money likely to be on hand at any one time as determined at least annually by the Authority, provided, however, that said bond must not exceed $300,000.

Section 6.6. Checks. An Authority check must be signed by (1) the Chair and (2) the Treasurer or Assistant Treasurer. The check must state the name of the payee and the nature for which the check was issued.

Section 6.7. Financial Statements. The Authority shall examine the financial statement together with the Treasurer's vouchers, which financial statement shall disclose all receipts and disbursements, their nature, money on hand and the purposes to which it shall be applied, the Authority's credits and assets and its outstanding liabilities. If the Authority finds the financial statement and Treasurer's vouchers to be correct, it shall approve them by resolution.

Section 6.8. Report to City. The Authority shall annually, at a time designated by the City, make a report to the City Council giving a detailed account of its activities and of its receipts and expenditures for the preceding calendar year.

Section 6.9. Budget to City. The Authority shall annually, at a time designated by the City, send its budget to the City Council which budget includes a written estimate of the amount of money needed by the Authority from the City in order for the Authority to conduct business during the upcoming fiscal year.

7. **Miscellaneous**

Section 7.1. Employees. The Authority shall utilize City staff and facilities as it may require as assigned by the Executive Director. City personnel policies shall apply to all employees of the EDA. The City Manager shall hire, manage and terminate all EDA employees.

Section 7.2. Services. The Authority may contract for the services of consultants, agents, public accountants and others as needed to perform its duties and to exercise its powers. The Authority may also use the services of the City Attorney or hire a general counsel, as determined by the Authority.

Section 7.3. Supplies, Purchasing, Facilities and Services. The Authority may purchase the supplies and materials it needs. The Authority may use the facilities of the City's purchasing department. The City may furnish offices, structures and space, stenographic, clerical, engineering and other assistance to the Authority.

Section 7.4. Execution of Contracts. All contracts, notes, and other written agreements or instruments to which the Authority is a party or signatory or by which the Authority may be bound shall be executed by the Chair and/or the Executive Director or the Assistant Executive Director, or by such other Commissioners or Officers of the Authority as the Board may by resolution prescribe.

Section 7.5. Amendment of By-Laws. These By-Laws may be amended by the Board by majority vote of Commissioners, provided that any such proposed amendment shall first have been delivered to each Commissioner at least five days prior to the meeting at which such amendment is considered.

The foregoing By-Laws were duly adopted by the Board of Commissioners of the North St. Paul Economic Development Authority on the 9th day of February, 2010.

Approved By:

Jerry Bell	March 31-2010
EDA Chairperson, Jerry Bell	Date
Dean Knutson	3/31/10
EDA Vice Chairperson, Dean Knutson	Date
Michael Keuhn	5/26/10
North St. Paul Mayor, Michael Keuhn	Date

CHAPTER 34: ECONOMIC DEVELOPMENT AUTHORITY

Section

§ 34.01 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AUTHORITY. An Economic Development Authority as defined by M.S. §§ 469.090 through 469.1081.

CITY. The City of North Saint Paul, Minnesota.

COUNCIL. The duly elected governing body of the City of North Saint Paul, Minnesota.

ENABLING RESOLUTION. The ordinance codified in this subchapter.

THE ACT. M.S. §§ 469.090 through 469.1081.

(Ord. 683, passed 10-20-09)

§ 34.02 ESTABLISHMENT.

An economic development authority is established which shall have all of the powers, duties and responsibilities of an economic development authority pursuant to M.S. §§ 469.090 through 469.1081. It shall be the role and responsibility of the Authority to carry out economic and industrial development and redevelopment within the North Saint Paul area pursuant to bylaws as may be adopted by the Authority. It shall confer with other city departments, and other public and private groups on matters relating to business and industrial development and periodically survey the area's industrial and commercial climate and report regularly to the Council.

(Ord. 683, passed 10-20-09)

§ 34.03 NAME.

The economic development authority created by the enabling resolution shall be known as the North Saint Paul Economic Development Authority.

(Ord. 683, passed 10-20-09)

§ 34.04 MEMBERS.

The Economic Development Authority shall consist of seven members of which one shall be the Mayor and at least one a City Councilmember. The Mayor shall present candidates for the Economic Development Authority to the City Council for consideration of approval. Candidates for the Economic Development Authority shall have an interest in advancing the business and economic climate of the city but need not be residents of the city.

(Ord. 683, passed 10-20-09)

§ 34.05 ADMINISTRATION.

(A) *Bylaws.* The Authority shall adopt bylaws and rules of procedure for administration of its affairs.

(B) *Officers*. The Authority shall elect a chair and a vice-chair on an annual basis. The City Manager or designee shall serve as the Executive Director; an ex officio member.

(C) *Professional service contracts*. The Authority may employ technical experts and professionals as deemed necessary. Their compensation and duties shall conform to city policy.

(D) *Duties and powers.* The officers shall have the duties and powers of their offices and other powers and duties as may be delegated by the Authority, the bylaws, and the Act. No action of the Authority may be in conflict with the city's current comprehensive plan or controls instituted to effectuate the plan.

(E) *Meetings*. The Authority shall meet quarterly and at such other times as necessary.

(Ord. 683, passed 10-20-09)

§ 34.06 MODIFICATION.

All modifications to the enabling resolution must be by ordinance and must be adopted after notice and Public Hearing conducted as required for the original adoption of the enabling resolution.

(Ord. 683, passed 10-20-09)

§ 34.07 REPORT TO COUNCIL.

The Authority shall submit a written report of its activities and recommendations for modification of the enabling resolution to the Council at least annually.

(Ord. 683, passed 10-20-09)

§ 34.08 EXECUTIVE DIRECTOR.

The city's Manager or designee shall attend all meetings of the Authority, shall serve as a consultant and advisor to the Authority and shall make quarterly reports to the Council.

(Ord. 683, passed 10-20-09)

§ 34.09 CONFLICTS OF INTEREST.

Except as authorized by M.S. § 471.88, a member, officer or employee of the Authority may not have a substantial conflict of interest, in projects undertaken by the Authority.

(Ord. 683, passed 10-20-09)

§ 34.10 BUDGET.

(A) *Fiscal budget.* The Executive Director shall prepare and submit to the Authority an annual budget to coincide with the city's budget process. The city shall establish a special fund designated as the "Economic Development Authority Fund." The Authority shall recommend a budget and submit it to the City Council for final approval. The Council shall appropriate to the fund money it deems necessary for Authority purposes. This shall constitute the budget of the Authority. All payments drawn on the account of the Authority shall be by written statement signed by two officers of the Authority, directing the City Manager to prepare and deliver payment. All expenditures shall be consistent with the operation of the Authority pursuant to this subchapter and Minnesota Statutes.

(B) *Levy.* Levy authority shall be consistent with M.S. § 69.033, Subd. 6. and rest with the City Council.

(C) *Audit.* All financial records of the Authority shall be prepared, audited, and filed with the city, the records being coordinated by the City Finance Department at the direction of the City Manager.

(Ord. 683, passed 10-20-09)

§ 34.11 SCHEDULE OF POWERS.

(A) *Development districts.* The Authority may create and define the boundaries of economic development districts and use the powers granted to carry out economic development in these districts.

(B) *Acquire property.* The Authority may acquire, by lease, purchase, devise or through condemnation proceedings, title in property to create economic development in these districts. Property acquired, leased, owned, controlled, used or occupied by the Authority for any of the purposes of M.S. § 469.101, Subd. 2, is for public governmental and municipal purposes and is exempt from taxation by the state or its political subdivisions. The exemption from property taxes only applies while the Authority holds the property for its own purpose(s).

(C) *Options.* The Authority may negotiate and acquire options to purchase, sell or lease property for the purpose of economic development.

(D) *Contracts.* The Authority may make contracts for the purpose of economic development.

(E) *Limited partnerships.* The Authority may become a limited partner in a partnership.

(F) *Rights and easements.* The Authority may acquire rights or easements for a term of years or perpetually.

(G) *Receive public property.* The Authority may accept land, money or other assistance, whether by gift, grant, loan or otherwise in any form from federal, state, local government, any agency of either or a local division of state government.

(H) *Public facilities.* The Authority may operate, maintain a public parking facility, housing facility or other public facilities to promote economic development in the area.

(I) *Other powers.* The Authority shall have such other powers as authorized as described in the Act.

(Ord. 683, passed 10-20-09)

§ 34.12 LIMIT OF POWERS.

(A) *General obligation and revenue bonds.* The Authority may issue general obligation bonds or revenue bonds after receiving the approval and authorization by four-fifths vote of the Council and in accordance with the provisions of the Act.

(B) *Comprehensive plan.* The official actions of the Authority must be consistent with the adopted comprehensive plan of the city, and any official controls implementing the comprehensive plan.

(Ord. 683, passed 10-20-09)

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Agenda Information Memorandum

To	Date
Executive Director and Authority Members	April 11, 2023

Agenda Placement # VIII.C

Discussion Items

Subject

EDA Advertisements

Background/Facts

Staff were directed to bring drafted EDA newsletter/promotion content to the April Meeting. Please see the attached drafts for discussion.

Recommended Action

Attachments

1. EDA Advertisements

Respectfully submitted,
Chris Cherne, Planning Commission/EDA Secretary

1. Is your North St. Paul business in need of assistance? The North St. Paul Economic Development Authority (EDA) may be able to help! The EDA was created in part to actively support existing businesses, ensure that they stay in the community and assist with expansion opportunities. If you have any questions or concerns for your business, please reach out to the North St. Paul EDA by attending their meetings on the second Tuesday of every month at City Hall at 3PM. You can also email _________________ or call ______________. All businesses are welcome to share their stories.

2. The North St. Paul Economic Development Authority (EDA) is here to help and support your local business! If your business requires assistance, whether it be with your location, uncertainty or expansion, please reach out to the North St. Paul EDA. You can attend their meetings on the second Tuesday of every month at City Hall at 3PM, email _______________ or call ___________. All businesses are welcome to share their stories.

3. If you are a local business owner and need assistance, the North St. Paul Economic Development Authority (EDA) is here to help! Come to the EDA's monthly meetings every second Tuesday of the month at 3PM in the City Council Chambers at City Hall to share your story. All businesses are welcome to attend.

4. North St. Paul business owners in need of assistance are welcome to come to the monthly Economic Development Authority (EDA) meetings every second Tuesday at 3PM at City Hall to share their stories. The EDA was created in part to actively support existing businesses and is determined to assist local struggling businesses in any way they can.

5. Are you a local business owner? Are you concerned about the future of your business? Come to the North St. Paul Economic Development Authority for assistance! The EDA meets the 2nd Tuesday of every month at 3PM at City Hall. All are welcome to attend and share their stories.

NORTH ST. PAUL
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Agenda Information Memorandum

To	Date
Executive Director and Authority Members	April 11, 2023

Agenda Placement # VIII.D

Discussion Items

Subject

Facade Improvement Program

Background/Facts

The City recently received an inquiry from Roddy's Bar (2541 7th Ave E) regarding the Facade Improvement Program. Upon reviewing old EDA minutes, staff determined that the Facade Improvement Program started in spring 2013 as a partnership between the City of North St. Paul and the Metropolitan Coalition of Community Developers (MCCD). The program offered a $75,000 pool for about 4-5 downtown building improvements. The City received a $5,000 donation from the North St. Paul Business Association. The program was structured as such: MCCD funds loans, with loan loss reserve fund and "forgivable loans" to be funded by the City and Business Association.

In December of 2019, the EDA discussed the program and stated the City website needed to be updated to reflect current contacts and applications and that the program *used to* partner with Open to Business through MCCD. Open to Business partners with cities and counties to make their free services available to entrepreneurs and small businesses located throughout the Twin Cities metro area. It is our understanding that the website has not been updated with current contacts and that the program is currently inactive. Staff believe it would be worth setting up a time to meet with MCCD to discuss the program and the possibility of reactivating.

Recommended Action

Attachments

None

Respectfully submitted,
Chris Cherne, Planning Commission/EDA Secretary

NORTH ST. PAUL
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Agenda Information Memorandum

To	Date
Executive Director and Authority Members	April 11, 2023

Agenda Placement # IX.A

Treasurer's Report

Subject

March 2023 Treasurer's Report

Background/Facts

See attached report.

Recommended Action

Attachments

1. EDA Treasurers Report

Respectfully submitted,
Brandy Howe, Community Development Director

EDA TREASURER REPORT
AS OF MARCH 31, 2023

	JANUARY	FEBRUARY	MARCH
BEGINNING FUND BALANCE	**$ 513,005.73**	**$ 513,005.73**	**$ 456,362.38**
ASSETS			
Cash	$ 411,834.51	$ 390,201.21	$ 379,950.31
Land	$ 49,248.22	$ 49,248.22	$ 49,248.22
Year to Date Total	**$ 461,082.73**	**$ 439,449.43**	**$ 429,198.53**
REVENUE			
Other changes (investment income)	$ 207.13	$ 207.13	$ 7.98
Property tax	$ -	$ -	$ -
Market value adjustment	$ -	$ -	$ (469.41)
Investment income	$ -	$ -	$ -
Year to Date Total	**$ 207.13**	**$ 207.13**	**$ (461.43)**
EXPENSES			
Personnel Services (full time salaries and comp)	$ 7,486.78	$ 17,069.08	$ 26,651.42
Supplies	$ -	$ -	$ -
Contractual Services	$ -	$ 51.00	$ 51.00
Capital	$ -	$ -	$ -
Transfer	$ -	$ -	$ -
Year to Date Total	**$ 7,486.78**	**$ 17,120.08**	**$ 26,702.42**
FUND BALANCE			
Beginning Fund Balance	$ 513,005.73	$ 513,005.73	$ 456,362.38
Total Revenue (+)	$ 207.13	$ 207.13	$ (461.43)
Total Expenses (-)	$ (7,486.78)	$ (17,120.08)	$ (26,702.42)
Total To Close for 2022	$ (44,643.35)	$ (56,643.35)	$ -
ENDING FUND BALANCE	**$ 461,082.73**	**$ 439,449.43**	**$429,198.53**

NORTH ST. PAUL
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Agenda Information Memorandum

To	Date
Executive Director and Authority Members	April 11, 2023

Agenda Placement # X.A

Updates

Subject

Community Development Director Updates

Background/Facts

1. **Little Box Architecture.** Jeremy Nelson (architect) has taken measurements of 2543 7th Avenue and has been in communication with Cal's Pizza to work on the lease area drawing.
2. **River of God/Reflex Medical.** Staff is working to schedule a meeting with Reflex Medical to learn about expansion plans.
3. **Old National Bank**. Staff is working to schedule a meeting with the bank and an EDA representative.
4. **Gary Mulcahy concept for Sepalla/Margaret Street.** No update.
5. **Lillie Building.** Staff met with the development on 4/6/23. The developer is working to secure financing--hopefully that is completed by end of April. Building demolition is slated for May, but depends on outcome of financing.

Recommended Action

Attachments

None

Respectfully submitted,
Brandy Howe, Community Development Director