

## **Contributing Money**

It is not unusual for cities and towns to be asked to contribute money to individuals or entities. These requests run the gamut from contributions to 4-H program, Boys and Girls State, the little league and beauty pageants to traditional charities. Requests for donations of money raise both legal and policy issues for members of city and town councils.

Utah Code section 10-8-2 limits the appropriation of money (the term appropriation includes gifts or donations) to municipal corporate purposes only, but provides that it is considered a corporate purpose to appropriate money for any purpose that, in the judgment of the municipal legislative body, provides for the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of the inhabitants of the municipality subject to the city or town's legislative body first holding a public hearing on the matter of the donation. The public hearing requires a 14 day notice published in the newspaper. Prior to the public hearing the city or town must undertake a study to determine what benefit the city or town will receive for the proposed appropriation of money; the public purpose of the appropriation; and whether the appropriation will accomplish that purpose. The results of the study must be available to the public 14 days prior to the public hearing. The purpose of the public hearing is to receive comments on the study and the proposed donation or appropriation of money.

The exception to the public hearing requirement is if the appropriation of the money for the purpose was included in the adopted budget of the city or town. If it was, then the matter is considered heard at the city or town's budget hearing and no further hearing is necessary. It appears that if the issue is included in the budget then no study of the benefits of the donation is necessary either.

The answer for cities and towns is clear. Donations or gifts can only be made if there is an ordinance which authorizes the city or town to make the gift. Utah Code section now 10-8-2 allows appropriations of money for corporate purposes but only after following the proper procedure. If the requested gift or donation is not specifically included in the adopted budget then a study of the benefits to the city or town and a public hearing is required before the gift or donation of money is made.

The key to avoiding problems is to consider the proposed donations as part of the annual budget and make clear findings for the minutes when a gift is authorized. The finding should contain a clear statement of how the gift furthers the city or town's corporate purpose. It may also be a good idea to have a written policy on gifts. If a city or town does have a policy it must be sure to follow the policy. If it is not specifically in the budget then the city or town who is asked for a gift or donation of money must say no to the request or conduct the study, publish notice of the public hearing, hold the public hearing, then specifically find the corporate purpose is present and value is being received. All of this must occur before the money is given.

As a general rule the gifts of money or property may not be a good idea for a city or town. Unlike counties, cities and towns are not primarily in the business of providing welfare services. We all know that it is difficult to say no to groups when they ask for money. There are many worthy projects and organizations that need financial help. These groups do not have what cities and towns have--the power to raise money through taxes. It is tempting for them to ease their fund raising burden by indirectly using the taxing authority by asking a city or town to donate.

A city or town's power to tax comes with a duty. The duty of city and towns is to use tax dollars only for valid purposes. It is the responsibility of all council members to evaluate requests for donations with the interests of the taxpayer first in mind. Remember if your residents think that the entity requesting the donation is worthy of receiving the money they will directly contribute. Using tax dollars for charitable purposes is the same as forcing donations from your residents. This should only be done when it is clear that the donation is in the best interest of the residents and clearly is authorized by law and proper procedures are followed.