

February 5, 1971

Answered by Letter - Klaffenbach  
OPINION LETTER NO. 114

Honorable Robert H. Martin  
State Representative  
Nineteenth District  
Room 401 Capitol Building  
Jefferson City, Missouri 65101



Dear Representative Martin:

This letter is in response to your opinion request in which you pose the following questions with respect to an interpretation of Sections 90.500, RSMo 1969, et seq., relative to public parks and park boards in cities of less than 30,000 inhabitants and second and third class cities:

- "1. Does the Park Board have authority to make purchases for park needs (tractors, tools, concessions equipment) or must they follow a city pattern of three bids or use the city purchasing department?
- "2. Must properly authenticated vouchers for payment of bills and utilities be signed by the mayor and approved by the Board of Alderman?
- "3. Can the Park Board secure ground in the name of the Park Board, or is it in the name of the city?
- "4. Is the Superintendent of Parks classified as an employee of the City or the Park Board?

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"5. In the event the City should take property through condemnation for a roadway through park property, is the Park Board to be compensated for the property as would an individual or corporation?"

In view of the holding of the Springfield Court of Appeals in Gwartney v. City of Springfield, 93 S.W.2d 62 (1936), we believe that we should dispose of your questions together rather than taking them seriatim.

That is, the Springfield Court of Appeals in the Gwartney case cited and passed on the statutory provisions relative to the powers of the park board which are now contained in Section 90.550, RSMo 1969.

For the sake of simplicity, we will quote extensively here from the holding of the court at page 64:

"In saying what we have above we are not unmindful of the provisions of section 14244, Mo.St. Ann. p. 6152, which are as follows: 'Said directors shall, immediately after 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 by-laws, rules and regulations for their own guidance and for the government of the parks as may be expedient, not inconsistent with this article. They shall have the exclusive control of the expenditure of all moneys collected to the credit of the park fund and of the supervision, improvement, care and custody of said parks: Provided, that all moneys received for such parks shall be deposited in the treasury of said city or village to the credit of the park fund, and shall be kept separate and apart from other moneys of such city, or village, and drawn upon by the proper officers of said city or village, upon the properly authenticated vouchers of the park board. Said board shall have power to purchase or otherwise secure grounds to be used for 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

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shall have the power to remove such appointees; and shall in general carry out the spirit and intent of this article in establishing and maintaining public parks. (R.S.1919, § 9216.)'

"We think the exclusive control of the expenditure of moneys mentioned in that section does not mean at all that the park board is an independent organization separate and apart from the city with power to collect and spend the funds as an independent and separate municipal corporation could do. We think it means simply that its powers are separate and apart from any other board or branch of the city government. This section provides that the funds are to be kept separate and apart from other funds of the city, but the park board is not given power to draw out any part of these funds. It may make vouchers for the amount, but must submit these vouchers to the proper officers of the city, and the city officers, only, may draw upon the funds. This section says: 'Said board shall have the power to purchase or otherwise secure grounds to be used for parks,' but that does not imply that said purchases shall be separate and apart from any action on the part of the city, for the same section of the statute provides that all moneys used in connection with parks must be drawn upon by the proper officer of the city."

It is our view, therefore, that it follows in direct answer to your question that the park board must follow the same procedure as does the city with respect to the purchase of such equipment; vouchers for the payment of bills and the like must conform with the provisions relative to all vouchers of the city; park board land is held in the name of the city and the superintendent of parks is an employee of the city.

Very truly yours,

JOHN C. DANFORTH  
Attorney General