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1. BOND ISSUE—TOWNSHIP TRUSTEES—MAY SUBMIT TO TOWNSHIP ELECTORS FOR APPROVAL—ISSUE TAKING FORM OF SINGLE PROPOSAL FOR CONSTRUCTION OF TOWNSHIP FIRE STATION AND FOR PURCHASE OF FIRE APPARATUS, EQUIPMENT AND APPLIANCES — ISSUE NOT TO EXCEED \$20,000.00 IN AMOUNT.
2. ONE BOND ISSUE APPROVED FOR CONSTRUCTION OF TOWNSHIP FIRE STATION—ANOTHER SEPARATE ISSUE FOR CONSTRUCTION OF TOWNSHIP ROAD EQUIPMENT BUILDING—TOWNSHIP TRUSTEES MAY CONTRACT TO CONSTRUCT BUILDINGS ADJACENT TO EACH OTHER WITH JOINT PARTY WALLS FORMING BOUNDARIES.
3. TOWNSHIP TRUSTEES MAY PURCHASE FROM GENERAL TOWNSHIP FUNDS SITES FOR TOWNSHIP FIRE STATION AND TOWNSHIP ROAD EQUIPMENT BUILDING.
4. NO AUTHORITY FOR TOWNSHIP TRUSTEES TO APPROPRIATE LAND TO PROVIDE SITES TO CONSTRUCT TOWNSHIP FIRE STATION OR TOWNSHIP ROAD EQUIPMENT BUILDING—TRUSTEES AUTHORIZED TO APPROPRIATE LAND FOR TOWNSHIP PARK PURPOSES—SECTION 505.26 RC.
5. UNEXPENDED FUNDS REALIZED FROM SALE OF BONDS TO CONSTRUCT COMPLETED TOWNSHIP BUILDING—SHOULD BE TRANSFERRED TO TOWNSHIP SINKING FUND OR TOWNSHIP BOND RETIREMENT FUND FOR RETIREMENT OF BONDS—SECTION 5705.14 (A) RC.

## SYLLABUS:

1. Township trustees may submit to the township electors for their approval, a bond issue taking the form of a single proposal for the construction of a township fire station and for the purchase of fire apparatus, equipment and appliances; said issue not to exceed \$20,000.00 in amount.

2. Where the township electors approve one bond issue for the construction of a township fire station and another and separate bond issue for the construction

of a township road equipment building, the township trustees may, if they so desire, contract for the construction of such structures in such a manner as to place them adjacent to each other with joint party walls forming their boundaries.

3. Township trustees may purchase sites for a township fire station and a township road equipment building, from the general funds of the township.

4. Township trustees have no authority to appropriate land for the purpose of providing sites for the construction of a township fire station or a township road equipment building; but township trustees are authorized by Section 505.26, Revised Code, to appropriate land for township park purposes.

5. In the event there remains an unexpended balance in a bond fund realized from the sale of bonds for the purpose of constructing a township building, and the building has been completed, such a balance, pursuant to Section 5705.14(A), Revised Code, should be transferred to the township sinking fund or township bond retirement fund for the retirement of the bonds.

Columbus, Ohio, August 3, 1954

Hon. James H. DeWeese, Prosecuting Attorney  
Miami County, Troy, Ohio

Dear Sir:

I have before me your request for my opinion which reads as follows:

"The Trustees of one of our townships desire to submit two bond issues to the electors in the November election, one for \$20,000.00 for the construction of a fire station and the purchase of fire apparatus, equipment and appliances, and the other for \$20,000.00 to construct a building to house the township road equipment, with room to make minor repairs, and also room for the meeting of the trustees. The questions are as follows:

"1. May one bond issue be submitted for the construction of a fire station and the purchase of fire apparatus, equipment and appliances, or must there be separate bond issues for the building of the fire station and for the purchase of equipment?

"2. May one bond issue be submitted for the construction of a building for road equipment, with room to make minor repairs, and a meeting room for the trustees, or will separate bond issues be required for the construction of the garage and one for the meeting place?

"3. If these separate issues pass, would it be possible to combine the fire station and garage for the purposes of construction as one building?

"4. May the trustees, for the above purposes, purchase with general funds the land on which to construct said buildings?

"5. If the trustees can legally purchase the land for the building site from general funds, and there is surplus land, may such surplus land be used for playground purposes?"

"6. Can the township trustees appropriate land for any or all of the above purposes?"

"7. If there is any money remaining from the bond issue for the construction of the fire station and purchase of equipment, may such surplus be used for operation and maintenance expense and replacement of equipment?"

"8. If there is any surplus from the bond issue for the construction of the garage, may such surplus be used for purchase of office furnishings, garage equipment, and maintenance of building?"

Section 133.10, Revised Code, Section 2293-20, G.C., which is part of the Uniform Bond Act, provides that the resolution of the taxing authority of any subdivision (here, a township) declaring the necessity of a bond issue, shall relate only to *one purpose*. The section further provides that "one purpose" includes in any case, "all expenditures, including the acquisition of a site and purchase of equipment for any one \* \* \* building."

Is a bond issue for the construction of a fire station and the purchase of fire apparatus and equipment, a bond issue for "one purpose"? Section 505.40, Revised Code, Section 3298-56, G.C., provides:

"No bonds shall be issued by the township trustees for the purpose of providing *fire apparatus and appliances, buildings or sites therefor*, sources of water supply and materials therefor, or for the establishment and maintenance of lines of fire-alarm telegraph, or for the payment of permanent, part-time, or volunteer fire-fighting companies to operate such equipment, unless approved by vote of the people in a township or fire district in the manner provided by sections 133.09 to 133.13, inclusive, of the Revised Code, and in no event an amount exceeding twenty thousand dollars." (Emphasis added.)

The foregoing statute, standing alone, does not *necessarily* lead one to conclude that a single or "package" bond issue might be submitted to the electors providing for a fire station and fire equipment. Yet the fire station and fire apparatus and equipment are mentioned in sequence, and both the fire station and the fire equipment are necessary to the end of efficient fire-fighting. Likewise, whereas the legislature provided in Section 133.10, Revised Code, that "one purpose" includes all expendi-

tures for site and *equipment for a building*, it is not certain that it was thinking of fire trucks and equipment housed in a township building, as opposed to fixtures and furnishings necessary for a completed township building.

I am of the opinion that the fire station, fire equipment and apparatus might legally be grouped together for submission to the electors as one bond question, to be voted upon "yes" or "no." This is for the reason that there is a unity of object present in the ultimate end sought to be obtained, namely, the prevention and fighting of fires. The fire house and the equipment are both means germane to this purpose, and each has a natural and material relation to the other.

Recognizing that it is the policy of the law that each measure for which it is proposed to issue and sell bonds shall stand on its own merits, unaided by combination with others, and that it be voted upon as an independent measure by the trustees and the electors, uninfluenced by such combination, nevertheless, I feel certain that the subject matter here sought to be united in one proposal, is not naturally the type of combination which is particularly open to attack as an attempt at "log-rolling." It would appear that the voters, if in the mood for a fire station, might also be in favor of purchasing necessary fire equipment. The fire equipment requires a shelter; the firemen require a headquarters; and a fire station in and of itself is useless if there are no fire trucks and apparatus to go with it.

Turning to your second question, it is to be observed that Section 5575.01, Revised Code, Section 3373. G.C., contains authority for the township trustees to provide a building for the purpose of storing road machinery, tools and materials. Since such a structure would be classed as a "permanent improvement," the township may issue bonds to finance its construction. It would be perfectly permissible to construct the road machinery building in such a manner as to contain a room for the making of minor repairs on the road equipment. Such a room might readily be considered a necessary feature of such building, and as such it would appear to be unnecessary for the trustees even to make reference to the room in its bond resolution concerning the construction of a township road equipment building.

It is further asked whether the question of construction of a "meeting room" for the use of the trustees might be combined with the bond issue

for a township road equipment building. It must be said that there is no statutory authorization for the construction of a "meeting room." Of course, the township may construct a town hall to serve as a meeting house, yet construction of such a structure is obviously not contemplated in the instant case. It must be said, therefore, that there is no authority for the construction of a meeting "room" for township trustees, and hence such a proposal would not be proper to place on the ballot in conjunction with the road machinery building proposal.

Assuming passage of the separate bond issue proposals for a fire station and road equipment building, it is asked whether it would be possible to combine the two for the purpose of constructing one building. It must be remembered that the assumed premise is that the voters actually approve the construction of two distinct buildings, one for a fire station, the other for a road equipment garage. It would certainly be permissible as a matter of architectural design and construction to combine by proximity of location the fire station portion with the garage portion of a structure having joint party walls which would otherwise constitute *exterior* walls were the structures to be built separately and apart, but which walls would serve as interior partition walls in the event the plans and specifications call for a joining of the two buildings.

I am of the opinion that the township trustees may pay the purchase price of the building sites from the general funds of the township. The general fund of the township is a fund created under direction of Section 5705.09, Revised Code, into which is placed all moneys belonging to the township to be used for the current operating expenses of the subdivision and excluding those funds which are derived from levies for specific purposes. In the absence of specific provision in the statutes requiring the payment of the purchase price of the building sites from a specific fund, the purchase price could be paid only from the general funds of the township. I fully realize that Section 505.39, Revised Code, Section 3298-55, G. C., in terms, authorizes the levy of a tax to provide for protection against fire, and that Section 505.40, Revised Code, Section 3298-56, G.C., authorizes a bond issue for that purpose. Yet it would seem to me that were these two sections to be repealed, the township trustees would retain the power to acquire a fire house site, and the purchase price, of necessity, would emanate from the general fund. This is for the reason that Section 505.37, Revised Code, Section 3298-54, G.C., makes it mandatory for the township trustees to provide for the care and maintenance of fire equip-

ment, and, for such purpose, they may "purchase, lease, or construct and maintain necessary buildings." If the trustees may purchase from general funds a fire station already standing upon a parcel of land, it might also purchase from general funds the *site* for construction thereon of a fire station.

With respect to the township road equipment building, it was held in Opinion No. 2803, Opinions of the Attorney General for 1925, page 625, that under Section 3373, General Code, the township trustees may purchase land upon which to erect a building to house township machinery and tools. Neither the statute nor the opinion mention the source from which payment may be made. It would therefore appear that if there are sufficient unappropriated general funds on hand, the trustees might look to such a source for the purchase price of the site.

Inquiry is made as to whether, in the event there is surplus land remaining after the construction of the buildings, such surplus land may be used for playground purposes. The question is predicated upon the assumption that the building sites were purchased from general funds of the township. Section 505.26, Revised Code, Section 3295, G. C., authorizes a board of township trustees to purchase a "township park." There are code sections authorizing the construction and maintenance of a "playground" by cities, villages and counties, but townships are not mentioned in these statutes. Yet it would seem that since the trustees might purchase property for park purposes, they might lawfully utilize surplus township land surrounding the fire house and township garage, for recreational purposes, and install thereon items of playground equipment such as swings, etc.

The next question is whether the township trustees can appropriate land for any or all of the above purposes, i.e., fire station, township garage, and park. Sections 501.01 to 521.21, Revised Code, the township code, contain no general grant of authority for township trustees to acquire land by appropriation. The legislature has seen fit to grant the power of appropriation in a number of specific instances, such as for a town hall, for a memorial, for burial grounds. Section 505.26, Revised Code, allows an appropriation of land for park purposes. With respect to an appropriation of land for a fire station or a township road equipment building, authority is completely lacking.

I held in Opinion No. 276, Opinions of the Attorney General for 1951, page 121, that township trustees do not have the power to appro-

priate land for the purpose of erecting a building thereon to store fire equipment. I arrived at this conclusion due to the absence of any general statute conferring the power of eminent domain upon the township trustees, plus the fact that Section 3298-54, General Code, did not include the power of appropriation, although it specifically authorized the trustees to *purchase, lease, or construct* necessary fire houses. It must therefore be said that township trustees may not appropriate land for a fire station, and the same thing is true with respect to the road machinery building site, since there is no general or specific authority therefor.

Your last two questions concern the right, if any, of the trustees to allocate surplus bond funds in their hands after the construction of the improvements, to operation and maintenance expense in the case of the fire fighting bond issue, and to the purchase of office furnishings, garage equipment and building maintenance in the case of the garage bond issue. In each case, I take it, I am to assume that the purpose of the voted bond issue has been fulfilled and that an excess of bond proceeds remain on hand.

It is provided in Section 133.36, Revised Code, Section 2293-29, G. C., that the money from the principal, on the sale of bonds or notes, shall be credited to the fund on account of which the bonds or notes are issued and sold and the money is to be used only for the purpose set out in the resolution or ordinance of the taxing authority, and "all moneys from premiums and accrued interest shall be paid into the sinking fund or bond retirement fund from which said bonds or notes are to be redeemed."

Let us assume the purposes as voted for have been carried out. The unexpended balance in the bond funds should be paid into the sinking fund or the bond retirement fund for the eventual retirement bonds. This is the case because Section 5705.14, Revised Code, Section 5625-13, G. C., provides in material part as follows:

"No transfer shall be made from one fund of a subdivision to any other fund, by order of the court or otherwise, except as follows:

"(A) *The unexpended balance* in a bond fund that is no longer needed for the purpose for which such fund was created *shall be transferred to the sinking fund or bond retirement fund* from which such bonds are payable." (Emphasis added.)

Accordingly, it is my opinion that:

1. Township trustees may submit to the township electors for their approval, a bond issue taking the form of a single proposal, for the con-

struction of a township fire station and for the purchase of fire apparatus, equipment and appliances; said issue not to exceed \$20,000.00 in amount.

2. Where the township electors approve one bond issue for the construction of a township fire station and another and separate bond issue for the construction of a township road equipment building, the township trustees may, if they so desire, contract for the construction of such structures in such a manner as to place them adjacent to each other with joint party walls forming their boundaries.

3. Township trustees may purchase sites for a township fire station and a township road equipment building, from the general funds of the township.

4. Township trustees have no authority to appropriate land for the purpose of providing sites for the construction of a township fire station or a township road equipment building; but township trustees are authorized by Section 505.26, Revised Code, to appropriate land for township park purposes.

5. In the event there remains an unexpended balance in a bond fund realized from the sale of bonds for the purpose of constructing a township building, and the building has been completed, such a balance, pursuant to Section 5705.14(A), Revised Code, should be transferred to the township sinking fund or township bond retirement fund for the retirement of the bonds.

Respectfully,  
C. WILLIAM O'NEILL  
Attorney General