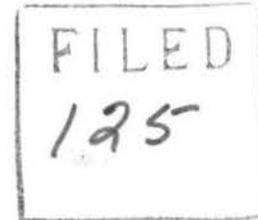


March 20, 1973

OPINION LETTER NO. 125  
Answer by Letter - Klaffenbach

Honorable Robert Fowler  
State Representative, District 69  
Room 401 Capitol Building  
Jefferson City, Missouri 65101



Dear Representative Fowler:

This letter is in answer to your questions asking:

"A Park Board is duly established under the provisions of V.A.M.S. 90.520. The stated purpose for the passage of a bond issue by the City Council is that the proceeds will be used for City Parks.

"Q-1. Are the proceeds of the bond issue 'money received for such parks' within the meaning of the fourth sentence of V.A.M.S. 90.550?

"Q-2. Where the park board furnishes 'properly authenticated vouchers on moneys received for such parks' is the duty of 'the proper officers of said city or town' to write the drafts or checks a ministerial one or a discretionary one?

"Q-3. Is the money received from the following sources, 'moneys received for such parks' within the meaning of the fourth sentence of V.A.M.S. 90.550?

A. Government Grants to the Park Boards or the City from the Federal or State governments for the acquisition or development of public parks.

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B. Gifts and donations to the Park Board or the City for the benefit of City Parks.

"Q-4. Does the Park Board have the authority to buy land and charge the expenditure to the park fund, including bond and government grant money?"

Section 90.550, RSMo, provides:

"Said directors shall immediately after their appointment, meet and organize by the election of one of their number president, and by the election of such other officers as they may deem necessary. They shall make and adopt such bylaws, rules and regulations for their guidance and for the government of the parks as may be expedient, not inconsistent with sections 90.500 to 90.570. They shall have the exclusive control of the expenditures of all money collected to the credit of the park fund and of the supervision, improvement, care and custody of said park. All moneys received for such parks shall be deposited in the treasury of said city or town to the credit of the park fund and shall be kept separate and apart from the other moneys of such city or town and drawn upon by the proper officers of said city or town upon the properly authenticated vouchers of the park board. Said board shall have power to purchase or otherwise secure ground to be used for such parks, shall have power to appoint a suitable person to take care of said parks and necessary assistants for said person and fix their compensation, and shall have power to remove such appointees; and shall in general carry out the spirit and intent of sections 90.500 to 90.570 in establishing and maintaining public parks." (Emphasis added)

Your question 1 with respect to the proceeds of bond issue money; question 3A with respect to government grants; and question 4 with respect to government grants and bond issue money present questions which cannot be answered in the abstract.

In answer to your question 2 concerning the issuance of vouchers under the provisions of Section 90.550, it is our view

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that such officers must honor proper park board park fund vouchers having no patent irregularity. We assume that the vouchers submitted by the park board are for lawful purposes.

Your question 3B is answer by Section 90.570, RSMo, which provides:

"Any person desiring to make donations of money, personal property or real estate for the benefit of such park shall have a right to vest the title to the money or real estate so donated in the board of directors created under sections 90.500 to 90.570, to be held and controlled by such board when accepted according to the terms of the deed, gift, devise or bequest of such property; and as to such property, the said board shall be held and considered to be the special trustees."

However, whether or not such cash donations must be deposited in the city treasury to the credit of the park board fund may depend on the terms of the gift.

That part of your question 4 asking whether the park board has authority to buy land is answered by the above underscored portion of Section 90.550 which provides that the board has authority to buy land to be used for parks.

Very truly yours,

JOHN C. DANFORTH  
Attorney General

Enclosure: Op. No. 198  
7/21/72, Lee