

**OPINION
60-202**

April 19, 1960 (OPINION)

MUNICIPAL GOVERNMENT

RE: Powers of Municipalities - Expenditure of Municipal Funds

This is in reply to your letter of April 6, 1960 in which you state "The village of Flasher would like an opinion as to whether or not it is legal or lawful for the village of Flasher to pay the local utility company for street lighting electricity used on four privately (county) owned light poles which are located on private (county owned) property." You state further that county machinery is to be stored on the lighted property, that said property is within the village limits, and that the lights in question are to be added to Flasher's present street lighting circuit.

It is understood that the light fixtures referred to are not situated on or along a village street as a part of the village street light system proper, but that they are situated on county property and serve exclusively to illuminate said property.

Your question is whether it "would be lawful for the village of Flasher to furnish the electricity free of charge" or whether "it must collect a monthly fee from the county for such lighting?"

It is, of course, axiomatic that in the expenditure of public funds municipal corporations have only such powers as are expressly or impliedly granted to them by constitutional provisions or legislative acts.

Subsection 3, Section 40-0501 of the N.D.R.C. of 1943 authorizes municipalities,

To appropriate money for corporate purposes only, and to provide for the payment of debts and expenses of the corporation."

It appears manifest that the payment of another governmental entity's light bill would not constitute the payment of a municipal debt or expense and, therefore, would not be a legitimate municipal expenditure.

In addition, the expenditure of municipal funds in payment of another governmental entity's light bill might constitute a violation of Section 185 of the Constitution of North Dakota, which section provides, in part, that,

. . . . neither the state nor any political subdivision thereof shall otherwise loan or give its credit or make donations to or in aid of any individual, association or corporation except for reasonable support of the poor,"

In summary, it is the opinion of this office that the expenditure of

municipal funds in payment of the light bill of another government entity would constitute an unauthorized expenditure of municipal funds.

LESLIE R. BURGUM

Attorney General