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May 11, 2018

The Honorable Rita Albrecht
Mayor, City of Bemidji
1911 Norton Avenue Northwest
Bemidji, Minnesota 56601

Dear Mayor Albrecht:

The Office of the State Auditor (OSA) received a report from the City of Bemidji (City) regarding possible misuse of City funds by the former Executive Director of the City's event center, known as the Sanford Center. A third-party vendor, VenuWorks of Bemidji, LLC (VenuWorks of Bemidji), managed the Sanford Center and retained the former Executive Director. In February 2017, VenuWorks of Bemidji's parent company, VenuWorks, Inc. (VenuWorks), produced a report regarding, the Executive Director's activities (internal review report).¹

The OSA examined relevant financial information from the City, VenuWorks of Bemidji, and VenuWorks, including the VenuWorks internal review report. Based on its review, the OSA prepared an Investigative Report for the period January 1, 2013, to December 31, 2016, and provided it to appropriate law enforcement agencies.² We have enclosed a public version of our Investigative Report dated September 20, 2017.

The Investigative Report focused on the former Executive Director's possible misuse of public funds. This letter provides recommendations to the City regarding its practices and internal controls to help it better protect City funds in the future.

¹ VenuWorks has indicated it will reimburse the City \$134,385.31. See Attachment A to the enclosed Investigative Report. The OSA received the internal review report from the City. The City's relationships with VenuWorks of Bemidji and VenuWorks are contractual. Amounts owed based on these contractual relationships are matters of contractual interpretation and negotiation among the parties. The OSA, therefore, expresses no opinion on the amount owed to the City by VenuWorks of Bemidji or VenuWorks.

² See Minn. Stat. §§ 6.715 and 6.50.

Background

The City operates under a home rule charter that was first adopted in 1952 and was subsequently amended.³ The form of government established by the home rule charter is the “Council-Manager Plan.”⁴ The manager is head of the administrative branch of City government and, except as otherwise required by law or the home rule charter, all powers of the City are vested in the City Council.⁵ The City Council consists of a Mayor and six Council members.⁶ The Sanford Center is one of five city enterprises.⁷ Its operations are reported in the City’s audited financial statements in an enterprise fund--the Sanford Center Fund.⁸ The Sanford Center’s expenses have been a significant part of the City’s total expenses.⁹

Statement of Activities for the Year End	12/31/2016	12/31/2015	12/31/2014	12/31/2013	12/31/2012
Sanford Center Expenses	\$ 8,089,533	\$ 8,159,738	\$ 8,003,961	\$ 8,626,452	\$ 7,045,298
Total Expenses	\$ 35,440,114	\$ 34,186,844	\$ 32,289,704	\$ 32,714,926	\$ 23,947,464
Percent of Total Expenses	23%	24%	25%	26%	29%

The Sanford Center is operated pursuant to a Management Agreement between the City and VenuWorks of Bemidji, under which VenuWorks of Bemidji provides management, operation and marketing services related to the Sanford Center.¹⁰ Pursuant to the Management Agreement, VenuWorks of Bemidji is “responsible for supervision and direction of all personnel staffing at the [Sanford Center]. All such [Sanford Center] staff will be in the employment of [VenuWorks of Bemidji].”¹¹ The services of the Sanford Center’s former Executive Director were provided to the City pursuant to the Management Agreement.¹²

³ See City of Bemidji, Minnesota, Financial Statements and Independent Auditor’s Report, December 31, 2016, p. 4 (Letter of Transmittal).

⁴ Council-Manager Charter of the City of Bemidji, § 2.01.

⁵ Council-Manager Charter of the City of Bemidji, § 2.01.

⁶ Council-Manager Charter of the City of Bemidji, § 2.03.

⁷ See City of Bemidji, Minnesota, Financial Statements and Independent Auditor’s Report, December 31, 2016, p. 4 (Letter of Transmittal). The other four city enterprises are public water and sanitary sewer utility, residential refuse services, storm water utility, and municipal liquor stores.

⁸ City of Bemidji, Minnesota, Financial Statements and Independent Auditor’s Report, December 31, 2016.

⁹ See City of Bemidji, Minnesota, Financial Statements and Independent Auditor’s Reports, December 31, 2016, 2015, 2014, 2013, and 2012. Certain prior period adjustments were made by the City in subsequent years; however, these restatements did not appear to significantly impact the percentage of Sanford Center expenses to the City’s total expenses.

¹⁰ Management Agreement.

¹¹ See Management Agreement, Article 3, 3.3.17 (2009) as amended by Addendum Number 1 to the Management Agreement, effective January 1, 2015.

¹² VenuWorks indicated that VenuWorks of Bemidji has a contract with Aureon HR, Inc., for human resources management services, and that Sanford Center employees are “co-employed” by VenuWorks of Bemidji and Aureon HR, Inc. Although the former Executive Director was not directly employed by the City, the OSA has not examined and offers no position as to whether the former Executive Director may be considered a “public employee” for purposes of liability or under specific criminal statutes. See e.g. Minn. Stat. § 609.415.

The Management Agreement indicates that VenuWorks of Bemidji has a services contract with VenuWorks, its parent company, “for on-going support, guidance and consultation.”¹³ VenuWorks of Bemidji does not have its own assets, liabilities, equity, revenues, or expenses; all of the accounting for the entity flows through VenuWorks.¹⁴

Areas of Concern

1. Bank Account and Authorized Signers

The City agreed in the Management Agreement to establish two commercial bank accounts in the City’s name, using the City’s federal identification number for the deposit of revenues and payment of expenses for Sanford Center activity.¹⁵ The Management Agreement stated that VenuWorks of Bemidji was authorized “to pay budgeted Operating Expenses from the CITY Operating Account.”¹⁶ From 2013 to 2016, various VenuWorks of Bemidji personnel were listed as authorized signers on these two City accounts, including the former Executive Director.¹⁷ Accordingly, these VenuWorks of Bemidji personnel were able to, and did, disburse public money from the City’s bank accounts.

We know of no legal authority for a city to give employees of a private company the power to disburse public money from the city’s bank account. Moreover, this arrangement appears to violate the City’s charter, which states: (1) “[a]ll contracts, bonds, and instruments of any kind to which the city is a party shall be signed by the mayor and the manager on behalf of the city and shall be executed in the name of the city,”¹⁸ and (2) “[n]o check shall be issued or transfer made to any account other than one owned by the city until the claim to which it relates has been supported by an itemized bill, payroll, time-sheet, or other document approved and signed by the responsible city officer who vouches for this correctness and reasonableness.”¹⁹ The

¹³ Management Agreement.

¹⁴ See VenuWorks, Inc., Financial Report, December 31, 2015, p. 8. VenuWorks facilities management services “are provided by twenty-one limited liability companies that have been established for that purpose.” VenuWorks “provides administrative, consulting and support services to the limited liability companies and receives contract revenues for those services.”

¹⁵ The Management Agreement states, “[t]hese accounts shall be in the name of CITY and utilize CITY’S federal identification number. Signatories shall include those individuals as deemed appropriate by VENUWORKS and as authorized by the CITY. The names of the commercial accounts shall be CITY Operating Account and CITY Box Office Account.” See Management Agreement, Article 3, 3.3.14 (2009) as amended by Addendum Number 1 to the Management Agreement, effective January 1, 2015. In the Management Agreement, “VENUWORKS” refers to VenuWorks of Bemidji. See Management Agreement, p. 1.

¹⁶ See Management Agreement, Article 3, 3.3.14 (2009). Operating Expenses are defined by Exhibit A of this agreement and include “on-the-job payroll cost, including wages, bonuses and commissions paid to employees and the cost of paid holidays, vacations, severance benefits, sick leave, employment practices liability, work compensation and other compensation and benefits; cost of training; payroll processing costs” among other items.

¹⁷ See Security Bank signature authorizations. See also note 12, *supra* (regarding the contractual co-employment arrangement for Sanford Center employees).

¹⁸ Council-Manager Charter of the City of Bemidji, § 6.05.

¹⁹ Council-Manager Charter of the City of Bemidji, § 7.07.

arrangement allowing VenuWorks of Bemidji personnel to disburse funds from City bank accounts circumvented the requirement that each check be supported by an itemized document approved and signed by the responsible city officer who vouches for its correctness and reasonableness.²⁰

Recommendation

The OSA urges the City to discontinue the practice of allowing any vendor, contractor, or other external entity authority over any City bank accounts. We recommend that the City work with its legal counsel to accomplish this.

2. Debit Card

City records and the VenuWorks internal review report documented use of a City debit card by the former Executive Director. This debit card provided the Executive Director, and potentially others, with direct access to a City bank account.²¹ VenuWorks acknowledged that the former Executive Director used the debit card to make disbursements from the City bank account that were not properly approved.²²

While home rule charter cities have the statutory authority to make purchases using credit cards, they lack similar authority to use debit cards.²³ In addition, the City's charter states: "[n]o check shall be issued or transfer made to any account other than one owned by the city until the claim to which it relates has been supported by an itemized bill, payroll, time-sheet, or other document approved and signed by the responsible city officer who vouches for this correctness and reasonableness."²⁴

Because debit cards allow funds to be immediately withdrawn from the entity's financial account, they fail to meet both statutory safeguards and those of the City charter regarding the approval of claims.

²⁰ See Council-Manager Charter of the City of Bemidji, § 7.07. Itemized support to pay claims is also generally required for statutory cities and other local governments. See Minn. Stat. §§ 412.271 (statutory cities) and 471.38 (other local governments).

²¹ VenuWorks assumed that, "[t]he debit card was used as a 'building card' by the staff meaning Webb allowed other staff members to use the card for business purchases such as flights, software, conference registrations, small equipment purchases, etc." Attachment A to the enclosed Investigative Report, p. 2.

²² See Attachment A to the enclosed Investigative Report.

²³ See Minn. Stat. § 471.38 (2017). (This provision now precludes use of electronic fund transfers without an annual delegation filed with the bank, identification of the initiator, a documented request and approval before initiation as required by internal control policies, a written confirmation, and a list of transactions submitted to the governing body, requirements that are inconsistent with the use of a debit card.); 2017 Minn. Laws, ch. 52, § 1.

²⁴ Council-Manager Charter of the City of Bemidji, § 7.07.

In contrast, a city can authorize the use of a credit card by a city officer or employee otherwise authorized to make a purchase on behalf of the city.²⁵ This authority must, however, be exercised in a manner consistent with certain protections provided by Minnesota law. For example, if the city officer or employee makes a purchase by credit card that is not approved by the city council, “the officer or employee is personally liable for the amount of the purchase.”²⁶

Recommendation

The OSA recommends the City permanently discontinue the use of debit cards. If the City allows the use of credit cards, such use should be restricted to appropriate City employees and should be consistent with Minnesota law. For additional information, a copy of the OSA’s Statement of Position, “Credit Card Use and Policies,” is enclosed.

3. Advances

As discussed in the Investigative Report, VenuWorks of Bemidji used City funds for advance payments of employee expenses. Although VenuWorks of Bemidji or VenuWorks, as private companies, may advance their own funds for employee travel or other purposes, OSA knows of no authority for City funds to be used in this manner.

In general, “if an account, claim, or demand against a local government for any property or services can be itemized in the ordinary course of business, the board or officer authorized by law to audit and allow claims shall not audit or allow the claim until the person claiming payment, or the person’s agent, provides to the board or officer an itemized list in writing or in an electronic transaction record.”²⁷

More specifically, as noted above, the City’s charter states: “[n]o check shall be issued or transfer made to any account other than one owned by the city until the claim to which it relates has been supported by an itemized bill, payroll, time-sheet, or other document approved and signed by the responsible city officer who vouches for this correctness and reasonableness.”²⁸

²⁵ Minn. Stat. § 471.382.

²⁶ Minn. Stat. § 471.382.

²⁷ Minn. Stat. § 471.38, subd. 1 (2017). Prior to the 2017 amendments, this provision read as follows: “where an account, claim or demand against any . . . home rule charter city of the second, third or fourth class . . . can be itemized in the ordinary course of business, the board or officer authorized by law to audit and allow claims shall not audit or allow the claim until the person claiming payment, or the person’s agent, reduces it to writing or an electronic transaction record, in items,” Minn. Stat. § 471.38, subd. 1 (2016).

²⁸ Council-Manager Charter of the City of Bemidji, § 7.07.

The City should pay itemized claims, whenever itemization is possible in the ordinary course of business. Claims for payments regarding purchases should be supported by original receipts or invoices, which should be reviewed by appropriate City personnel before claims are approved for payment.

Recommendation

We urge the City to require itemized claims for payment and refrain from advancing money absent specific authority to do so. Consistent with the City's home rule charter, no check or other payment should be issued until the claim has been supported by an itemized bill, payroll, time-sheet, or other document approved and signed by the responsible city officer who vouches for this correctness and reasonableness.

4. Legal Authority and Public Purpose

Although the OSA did not review every disbursement made by VenuWorks of Bemidji from the City's accounts, we found some disbursements for which a city may lack authority or that may lack a public purpose. For example:

- The Sanford Center general ledger documents a check dated December 29, 2014, for \$212.09 that was issued to the former Executive Director with the description "Staff Christmas Party."²⁹ According to VenuWorks, this disbursement was for drinks at Brigid's Pub in Bemidji. It is included in the internal review report as a business-related expense "with proper supporting documentation but did not have proper approvals documented."³⁰
- According to VenuWorks, the former Executive Director used the Sanford Center Debit Card to make a \$50 payment with the description "Boys and Girls Club Donation."³¹ This \$50 donation is included in the internal review report as an expense "with proper support and approvals," thus it is not included in the amount VenuWorks reports it owes the City.³²

Based on these two transactions included in the internal review report, the OSA scanned the general ledger of the Sanford Center for transactions for which authority or a public purpose may be questionable. Examples of such transactions include spending for gift cards, going away gifts, Rotary dues (apparently for VenuWorks of Bemidji employees), a baby gift, a holiday party, and flowers. Several of these transactions were coded to an account for miscellaneous expenses.³³ These transactions were not included in the internal review report.

²⁹ See City of Bemidji, Minnesota, general ledger for the Sanford Center Fund.

³⁰ See Attachment A to the enclosed Investigative Report.

³¹ This information was documented in VenuWorks work papers supporting the Internal Review report. These work papers were provided to the OSA by the City.

³² See Attachment A to the enclosed Investigative Report.

³³ See City of Bemidji, Minnesota, general ledger for the Sanford Center Fund.

A public entity like a city may spend public funds only as authorized by law. Authority may be specifically stated in a statute or charter, or implied as necessary to do something that is expressly authorized.³⁴ In addition, the expenditure of public funds must be for a “public purpose.” A public purpose has been defined by the Minnesota Supreme Court as “such an activity as will serve as a benefit to the community as a body and which, at the same time, is directly related to the functions of government.”³⁵

Generally, public entities have no authority to give away public funds. The Minnesota Attorney General’s Office has issued opinions finding that cities have no authority to donate city funds to organizations such as the Red Cross or the Boy Scouts.³⁶ Following these general principles, donations or gifts to people, non-profits, charities, or other groups are not permitted unless they are based upon specific statutory or charter authority.

In most governmental entities, funds for flowers, cards, or other items recognizing events in a public employee’s life are collected from fellow employees or public officials. While cities have specific authority for a wellness and employee recognition program, we know of no authority for a city to hold holiday parties for employees or, as in this case, employees of a city’s vendor, using public funds.³⁷ Additionally, we know of no authority for the expenditure of public funds for the Rotary dues for employees of a vendor.

Recommendation

The OSA recommends the City carefully review expenditures of public funds to ensure that they are authorized and serve a public purpose. If an outside entity requests a donation, City personnel should see that it is not made unless statutory or charter authority is identified and a public purpose exists. For additional guidance, a copy of the OSA’s Statement of Position, “Public Expenditures: Donations and Dues,” is enclosed.

³⁴ See, e.g., *Mangold Midwest Co. v. Village of Richfield*, 274 Minn. 347, 357, 143 N.W. 2d 813, 820 (1966).

³⁵ See, *Visina v. Freeman*, 252 Minn. 177, 89 N.W. 2d 635 (1958).

³⁶ See, for example, Op. Att’y Gen. (Sept. 28, 1933).

³⁷ See Minn. Stat. § 15.46 (wellness and employee recognition programs); Op. Atty. Gen. 59a-22 (November 23, 1966) (city funds could not be used for Christmas party for city employees).

5. Excessive Reliance on Vendor for Internal Controls

VenuWorks, in the internal review report, identified a total of \$164,846.44 in City funds used by the former Executive Director or paid directly to the former Executive Director from January 2013 through April 2016 that VenuWorks determined to be unallowable.³⁸ The City should determine for itself, in consultation with its legal counsel, whether it agrees with VenuWorks' characterization of what should have constituted an unallowable payment or debit card use.

The \$164,846.44 consisted of \$82,905.93 in unallowable debit card purchases by the Executive Director³⁹ and \$81,940.51 in direct payments to the former Executive Director.⁴⁰ VenuWorks described these unallowable purchases or payments as either lacking proper approval or lacking supporting documentation: either no supporting documentation was provided, the supporting documentation did not show a proper business purpose, or the supporting documentation did not show that the purchase occurred at all.⁴¹ These improper disbursements of City funds went undetected by either the City or VenuWorks for three years.

These "unallowed" debit card purchases and payments constituted 90 percent of the Sanford Center debit card purchases identified by VenuWorks. The OSA, through a review of the Sanford Center's general ledger activity, determined that 100 percent of all City payments to the Executive Director during this period were identified by VenuWorks as unallowed. It appears that neither the City nor VenuWorks established effective internal control processes to prevent or detect these improper disbursements of City funds.

Although the City may have relied on VenuWorks of Bemidji or VenuWorks to implement internal controls over Sanford Center purchases, the purchases were made with City funds from a City bank account. The stewardship of these public funds is ultimately the responsibility of the City. This responsibility is explicitly acknowledged in the City Charter, which states that

³⁸ For purposes of its internal review report, VenuWorks made certain assumptions as to when a purchase had "proper support and approvals." Three of the assumptions were as follows:

- "Purchases made related to the core business operations of The Sanford Center did not require[] approvals beyond that of the Executive Director, Curtis Webb.
- Only Webb's travel and purchases without a clear business purpose required approval from the Corporate office[.]
- The debit card was used as a 'building card' by staff meaning Webb allowed other staff members to use the card for business purchases such as flights, software, conference registrations, small equipment purchases, etc."

Referring to the assumptions, VenuWorks indicated "[a]ny purchases not satisfying these requirements were determined to be unallowable and will be reimbursed by VenuWorks." See Attachment A to the enclosed Investigative Report, p. 2.

³⁹ (\$91,879.06 debit card purchases, less \$8,973.13 with "proper support and approvals" = \$82,905.93).

⁴⁰ See Attachment A to the enclosed Investigative Report, p. 1.

⁴¹ See Attachment A to the enclosed Investigative Report, p. 1.

the City Council “shall provide for. . . the safekeeping and disbursement of public moneys” and “[n]o check shall be issued or transfer made to any account other than one owned by the city until the claim to which it relates has been supported by an itemized bill, payroll, time-sheet, or other document approved and signed by the responsible city officer who vouches for this correctness and reasonableness.”⁴² These safeguards were not employed here.

When a city contracts with a private business for services, it should carefully consider the terms of the arrangement to make sure the public interest is served.⁴³ In this case the expenditure arrangement established pursuant to the Management Agreement placed a private business in charge of public funds in city bank accounts without providing the protections and controls required to safeguards such funds.

Recommendation

As previously stated, the OSA recommends that the City discontinue the practice of allowing any external entity or individual authority over any City bank account. Whether vendors are involved or not, the City should work with its legal counsel and auditor to establish needed internal controls to protect public funds and to ensure compliance with Minnesota law and the City Charter. No check or other payment should be issued until the claim has been supported by an itemized bill, payroll, time-sheet, or other document approved and signed by the responsible city officer who vouches for this correctness and reasonableness.

Conclusion

If you have any questions about the issues raised in this letter, please feel free to contact me.

Sincerely,

/s/ Mark F. Kerr

Mark F. Kerr, JD, CFE.
Special Investigations Director
651-296-4717

Enclosures

cc: The Honorable Michael Meehlhouse, City Council Member
The Honorable Roger Hellquist, City Council Member
The Honorable Ron Johnson, City Council Member

⁴² Council-Manager Charter of the City of Bemidji, §§ 7.01 and 7.07.

⁴³ Additional information on City Contracts is available on the League of Minnesota Cities web site at <https://www.lmc.org/media/document/1/makingandmanagingcitycontracts.pdf?inline=true>.

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The Honorable Richard Lehmann, City Council Member
The Honorable Nancy Erickson, City Council Member
The Honorable Dave Larson, City Council Member
Mr. Nate Mathews, City Manager
The Honorable David Hanson, Beltrami County Attorney
Mr. Alan Felix, City Attorney

INVESTIGATIVE REPORT
City of Bemidji - Sanford Center Enterprise Fund

PUBLIC VERSION¹

The Office of the State Auditor (OSA) received a report from the City of Bemidji (City) regarding possible misuse of City funds by Curtis Webb, the former Executive Director of the City's event center, known as the Sanford Center. A third-party vendor managed the Sanford Center and retained the former Executive Director. The vendor's parent company conducted an internal review of, and produced a report regarding his activities.²

The OSA examined the internal review report and relevant financial information, which included various City financial records and documents, and information provided by various personnel from the City, the vendor and the vendor's parent company.³

Based on the OSA's review, it appears that at least **\$43,367** of City funds were improperly paid to the former Executive Director or used by him for non-business-related purchases during the period January 1, 2013, to December 31, 2016, as follows:

1. **Improper Payments to the former Executive Director** - The former Executive Director sought and received at least **\$5,616** in what appear to be City advances for Sanford Center expenses that he did not incur.
2. **Improper Use of City Funds** - The OSA found several instances where it appears the former Executive Director used City funds to pay for non-business purchases. In total, **\$37,751** of City funds were used for these purposes.⁴

Additionally, the internal review report identified and the OSA agrees that a number of other transactions through which the former Executive Director obtained **\$67,314** in City funds are questionable:

1. **Unsupported Payments** - The vendor's parent company reported the discovery of City checks written to the former Executive Director totaling \$10,760 for which the former Executive Director had provided no supporting documentation. It also identified another \$11,974 in City checks for which the only documentation the former Executive Director submitted were emails he sent to Sanford Center's former Director of Finance. In all, the

¹ A not public version of the Investigative Report was provided to appropriate law enforcement agencies on September 20, 2017.

²The vendor's parent company has indicated it will reimburse the City \$134,385.31. See Attachment A. The City's relationships with the vendor and the parent company are contractual. Amounts owed based on these contractual relationships are matters of contractual interpretation and negotiation among the parties. The OSA, therefore, expresses no opinion on the amount owed to the City by the vendor or its parent company.

³Although the OSA did not duplicate the internal review, the OSA analyzed issues raised in the internal review report and performed analytical procedures to identify additional questionable transactions.

⁴The OSA found that the former Executive Director later repaid \$11,876 of this amount.

total of these City payments obtained by the former Executive Director without his having provided supporting documentation is **\$22,734**.

2. **Inadequate Support for Payments** - The vendor's parent company also reported City checks written to the former Executive Director totaling **\$44,580** for which the former Executive Director did provide some documentation, but the documentation does not show that he actually paid for the items.

This Report summarizes our findings.

Background

The Sanford Center is one of five City enterprises.⁵ Its operations are reported in the City's audited financial statements in an enterprise fund - The Sanford Center Fund.⁶

The Sanford Center is operated pursuant to a Management Agreement between the City and VenuWorks of Bemidji, LLC (VenuWorks of Bemidji), under which VenuWorks of Bemidji provides management, operation and marketing services related to the Sanford Center.⁷ Pursuant to the Management Agreement, VenuWorks of Bemidji is "responsible for supervision and direction of all personnel staffing at the [Sanford Center]. All such [Sanford Center] staff will be in the employment of [VenuWorks of Bemidji]."⁸ The services of the Sanford Center's former Executive Director were provided to the City pursuant to the Management Agreement.⁹

The Management Agreement indicates that VenuWorks of Bemidji has a services contract with VenuWorks, Inc. (VenuWorks), its parent company, for on-going support, guidance and consultation.¹⁰ VenuWorks of Bemidji does not have its own assets, liabilities, equity, revenues, or expenses; all of the accounting for the entity flows through VenuWorks.¹¹

⁵See City of Bemidji, Minnesota, Financial Statements and Independent Auditor's Report, December 31, 2016. The other four city enterprises are public water and sanitary sewer utility, residential refuse services, storm water utility, and municipal liquor stores.

⁶*Id.*

⁷Management Agreement.

⁸See Management Agreement, Article 3, 3.3.17 (2009) as amended by Addendum Number 1 to the Management Agreement, effective January 1, 2015.

⁹VenuWorks indicated that VenuWorks of Bemidji has a contract with Aureon HR, Inc., for human resources management services, and that Sanford Center employees are "co-employed" by VenuWorks of Bemidji and Aureon HR, Inc. Although the former Executive Director was not directly employed by the City, the OSA has not examined and offers no position as to whether the former Executive Director may be considered a "public employee" for purposes of liability or under specific criminal statutes. See e.g. Minn. Stat. § 609.415.

¹⁰Management Agreement.

¹¹See VenuWorks, Inc. Financial Report, December 31, 2015, p. 8. VenuWorks facilities management services "are provided by twenty-one limited liability companies that have been established for that purpose." VenuWorks "provides administrative, consulting and support services to the limited liability companies and receives contract revenues for those services." *Id.*

Also pursuant to the Management Agreement, two commercial bank accounts were established in the name of the City, using the City's federal identification number for the deposit of revenues and payment of expenses for Sanford Center activity.¹² From 2013 to 2016, various VenuWorks of Bemidji personnel were listed as authorized signers on these two City accounts, including the former Executive Director.¹³ The Management Agreement stated that VenuWorks of Bemidji was authorized "to pay budgeted Operating Expenses from the CITY Operating Account."¹⁴

The former Executive Director held the position from 2013 through early 2016.

Improper Payments to the former Executive Director

VenuWorks reported the discovery of two City checks written to the former Executive Director that appear to have been advances for Sanford Center purchases. Both checks were cashed. The OSA's review of the VenuWorks information, the checks and supporting documentation, and Sanford Center financial information indicates that these purchases were made with City funds in the first instance. We found no evidence that the Executive Director paid these amounts back to the City.

- City check 6382 was written to the former Executive Director on March 1, 2016, for \$6,900.37. Of this amount, **\$5,441.20** was for a purported Sanford Center purchase from Culinex, as evidenced by the expense report signed by the former Executive Director, and an accompanying "quote" from Culinex, showing this amount.¹⁵ Documentation demonstrates that the City directly paid Culinex for the actual purchase on March 16, 2016, and March 30, 2016.¹⁶
- City check 6235 was written to the former Executive Director on January 23, 2016, for \$3,798.81. The supporting documentation submitted by the former Executive Director indicates that **\$175** of this amount was for online training and an exam.¹⁷ According to

¹²"These accounts shall be in the name of CITY and utilize CITY'S federal identification number. Signatories shall include those individuals as deemed appropriate by VENUWORKS and as authorized by the CITY. The names of the commercial accounts shall be CITY Operating Account and CITY Box Office Account." See Management Agreement, Article 3, 3.3.14 (2009) as amended by Addendum Number 1 to the Management Agreement, effective January 1, 2015.

¹³See Security Bank signature authorizations []. See also note 10, *supra* (regarding the contractual co-employment arrangement for Sanford Center employees).

¹⁴See Management Agreement, Article 3, 3.3.14 (2009). Operating Expenses are defined by Exhibit A of this agreement and include "on-the-job payroll cost, including wages, bonuses and commissions paid to employees and the cost of paid holidays, vacations, severance benefits, sick leave, employment practices liability, work compensation and other compensation and benefits; cost of training; payroll processing costs" among other items.

¹⁵See March 1, 2016, expense form; February 29, 2016, Culinex Quote.

¹⁶See City check no. 6478 for \$4,821.56 and 6417 for \$3,169.59 and supporting documentation. The actual purchase differed in quantity and amount than the original quote. City check 6417 and its supporting invoice were signed and approved by the former Executive Director.

¹⁷See Support for City check number 6235.

VenuWorks, the training and exam were paid for with the City debit card on February 9, 2016.¹⁸

Based on its review of the documentation regarding these transactions totaling **\$5,616**, it appears that: (1) the former Executive Director claimed reimbursements by submitting expense forms or otherwise for these expenses; (2) the former Executive Director received these amounts from the City; and (3) these expenses were actually paid in the first instance with City funds. It does not appear that the former Executive Director paid these amounts back to the City.

Improper Use of City Funds

In June of 2014, the VenuWorks President agreed that VenuWorks would cover certain of the former Executive Director's personal travel costs. He directed the former Executive Director to work with an individual from the VenuWorks office to arrange this travel to ensure it was billed to VenuWorks, and stated, "This is money from our corporate accounts that will not be charged back to the Bemidji venue account."¹⁹ VenuWorks also reimbursed the former Executive Director for relocation costs.

VenuWorks paid the former Executive Director a total of \$37,551 for his personal travel and relocation expenses from August of 2014 through July of 2016.²⁰ To obtain these payments from VenuWorks, the former Executive Director completed and submitted to VenuWorks expense reports (Reports) documenting each personal expense he was claiming. The Reports required the former Executive Director to document the expenses he incurred, the day he incurred them, and the appropriate category. The Reports also required the former Executive Director to subtract advances and amounts already paid by the City or VenuWorks before documenting the total expense amount he claimed as due to him.²¹ These Reports were generally supported with receipts.

As part of our review, the OSA compared these Reports and their supporting receipts to City debit card transactions for the same period. Our review disclosed **\$18,912** in expenses for which it appears the former Executive Director sought and received reimbursement from VenuWorks, but the expenses were actually paid using the City's debit card.²²

Based on documentation we reviewed, the former Executive Director appears to have repaid the City for some of these debit card transactions by making six payments to the City totaling \$11,227.²³ The OSA found another **\$649** in apparent personal purchases made with the City

¹⁸See "Webb Report," VenuWorks worksheet.

¹⁹See June 26, 2014, email from Steve Peters, VenuWorks President, to the former Executive Director.

²⁰See "VenuWorks corporate payments to Webb," VenuWorks spreadsheet.

²¹The Report form included lines for the subtraction of cash advanced and company paid amounts.

²²Although the former Executive Director apparently used the City debit card to make these purchases, he did not report this on the expense forms. The OSA identified instances where the supporting documents supplied to VenuWorks showed total amounts that were greater than the actual amount drawn from the City's bank account. VenuWorks reimbursed the former Executive Director for this greater amount rather than the amount that appeared on the City's bank statement (i.e. the actual purchase amount).

²³According to the City's bank records, these checks were deposited.

debit card for golf outings and at restaurants, gas stations, and retail stores that he subsequently reimbursed. The former Executive Director wrote checks to the City to make these reimbursement payments. Attachment B documents all \$11,876 of these disbursements and associated reimbursement checks.²⁴

In addition, the internal review report includes **\$18,190** in apparently non-business-related purchases made using City funds by the former Executive Director.²⁵ The following are examples of these purchases:

- A City debit card purchase on September 5, 2014, for \$409.61 at YMCA of the Rockies Estes Park Center in Colorado.
- Three City debit card transactions from December 9, 2014, to January 6, 2015, for travel expenses in Honolulu, totaling \$718.28.
- City check number 5391 issued to the former Executive Director for \$1,398.84 on April 9, 2015. The description provided by VenuWorks indicates that the check was intended to pay for the cost of a car, hotel, and flight from Omaha to Dallas. The former Executive Director and the former Director of Finance signed this check.
- City check number 5510 issued to the former Executive Director for \$2,426.98 on May 12, 2015. VenuWorks of Bemidji provided the OSA a hotels.com print out submitted by the former Executive Director as support for this check that detailed the price of a hotel room for two adults in Beverly Hills from May 17, 2015, to May 20, 2015, and a round trip flight from Omaha to Los Angeles with corresponding dates. This document was not a receipt. The former Executive Director and the former Director of Finance signed this check.²⁶

Several City debit card transactions from October 9, 2015, to October 21, 2015, were made by the former Executive Director to pay for flights, change fees, a hotel, and expenses for a trip from Bemidji to Seattle for the former Executive Director and two other individuals.²⁷ The trip cost the City \$5,938.14.

²⁴VenuWorks identified other debit card purchases made by the former Executive Director for which the supporting documentation was insufficient to establish the purchases were proper business expenses. See Attachment A.

²⁵VenuWorks indicated that it made the determination of whether the travel was business-related or not “by reviewing the location, date and time on the statements and available receipts,” for debit card transactions. See Attachment A. VenuWorks provided the basis for its determination regarding check transactions in spreadsheets.

²⁶The City debit card was used in Missouri from May 17, 2015, to May 19, 2015. City check number 5232 was written to the former Executive Director on February 23, 2015, for \$679. VenuWorks of Bemidji provided a document titled “Event Information” to support this check that detailed the cost of registration and hotel for an IAVM event in Missouri from May 17, 2015, to May 20, 2015. This check is listed in Attachment D because the document provided was not a receipt and included handwritten calculations.

²⁷The other two individuals included a co-worker and the co-worker’s family member. Delta Air Lines, Inc., provided VenuWorks copies of the ticket information for this trip.

In total, it appears the former Executive Director improperly used **\$37,751** of City funds for non-business purposes.²⁸

Other Questionable Transactions

1. Unsupported Payments

VenuWorks reported \$10,760 of City checks written to the former Executive Director for which the former Executive Director submitted no supporting documentation to justify his claim for payment. These checks were cashed. In addition, for \$11,974 in City checks to the former Executive Director, VenuWorks reported that the purported supporting documentation he submitted consisted of emails from the former Executive Director to Sanford Center's former Director of Finance. In all, the total for these City checks issued to the former Executive Director without documentary support is **\$22,734**. A list of these checks as reported by VenuWorks is provided in Attachment C.

2. Inadequate Support for Payments

VenuWorks reported several instances where a check was written to the former Executive Director from the City's account to reimburse the former Executive Director for business travel expenses, totaling **\$44,580**. A list of these City transactions as documented by VenuWorks is provided in Attachment D. VenuWorks reported that the documentation the former Executive Director submitted to support his claims for reimbursement of the purported purchases were printouts of web pages that appeared to have been made before the former Executive Director completed the purchase transactions.²⁹

In its review of the transactions listed in Attachment D, the OSA identified some possible inconsistencies in payments he received for travel.³⁰ The seeming inconsistencies relate to his reimbursement for travel-related expenses for different locations during the same time period.

- City check number 5983 was written to and signed by the former Executive Director on November 13, 2015, for \$2,087.12.³¹ VenuWorks of Bemidji provided the OSA an expense report signed by the former Executive Director and documentation associated with the expenses listed on it. One of these documents details a search for a flight from Bemidji Regional Airport to John F. Kennedy International Airport on December 7 and from LaGuardia Airport to Bemidji Regional Airport on December 11 for \$628.70.³²

²⁸As noted above, the OSA found that the former Executive Director later repaid \$11,876 of this amount.

²⁹The OSA observed similar inadequate support during its review of City debit card purchases. See note 23, *supra*.

³⁰The former Executive Director submitted receipts with Reports to VenuWorks for reimbursement that were reviewed by the OSA for this analysis. See "Payments to the former Executive Director," *supra*.

³¹The former Director of Finance also signed this check.

³²Additionally, VenuWorks of Bemidji provided documentation that appears to correspond with the same trip to New York detailing the total rate of \$652 for room charges at a hotel with an arrival date of January 7, 2016, and a departure date of January 11, 2016, and a document titled "Registration" with a listed price of \$775 with a contact email address ending in billboard.com that indicates "on-site" dates of January 7, 2016, to January 11, 2016.

However, it appears from other documents that the former Executive Director was in Ohio during these dates. VenuWorks reimbursed the former Executive Director for a car rental and various other expenses he incurred in Cleveland from December 10, 2015, to December 13, 2015, for which the former Executive Director provided detailed receipts. VenuWorks also reimbursed the former Executive Director for a round trip flight leaving Bemidji to Cleveland on December 10, 2015, and returning December 13, 2015.

	DECEMBER 2015										
ACTIVITY	5	6	7	8	9	10	11	12	13	14	15
Flight MN/NY											
Flight MN/OH											
Expenses in OH											

- City check number 6196 was written to and signed by the former Executive Director on January 8, 2016, for \$3,072.09.³³ VenuWorks of Bemidji provided the OSA with documentation the former Executive Director submitted as support for this purported business cost. This includes a document detailing the cost of a hotel in New York with a check-in date of January 14, 2016, and check-out date of January 19, 2016, with an “estimated total” of \$1,790.39, a flight search for a flight from Bemidji Regional Airport to LaGuardia Airport and back for \$731.70, and conference registration for \$550.

However, it again appears that the former Executive Director was in Ohio at this time. VenuWorks reimbursed the former Executive Director for a car rental and various other expenses he incurred in Cleveland, Ohio, for which the former Executive Director provided detailed receipts generated from January 14, 2016, to January 18, 2016.

	JANUARY 2016								
ACTIVITY	12	13	14	15	16	18	19	20	21
Hotel NY									
Expenses in OH									

The OSA also identified a disbursement that followed the same pattern but was not included in the list provided by VenuWorks and reproduced in Attachment D.

- City check number 6328 was written to and signed by the former Executive Director on February 22, 2016, for \$1,311.77. VenuWorks of Bemidji provided to the OSA an expense report signed by the former Executive Director and, as supporting documentation, a flight search for a round trip flight from Bemidji to Bismarck with a price of \$818.70 and a hotel reservation summary in Bismarck with a check-in date of May 11, 2016, and check-out date of May 14, 2016, for \$427.02.³⁴

³³ This check was also signed by the former Director of Finance.

³⁴ This check was also signed by the former Director of Finance.

However, it appears that the former Executive Director was in Illinois at this time. VenuWorks reimbursed the former Executive Director for various expenses occurring in Bloomington, Illinois, from May 11, 2016, to May 14, 2016.³⁵

ACTIVITY	MAY 2016							
	9	10	11	12	13	14	15	16
Hotel ND								
Expenses in IL								

Conclusion

Based on our review, for the period January 1, 2013, to December 31, 2016, it appears that at least **\$43,367** in City funds were improperly paid to the former Executive Director or used by him for non-business-related purchases.

Improperly Paid or Used City Funds	
Improper Payments to the former Executive Director	\$ 5,616
Improper Use of City Funds	\$ 37,751
Total	\$ 43,367

In addition, the OSA identified other questionable transactions totaling **\$67,314**.

Other Questionable Transactions	
Unsupported Payments	\$ 22,734
Inadequate Support for Payments	\$ 44,580
Total	\$ 67,314

The OSA will provide the City with a separate letter containing internal control recommendations.

³⁵The former Executive Director provided detailed receipts to support the Bloomington, Illinois, expense reimbursements. He was also reimbursed by VenuWorks for a flight from Cleveland to Bloomington with a date of May 13, 2016.



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February 23, 2017

Final Results of VenuWorks' Internal Review submitted to State Auditors Office

VenuWorks has completed its final review of the debit card purchases and direct payments made to the former Executive Director, Curtis Webb during the period of January 2013 to April 2016 and have determined the following:

- \$81,940.51 in direct payments were made to Webb. Of this amount,
 - \$3,939.68 were business-related expenses with proper supporting documentation but did not have proper approvals documented.
 - \$22,733.59 does not have proper supporting documentation or approvals.
 - \$44,580.22 has supporting documentation but does not indicate if the purchases were made. The majority are travel receipts that were printed before the final payment step.
 - \$10,687.02 has supporting documentation indicating these were not business-related expenses and should have been paid back to the Sanford Center by Webb.
- \$91,879.06 in debit card purchases were made by Webb. Of this amount,
 - \$8,540.06 has supporting documentation showing legitimate business purpose for the expense these purchases were not properly approved.
 - \$2,305.22 has insufficient documentation available to determine if they are proper business expenses. Most were food purchases made in Bemidji and the business purpose of the meals was not noted.
 - \$40,938.09 has no supporting documentation as of December 8, 2016, however, based on the limited information available and Webb's travel schedules, most of these purchases were business related.
 - \$27,197.17 are purchases that were made by Webb for personal travel. This determination was made by reviewing the location, date and time on the statements and available receipts. These purchases should have been paid back to the Sanford Center by Webb.
 - \$3,925.39 are purchases that were made for VenuWorks corporate-related travel. Expense reports completed by Webb indicated these were purchases made on his personal credit card(s) and as a result reimbursement was made directly to Webb. These purchases are also due to the Sanford Center by Webb.
 - \$8,973.13 are purchases with proper support and approvals

Of the amounts noted above, all will be reimbursed by VenuWorks except for the final item consisting of \$8,973.13 expenses with both proper support and approvals.

VenuWorks' determination of purchases that had proper support and approvals included the following assumptions:

- Purchases made related to the core business operations of The Sanford Center did not require approvals beyond that of the Executive Director, Curtis Webb.
- Only Webb's travel and purchases without a clear business purpose required approval from the Corporate office
- The debit card was used as a 'building card' by the staff meaning Webb allowed other staff members to use the card for business purchases such as flights, software, conference registrations, small equipment purchases, etc.

Any purchases not satisfying these requirements were determined to be unallowable and will be reimbursed by VenuWorks. The limited transactions that meet the criteria consist primarily of travel and conference registration purchases for Sanford Center staff other than Webb. A detailed list of these transactions along with the rationale for allowing each one to be considered a properly approved expense is included on Tab J of the Webb Report spreadsheet.

During Webb's time at the Sanford Center he made reimbursements totaling \$14,102.69. When Webb relocated to Bloomington, IL in 2016 the Sanford Center received \$16,358.44 in reimbursements from Bloomington for prepaid travel expenses.

The net amount due from VenuWorks to the City of Bemidji is \$134,385.31

ATTACHMENT B: PERSONAL PURCHASES AND ASSOCIATED REIMBURSEMENT CHECKS

Date	Source/Check No.	VenuWorks Description	Debit
07/01/2014	Sanford Center Debit Card	STARBUCKS- CURTIS	14.32
07/03/2014	Sanford Center Debit Card	CURTIS- EAGLE	10.89
07/09/2014	Sanford Center Debit Card	CURTIS-SUBWAY	11.92
07/14/2014	1583	Curtis L. Webb	(37.13)
07/20/2014	Sanford Center Debit Card	PETRO SERVE	7.47
07/20/2014	Sanford Center Debit Card	ESTES LAKESHORE NEW	12.62
07/21/2014	Sanford Center Debit Card	CURITS- QUAKER STEAK AND LUBE	17.83
07/30/2014	1599	Curtis L. Webb	(37.92)
06/26/2014	Sanford Center Debit Card	CURTIS WEBB CORP TRAVEL TO DAYTON	1,058.50
07/11/2014	Sanford Center Debit Card	Curtis Webb- Travel back to Cleveland	1,307.50
07/16/2014	Sanford Center Debit Card	Curtis Webb- BAG	25.00
07/20/2014	Sanford Center Debit Card	Curtis Webb- BAG	25.00
07/22/2014	Sanford Center Debit Card	CURTIS BAG	25.00
08/04/2014	Sanford Center Debit Card	Curtis Webb- Travel Back to Cleveland Air	415.21
08/04/2014	Sanford Center Debit Card	Curtis Webb- Travel Back to Cleveland and Air	415.21
08/04/2014	Sanford Center Debit Card	Curtis Webb- Travel Back to Cleveland Air	507.00
08/04/2014	Sanford Center Debit Card	CURITS PORTLAND TRAVEL BACK TO CLEVELAND-	507.00
08/04/2014	Sanford Center Debit Card	Curtis Webb- Travel Back to Cleveland Baggage	597.60
08/04/2014	Sanford Center Debit Card	Curtis Webb- Travel Back to Cleveland Air	619.10
08/14/2014	1610	Curtis L. Webb	(5,502.12)
06/27/2014	Sanford Center Debit Card	GOLF WITH JOHN C.	53.69
07/29/2014	Sanford Center Debit Card	CURTIS- TARGET	9.99
07/30/2014	Sanford Center Debit Card	CARIBOU- CURITS	10.97
08/03/2014	Sanford Center Debit Card	CARIBOU- CURITS	10.97
08/14/2014	1609	Curtis L. Webb	(85.62)
08/13/2014	Sanford Center Debit Card	CURTIS- CARIBOU	11.62
08/26/2014	Sanford Center Debit Card	RAPHAELS BACKERY- CURTIS	9.35
08/27/2014	Sanford Center Debit Card	GOLF WITH JOHN- CURTIS	3.75
08/27/2014	Sanford Center Debit Card	GOLF WITH JOHN- CURTIS	26.84
09/01/2014	Sanford Center Debit Card	Corner Bar	11.17
09/01/2014	Sanford Center Debit Card	Caribou Coffee	12.48
09/01/2014	Sanford Center Debit Card	Dunn Bros Coffee	13.97
09/01/2014	Sanford Center Debit Card	Erbert and Gerberts	14.53
09/01/2014	Sanford Center Debit Card	Rutgers Birchmont Lodge	23.21
09/03/2014	1625	Curtis L. Webb	(126.92)
08/05/2014	Sanford Center Debit Card	STARBUCKS- CURTIS TRAVEL	11.97
08/10/2014	Sanford Center Debit Card	DUKIN' DOUNUTS- CURTIS TRAVEL	3.58
08/10/2014	Sanford Center Debit Card	GODFATHERS PIZZA- CURTIS TRAVEL	12.10
08/17/2014	Sanford Center Debit Card	CURTIS TRAVEL BACK TO CLEVELAND	539.20
08/17/2014	Sanford Center Debit Card	CURTIS TRAVEL BACK TO CLEVELEND	686.20
08/19/2014	Sanford Center Debit Card	HOLIDAY- CURTIS TRAVEL	28.29
08/19/2014	Sanford Center Debit Card	RAMADA HOTEL STAY- CURTIS TRAVEL	105.15
08/20/2014	Sanford Center Debit Card	PARKING- CURTIS TRAVEL	50.00
08/22/2014	Sanford Center Debit Card	CURTIS RENTAL CAR FOR TRIP- BUDGET RENT-A-CAR	177.74
08/24/2014	Sanford Center Debit Card	STAMART- CURTIS TRAVEL	28.17
08/29/2014	Sanford Center Debit Card	TIM HORTONS- CURTIS TRAVEL	9.71
09/10/2014	1635	Curtis L. Webb	(1,652.64)
08/08/2014	Sanford Center Debit Card	CURTIS TRAVEL- RED ROBIN	37.14
08/11/2014	Sanford Center Debit Card	CURTIS- GREEN MILL	65.10
08/11/2014	Sanford Center Debit Card	CURTIS- SLIMS	74.96
09/29/2014	1690	Curtis L. Webb	(177.20)

09/06/2014	Sanford Center Debit Card	CURTIS- BOOKING TEAM LEADER METTINGS- DELTA AIR	1,024.70
09/08/2014	Sanford Center Debit Card	WALMRAT- ROLLS FROM STEVE PETERS FOR ADVISORY BORED MEETING	7.96
09/10/2014	Sanford Center Debit Card	CARIBOU- CURTIS BOOKINGS TRIP	13.09
09/10/2014	Sanford Center Debit Card	OLD CHICAGO- CURTIS BOOKINGS TRIP	15.22
09/10/2014	Sanford Center Debit Card	DUNN BROS COFFEE- FROM STEVE PETERS FOR ADVISORY BORED MEETING	37.70
09/11/2014	Sanford Center Debit Card	ESTES LAKESHORE NEWS- CURITS BOOKINGS MEETING TRIP	9.94
09/11/2014	Sanford Center Debit Card	WEST TOWNE PUB- CURTIS BOOKINGS TRIP	30.14
09/11/2014	Sanford Center Debit Card	ROCKBOTTOM- CURTIS BOOKINGS TRIP	37.37
09/22/2014	1678	Curtis L. Webb	(1,176.12)
09/03/2014	Sanford Center Debit Card	Tim Horton's #91572 Rossford OH- Curtis Travel	17.10
09/04/2014	Sanford Center Debit Card	Curtis Meals	38.45
09/09/2014	Sanford Center Debit Card	Safe and Reliable 440-2888294 OH- Curtis Travel	53.04
09/19/2014	Sanford Center Debit Card	Delta Air 006236- Curtis Travel	938.70
09/28/2014	Sanford Center Debit Card	Delta Air- Curtis Travel	538.70
09/29/2014	Sanford Center Debit Card	Caribou Coffee- Curtis Travel	18.06
09/30/2014	Sanford Center Debit Card	ENTERPRISE RENT-A-CAR- CURTIS TRAVEL	99.52
10/02/2014	Sanford Center Debit Card	SPEEDWAY- CURTIS TRAVEL	14.17
10/02/2014	Sanford Center Debit Card	ALAMO- CURTIS TRAVEL	88.40
10/20/2014	1718	Curtis L. Webb	(1,806.14)
11/08/2014	Sanford Center Debit Card	DELTA AIR- CURTIS TRAVEL	580.20
12/05/2014	Sanford Center Debit Card	Ace Taxi-Curtis Travel	58.13
12/07/2014	Sanford Center Debit Card	Godfathers- Curtis Travel	13.28
12/19/2014	1843	Curtis L. Webb	(651.61) *
04/23/2015	Sanford Center Debit Card	Sanford Profile-	79.06
04/28/2015	2061	Curtis L. Webb	(79.06)
03/09/2015	Sanford Center Debit Card	MCDONALDS- CURTIS TRAVEL	6.83
03/09/2015	Sanford Center Debit Card	CARIBOU- CURTIS TRAVEL	7.09
03/09/2015	Sanford Center Debit Card	TGI FRIDAYS- CURTIS TRAVEL	44.27
03/10/2015	Sanford Center Debit Card	CHILIS GIRLL AND BAR- CURTIS TRAVEL	13.84
03/10/2015	Sanford Center Debit Card	SPUNDDER RESTRAURANT- CURTIS TRAVEL	120.07
03/11/2015	Sanford Center Debit Card	GREAT AMERICAN BAGEL- CURTIS TRAVEL	7.03
03/11/2015	Sanford Center Debit Card	MCDONALDS- CURTIS TRAVEL	11.09
03/11/2015	Sanford Center Debit Card	NATIONAL- CURTIS TRAVEL	185.39
03/12/2015	Sanford Center Debit Card	CARIBOU- CURTIS TRAVEL	12.91
03/15/2015	Sanford Center Debit Card	ITASCA GRILL- CURTIS TRAVEL	35.36
05/07/2015	2070	Curtis L. Webb	(438.38) +
05/17/2015	Sanford Center Debit Card	Men's Warehouse- Curtis Travel	105.57
05/26/2015	2097	Curtis L. Webb	(105.57)
		Total Payments	(11,876.43)

Note: VenuWorks reported reimbursements made by Mr. Webb totaling \$14,102.69 in Attachment A. This number differs from the amount reported by the OSA as follows:

(11,876.43)

(1,000.00) Repayment of a cash advance not mentioned in this report

(796.32) Payments made by Mr. Webb for unidentified personal purchases

(249.38) Overpayments and non City disbursements; see "Key" below

(180.56) Delta airlines reimbursements (not payments from Mr. Webb)

(14,102.69)

Key:

- Actual check value was \$1,654.64. The \$2 difference was due to a non City disbursement.

* Actual check value was \$895.99. The \$244.38 difference was due to an overpayment by VenuWorks made when Mr. Webb submitted improper receipts.

+ Actual check value was \$441.38. The \$3 difference was due to non City disbursements. In addition accounting error occurred with this payment resulting in

\$5.50 of non reimbursed City disbursements.

ATTACHMENT C: UNSUPPORTED CITY CHECKS TO MR. WEBB

Date	Amount	VenuWorks Description
01/05/2013	186.10	Moving Expense/Travel To Bemidji
02/20/2013	532.27	Meetings with promoters
05/06/2013	1,500.00	Travel Expenses for Curtis Webb
05/13/2013	1,000.00	Travel expenses to MPLS for Curtis, Cy, Dave
05/17/2013	500.00	Travel MPLS Rooms Curtis-Cyrus-Dave
06/18/2013	500.00	Trip to MPLS for Meetings With MN State Senate
04/26/2015	1,022.64	Airfare and Hotel for Emily Edson Website training
06/27/2015	2,100.00	Travel Expenses for Meeting 7/2 & 7/3/15
06/30/2015	400.00	No description in QB (Quick Books)
08/08/2015	3,018.55	Conference February 2016
	10,759.56	Sub Total
07/11/2013	600.00	Hotels in MSP for Curtis, Georgette, Kristi
07/20/2013	1,562.00	Two flights
09/01/2013	800.00	Flight and hotel to Cedar Rapids in September 2013
09/17/2013	746.00	Estimates for hotel, luggage, F&B, misc
10/01/2013	673.00	Travel to Brookings to meet Police Productions and Pepper Entertainment
10/19/2013	213.33	Rooms for Celtic Thunder settlement
10/22/2013	125.00	Driving to Burnsville and back plus lunch
10/25/2013	465.20	5 rooms for BMG, should be on settlement
12/12/2013	837.00	\$279 x 3 for hotels in Nashville for pollstar
01/08/2014	1,499.00	Registration and hotel for Senior Executive Symposium
01/27/2014	1,149.00	Flight to Ithaca and IAVM, mileage
02/24/2014	1,300.00	Hotel and ancillaries for Senior executive Symposiums
01/17/2014	1,704.50	Delta flight, hilton hotel - 5 nights
02/16/2014	300.00	"incidentals", email indicated will provide support and pay back remainder, discussed with Randy Miller - that never happened on any travel advances paid to Curtis
	11,974.03	Sub Total
	22,733.59	Total

ATTACHMENT D: INADEQUATELY SUPPORTED DISBURSEMENTS TO MR. WEBB

Num	Date	Amount	VenuWorks Description
112013	11/20/2013	1,354.80	Pollstar flights (\$555.80) and registration (\$799)
011614	01/16/2015	3,416.20	Senior Executive Symposium, Ithaca New York registration for May 11-14, 2015 plus RT flight BJI to Ithaca
021615	01/26/2015	1,384.24	Feb 19-21, 2015 Pollstar Live conference in Nashville registration and hotel
021115	02/11/2015	819.20	RT Flight from BJI to Baltimore for IAVM conference 8/3/15 to 8/8/15
021115	02/11/2015	1,155.00	IAVM conference 8/3/15 to 8/8/15 registration fees
022315	02/23/2015	679.00	registration and hotel for IAVM Region 2 & 3 conference in St. Charles, MO from 5/16/15 to 5/20/15
022815	02/28/2015	2,176.46	hotel for 9/9/15 to 9/13/15, LAX rental car (9/9/15 to 9/13/15), DSM rental car (9/9/15 to 9/13/15)
31215	03/12/2015	1,137.34	car, hotel and flight for 3/19/15 to 3/21/15 trip from Bemidji to Chicago
052715	05/27/2015	480.84	Hilton Garden Inn Kennewick from July 20-23, 2015
071415	07/14/2015	774.00	\$724 IEBA membership and registration,,
071415	07/14/2015	1,435.84	\$1,435.84 for Nashville Hotel from 10/9/15 to 10/14/15
071415	07/14/2015	698.70	\$698.70 RT flight from BJI to BNA 10/9/15 to 10/14/15
100915	10/09/2015	799.00	Pollstar Live conference in San Francisco from 2/9/16 to 2/13/16
100915	10/09/2015	775.70	\$775.70 RT flight from Omaha to SFO for Pollstar Live conference in San Francisco from 2/9/16 to 2/13/16
111315	11/13/2015	775.00	\$775 - billboard conference from 1/7/16 to 1/11/16 - Billboard
111315	11/13/2015	652.00	\$652 - Roosevelt Hotel 1/7/16 to 1/11/16 - Billboard
111315	11/13/2015	628.70	\$628.70 - RT flight from BJI to NYC 12/7/15 to 12/11/15 - Billboard
111315	11/13/2015	5.75	\$5.75 - USPS shipment to Coppel, TX for IAVM membership package
111315	11/13/2015	25.67	\$25.67 at Keg n' Cork in Bemidji (dinner with Dave Hengel from Greater Bemidji)
120115	12/01/2015	450.00	CFE exam fee for SES in May 2016
120415	12/04/2015	3,468.20	fee, accommodations for SES at Cornell May 2-5, 2016, appears to include airfare, registration fee, hotel, course materials
121615	12/16/2015	243.13	hotel in Knoxville from 12/14 to 12/16/15 on an expense report with purpose of "event booking"
121915	12/19/2015	675.70	\$675.70 - RT flight from BJI to DTW 2/20/16 to 2/23/16 - GuestX
121915	12/19/2015	966.95	\$966.95 for hotel from 2/20/16 to 2/23/16 - GuestX
121915	12/19/2015	500.00	\$500 GuestX reservation 2/21 to 2/23/16
010816	01/08/2016	550.00	APAP \$550 for registration - no indication these were actually paid
010816	01/08/2016	731.70	APAP NYC 1/14/16 to 1/20/16 - \$731.70 BJI-LGA RT flight 1/14/16 to 1/20/16
010816	01/08/2016	1,790.39	APAP \$1,790.39 - hotel from 1/14/16 to 1/19/16 (does not match flight dates)
1/23/2016	01/23/2016	3,363.02	Kristi Anderson RT airfare from Bemidji to Canton 3/3/14 to 3/11/14, IAVM VMS registration June 4 to June 10
1/23/2016	01/23/2016	134.00	\$134 for two hotel nights near Akron airport on June 10 and June 3
020216	02/02/2016	1,000.00	\$1,000 cash advance for San Francisco (February 2016 conference)
020216	02/02/2016	455.00	\$455 Arena Managers registration (Sept 2016)
020216	02/02/2016	801.92	\$801.92 reservation at Hilton Tampa in Sept 2016 for Arena Managers Conference
020216	02/02/2016	611.10	\$611.10 RT flight from Bemidji to Tampa 9/8/16 to 9/13/16
021916	02/19/2016	703.20	\$32 Dewar's scotch for suites, \$671.20 RT flight from Evansville to BJI 4/13/16 to 4/17/16, no indication flight purchase was made
030116	03/01/2016	1,352.20	\$1,352.20 flight from Cleveland to LAX (3/3/16) and LAX to BJI (3/5/16)
030116	03/01/2016	106.97	\$106.97 for Enterprise car rental in LA
031016	03/10/2016	2,730.00	\$2,550 - fee for written IAVM exam, \$180 for textbook/manual for exam
032816	03/28/2016	1,796.40	IEBA October 2016 - \$1,796.40 hotel 10/8/16 to 10/12/16
032816	03/28/2016	674.00	IEBA - \$674 in registration and membership fees
032816	03/28/2016	742.70	IEBA - \$742.70 for RT flight from BJI to BNA 10/8/16 to 10/12/16
040416	04/04/2016	703.00	\$703 - IAVM Region 2 & 3 meeting in Cincinnati, OH from 5/22 to 5/24/16
040416	04/04/2016	198.00	\$198 - hotel room in Cincinnati from 5/22 to 5/24/16
040416	04/04/2016	659.20	5/22/16 to 5/25/16 RT flight from Bemidji to Cincinnati
		44,580.22	Total



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Statement of Position Credit Card Use and Policies

Counties, cities, towns, school districts, watershed districts, and soil and water conservation districts have authority to make purchases using credit cards issued to the public entity.¹ The statutes authorizing credit card use by public entities restrict the use of credit cards to purchases for the public entity. No personal use of the credit card is permitted.²

According to Minnesota law, credit cards should only be used by those employees and officers otherwise authorized to make purchases. If the public entity does not authorize a credit card purchase, the officer or employee who made the purchase becomes personally liable for the amount of purchase.

Purchases made with the credit card must be consistent with other state law. For example, under Minnesota law, claims presented for payment must be in writing and itemized.³ Monthly statements received from a credit card company lack sufficient detail to comply with these statutory requirements. As a result, public entities using credit cards must retain the invoices and receipts needed to support the items charged in the bill from the credit card company.⁴ Similarly, listing only the credit card company on a claims list would merely identify the method of payment. It does not identify the vendors providing the goods and services, as required by law.

The authority to use credit cards does not authorize the creation of a new form of debt for the public entity. The statutes governing the issuance of debt by a public entity add a number of restrictions to the issuance of any obligation. The credit card statutes simply authorize another method of payment. Therefore, the public entity's governing board must adopt a policy of paying off the credit card charges on a monthly basis.

¹Minn. Stat. §§ 471.382 (cities and towns); 375.171 (counties); 123B.02, subd. 23 (school districts); 103D.325, subd. 4 (watershed districts); 103C.321, subd. 6 (soil and water conservation districts).

² See, e.g., *State v. Norman*, No. A11-1721 (Minn. Ct. App. Sept. 17, 2012) (unpublished) (reimbursement of personal charges on city credit card does not negate false claim or theft by swindle charges).

³ See Minn. Stat. § 471.38, subd. 1.

⁴ If the original supporting documentation is missing, an attestation or affidavit identifying how, where, and when the money was spent, signed by the individual seeking reimbursement will suffice.

Reviewed: February 2014
Revised: February 2014

2007-1005

This Statement of Position is not legal advice and is subject to revision.

An Equal Opportunity Employer

Before implementing the use of credit cards, a public entity should adopt a comprehensive credit card policy that may include such areas as good management practices and internal control procedures.

We recommend the adoption of a comprehensive credit card policy that provides the following safeguards:

- Prohibit the use of the credit card for personal purchases;
- Identify the employees and officers who are authorized to make purchases on behalf of the public entity and are eligible to use the card;
- Identify the particular purchases that are to be made with the credit card;
- Set up a review process for all purchases made with the credit card;
- Require supporting documentation for all purchases made with the credit card;
- Restrict the total amount of charges that can be made on the credit card; and
- Obtain signed written acknowledgments of the credit card policies from all authorized card users.

Some public entities have obtained debit cards instead of or in addition to credit cards. While entities have the authority to make purchases using credit cards, the authority to use debit cards is less clear.⁵ Debit cards allow funds to be immediately withdrawn from the entity's financial account, provide fewer protections than credit cards provide, and circumvent statutory claims approval safeguards. We recommend that entities use credit cards, and not debit cards, to make purchases for the public entity.

The ability to use a credit card for small purchases in the ordinary course of business offers many advantages. However, the ability of the cardholder to make the public entity liable for an improper or illegal purchase is an inherent risk associated with credit cards. Compliance with statutory requirements, and the adoption of and adherence to a policy implementing further internal controls will greatly reduce the public entity's exposure to loss of public funds through theft or misuse of the credit card.

Additional guidance on using purchasing cards for government purchases may be found on the Government Finance Officers Association (GFOA) website at: <http://www.gfoa.org/purchasing-card-programs>.

The State of Minnesota's purchasing card and use policy is available at: <http://www.mmd.admin.state.mn.us/pdf/alpappnpolicy1.pdf>.

⁵ In contrast, cities, towns, and counties have clear authority to *accept* payment by use of debit cards. See Minn. Stat. § 471.381, subd. 2.



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Statement of Position

Public Expenditures: Donations and Dues

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

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

Gifts/Donations to Private Individuals/Organizations

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

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

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

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

² Minn. Stat. § 471.941.

³ Minn. Stat. § 138.053.

⁴ Minn. Stat. § 471.93.

Reviewed: December 2014

Revised: April 2014

2007-1017

- nonprofit to sponsor a centennial celebration.⁵
- **Prevention of Cruelty to Animals.** A county may appropriate money for maintenance and support of the local society for the prevention of cruelty to animals.⁶
 - **Food Shelves.** Cities and counties may donate funds in the form of grants to food shelves providing food to the needy without charge.⁷
 - **Senior/Youth Centers.** A county, city or town may appropriate money to support the facilities, programs, and services of a public or private, not-for-profit senior citizen center or youth center.⁸
 - **Public Recreation Programs.** Counties, cities, towns and school districts may spend funds to operate programs of public recreation, recreational facilities, and playgrounds.⁹ These programs may be conducted independently or with any nonprofit organization.
 - **Promotion.** A city or urban town may appropriate up to \$50,000 annually to an incorporated development society or organization of this State, for promoting, advertising, improving, or developing the economic and agricultural resources of the city or urban town.¹⁰ A city may appropriate money to advertise the city and its resources and advantages.¹¹ Similarly, a county may appropriate funds to a similar entity for promoting, advertising, improving or developing the economic and agricultural resources of the county.¹² The county statute does not contain an annual spending limit.
 - **Employee Recognition.** Towns may spend funds to recognize volunteers, service efforts, and retiring town officers.¹³ Counties and cities may spend funds for preventive health and employee recognition services.¹⁴
 - **Community Celebrations.** Towns may spend funds to host or support a community celebration.¹⁵ Cities or towns may spend funds on Memorial Day observances,¹⁶ and may appropriate money for county or district fairs,¹⁷ centennial and historical celebrations.¹⁸ Statutory cities may spend funds to provide free musical entertainment.¹⁹ The authority to purchase fireworks seems to be implied.²⁰

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

⁶ Minn. Stat. § 343.11.

⁷ Minn. Stat. § 465.039.

⁸ Minn. Stat. § 471.935.

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

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

¹¹ Minn. Stat. § 375.83.

¹² Minn. Stat. § 469.189.

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

¹⁴ Minn. Stat. § 15.46.

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

¹⁶ Minn. Stat. § 465.50.

¹⁷ Minn. Stat. § 38.12.

¹⁸ Minn. Stat. § 471.93.

¹⁹ Minn. Stat. § 412.221, subd. 15.

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

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

Memberships and Dues

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

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

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

The Attorney General’s Office has determined that local units of government may *not* pay dues to a local chamber of commerce²⁴. However, because cities and urban towns may appropriate up to \$50,000 to an incorporated development society or organization for promotional activities, a city or urban town could contribute to a local chamber of commerce for one of the purposes authorized by statute, such as promoting the city or urban town.²⁵ Counties have similar authority but do not have the \$50,000 monetary cap.²⁶ The use of public funds would be limited to statutorily authorized activities. As a result, the OSA recommends that counties, cities, and urban towns create and maintain documentation that shows the funds have been given for specific statutory purposes.²⁷

²¹ Minn. Stat. § 465.58.

²² Minn. Stat. § 471.96.

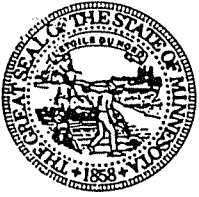
²³ Minn. Stat. § 123B.02, subd. 24.

²⁴ See Attorney General Letter dated June 27, 1997 (attached).

²⁵ Minn. Stat. § 469.191. An EDA has broader authority to join an official, industrial, commercial or trade association, or other organization concerned with one of the EDA’s authorized purposes.

²⁶ Minn. Stat. § 375.83.

²⁷ Documentation includes, but is not limited, to minutes, resolutions and contracts.



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HUBERT H. HUMPHREY III
ATTORNEY GENERAL

June 27, 1997

Hans B. Borstad
Staples City Attorney
208 North Fourth Street
Staples, MN 56479

Re: Staples Chamber of Commerce Membership

Dear Mr. Borstad:

I am in receipt of your letter asking whether the City of Staples is authorized to pay membership dues to the Staples Chamber of Commerce. After reviewing prior opinions of the Attorney General on this issue as well as the relevant Minnesota statutes, it is my opinion that, while the City of Staples would be authorized by statute to appropriate up to \$50,000 annually to the Staples Chamber of Commerce in certain circumstances, the City would not be permitted to contribute this money in the form of membership dues absent specific authority to do so in the City Charter.

It is well settled in this state that a municipal corporation has only such powers as are expressly conferred upon it by statute or its charter, or necessarily implied therefrom. It has no inherent power. Borgelt v. City of Minneapolis, 271 Minn. 249, 135 N.W.2d 438 (1965); see generally 13A Dunnell, Minn. Digest 2d Municipal Corporations § 3.01a (3rd Ed. 1981). This longstanding principle was relied upon by our office in Op. Atty. Gen. 63-b-1, May 11, 1944, which concluded that the City of New Ulm, a home rule charter city, was without authority, under state law or local charter provision, to subscribe and pay for one or more memberships in a civic and commerce association which was a reorganization of a businessmen's association. Similarly, in Op. Atty. Gen. 218r, February 24, 1949 (1950 Attorney General Report No. 103), we concluded that the Village of Buffalo (now a statutory city) could not join or pay dues to a local chamber of commerce since no such power was conferred upon it by statute. In connection with this issue, your letter refers to three statutes as potential sources of authorization to take the action you describe.

Minn. Stat. § 469.189 (1944), authorizes the governing body of certain cities to appropriate money to advertise the municipality, its resources and advantages. This Office has taken the position that there is a distinction between statutory authorization to appropriate and use money for a purpose, and authorization to contribute money to a body generally committed to advancing a purpose. See, e.g., Op. Atty. Gen. 59a3, January 15, 1959, wherein we determined that statutory authority for a city to "appropriate money" for purposes of historical preservation and observances permitted the city to contract with the county historical society for specific services, but not to donate funds to the society to expend in its own discretion. For the

same reasons, we conclude that section 469.189 (1996) does not authorize the city to donate funds or purchase a "membership" in the local chamber of commerce.

Minn. Stat. § 469.191 (1996) provides:

A home rule or statutory city or town described in section 368.01, subdivision 1 or 1a, may appropriate not more than \$50,000 annually out of the general revenue fund of the jurisdiction to be paid to any incorporated development society or organization of this state for promoting, advertising, improving, or developing the economic and agricultural resources of the city or town.

It is our understanding that this section was first enacted in 1989 primarily to allow small rural towns to participate in an organization called the Minnesota Initiative Fund, an organization which received grants from the McKnight Foundation matching certain contributions from towns and cities. However, contemporaneous legislative history indicates an understanding by the legislature that this law would also allow a city or town to contribute up to \$50,000 annually to a local chamber of commerce. This seems to be a reasonable interpretation of the language of Minn. Stat. § 469.191, and it is my opinion that this provision would authorize the City of Staples to contribute up to \$50,000 annually to the Staples Chamber of Commerce.

Authority to contribute does not necessarily permit membership, however. In general, it has been our view that authority of local units of government are not authorized to form or join "private" organizations absent specific statutory authority. *See, e.g.*, Op. Atty. Gen. 92a-30, January 29, 1986; 733, July 29, 1988. For example, Minn. Stat. § 144.581 (1996), which is mentioned in those opinions, authorizes hospital authorities to join and sponsor memberships in certain organizations.

In addition, the Legislature has addressed the authority of municipalities to provide for municipal membership in certain local, state and national associations. In addition, cities are expressly authorized by Minn. Stat. § 465.58 (1996) to pay annual dues in the League of Minnesota Cities and the expenses of delegates attending the meetings thereof. Neither of these sections would apply to your situation, however.

A broader grant of authority is found in Minn. Stat. § 471.96, subd. 1 (1996), which provides as follows:

The governing bodies of cities, counties, and towns are hereby authorized to appropriate necessary funds to provide membership of their respective municipal corporations or political subdivisions respectively in county, regional, state, and national associations of a civic, educational, or governmental nature which have as their purpose the betterment and improvement of municipal

Hans B. Borstad

June 27, 1997

Page 3

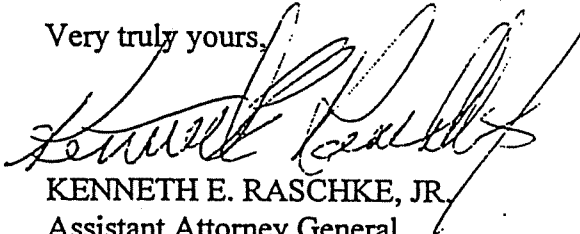
governmental operations. Cities, counties, and towns are also authorized to participate through duly designated representatives in the meetings and activities of such associations, and the governing bodies of cities, counties and towns respectively are authorized to appropriate necessary funds to defray the actual and necessary expenses of such representatives in connection therewith. For purposes of this section, the governing body of a town is the town board.

From our understanding of the nature of such organizations, it does not appear that chambers of commerce can be characterized as "associations of a civic, educational, or governmental nature which have as their purpose the betterment and improvement of municipal government operations" within the purview of this statute, even though their interests may include such objectives.

Subdivision 2 goes on to provide that the statute does not affect "any statutory, charter or common law power of cities" to provide for membership and participation in state and national associations. I am aware of no general statutory or common law power on the part of cities to provide for membership.

For the foregoing reasons, we conclude that the city lacks statutory authority to purchase membership in the local chamber of commerce. While it is possible that such authority might be contained in the City's Charter, your letter does not refer to any such charter provision, and we do not ordinarily undertake in our opinions to construe provisions of local charters. See Op. Atty. Gen. 629a, May 9, 1975.

Very truly yours,



KENNETH E. RASCHKE, JR.
Assistant Attorney General

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