

STATUTORY FINANCIAL REQUIREMENTS

There are a variety of statutes governing the handling and spending of public funds. This outline discusses some of the statutory requirements and recommends best-practices when dealing with banks. Boards must learn and follow the requirements imposed by statute.

1. THE PUBLIC PURPOSE DOCTRINE

In order to be valid, an expenditure of public funds must both be authorized by statute and for a public purpose.¹ Keep in mind that all money received or generated from the town, regardless of the source, are public funds subject to the requirements of the public purpose doctrine.

A. Statutory Authority: Local governments have no inherent powers - everything they do must come from a statute that authorizes the activity. Statutory authority can be expressed or implied. For instance, towns are expressly authorized to spend money on cemeteries, own and dispose of property, levy taxes, provide police and fire protection, and many other activities.² An implied authority exists if it is directly related to, and aids in carrying out, an expressed authority. For example, the explicit statutory requirement to make and preserve a journal of the board's meetings impliedly authorizes a town to buy paper, pens, or a computer as needed to carry out that duty.³

Only the town's supervisors are authorized to spend town funds. Voters never have express or implied authority to spend public funds. The supervisors may refuse to make a particular expenditure even if every voter at an annual meeting votes for the expenditure. Supervisors must remember that they, not the voters, may be responsible for spending that does not follow the public purpose doctrine.

B. Public Purpose: Generally, public purpose is defined as an activity that serves the community as a whole and is directly related to the functions of government.⁴ The primary object of the

¹ See Minn. Const. Art. 10, § 1.

² See Minn. Stat. § 471.935 (cemeteries); Minn. Stat. § 365.02 (own & dispose of property); Minn. Stat. § 275.065; Minn. Stat. § 365.12 (police & fire apparatus).

³ See *Welsh v. City of Orono*, 355 N.W.2d 117, 120 (Minn. 1984).

⁴ *City of Pipestone v. Madsen*, 178 N.W.2d 594, 599 (Minn. 1970).

expenditure must be to promote a public purpose; however, the mere fact that there is some incidental private benefit derived from the expenditure does not defeat it being treated as serving an overall public purpose.⁵

2. DEPOSITORIES (BANKS)

The town board must designate a bank as the depository of town funds.⁶ The voters do not have any power to designate the town's bank or to direct the board to use a certain bank. If the amount of the deposit exceeds the available federal deposit insurance of \$250,000, the board must require the bank to furnish collateral security or corporate surety bond executed by a company authorized to do business in Minnesota.⁷ In order to avoid the requirement to obtain collateral, a board could designate more than one bank as their depository so it does not have more than \$250,000 in any one bank. If the board fails to designate a depository within 30 days of the annual town meeting, the treasurer is to select a depository in the name of the town.⁸

A. Using Collateral to Secure the Town's Deposits

If a bond is not given, and collateral is required, there are several allowable forms of collateral:

1. United States government treasury bills, treasury notes, treasury bonds;
2. issues of United States government agencies and instrumentalities as quoted by a recognized industry quotation service available to the government entity;
3. general obligation securities of any state or local government with taxing powers which is rated "A" or better by a national bond rating service, or revenue obligation securities of any state or local government with taxing powers which is rated "AA" or better by a national bond rating service;
4. general obligation securities of a local government with taxing powers may be pledged as collateral against funds deposited by the same local government entity;
5. irrevocable standby letters of credit issued by Federal Home Loan Banks to a municipality accompanied by written evidence that the bank's public debt is rated "AA" or better by Moody's Investors Service, Inc., or Standard & Poor's Corporation; and
6. time deposits that are fully insured by any federal agency.⁹

Given the many requirements imposed by statute when banks use collateral to secure the town's deposits, the town may request the bank secure the deposit with a corporate surety bond to simplify the compliance. If the bank chooses to use collateral to secure the town's deposits, it may help to have the town's attorney ensure the bank has met all of the statutory requirements.

⁵ See *Visina v. Freeman*, 89 N.W.2d 635, 643 (Minn. 1958).

⁶ Minn. Stat. §§ 366.01, subd. 4; 118A.02, subd. 1.

⁷ Minn. Stat. § 118A.03, subd. 1.

⁸ Minn. Stat. § 366.07.

⁹ Minn. Stat. § 118A.03, subd. 2.

The amount of the collateral must be at least ten percent more than the amount on deposit at the close of the business day.¹⁰ However, if the collateral given is “irrevocable standby letters of credit issued by Federal Home Loan Banks,” the amount of the collateral needs only to be equal to the amount on deposit at the close of the business day.¹¹

The financial institution is required to pledge the collateral to the town in the form of a written assignment.¹² The written assignment must also state that upon the financial institution’s default, the financial institution must release the collateral to the town on demand, without any charge to the town.¹³ The town is then authorized by the statute to sell the collateral to recover the amounts due to the town, with any surplus returned to the financial institution.¹⁴

Several other conditions include:

1. the bond or assignment of collateral (or combination of both) should be, but is not required to be, executed at the same time as the town’s deposit of the funds with the depository;¹⁵
2. the bank’s board of directors or loan committee must approve the assignment of collateral;¹⁶
3. the assignment of collateral must, from the time of execution, be an official record of the bank;¹⁷
4. the bank may withdraw excess collateral or substitute other collateral after giving written notice to the town and receiving confirmation;¹⁸
5. all collateral must be placed in safekeeping in a restricted account at a Federal Reserve Bank, or in an account at a trust department of a commercial bank or other financial institution that is not owned or controlled by the bank that gave the collateral. The town board must approve the selection.¹⁹

The Office of the State Auditor also has materials concerning depositories and collateral, which may be found at: <http://www.auditor.state.mn.us/default.aspx> .

B. The Treasurer’s Role in Selecting a Depository

¹⁰ Minn. Stat. § 118A.03, subd. 3.

¹¹ Minn. Stat. § 118A.03, subd. 3.

¹² Minn. Stat. § 118A.03, subd. 4.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ See 12 U.S.C.A. 1823(e)(2)(A) (an agreement to collateralize deposits of a local government entity is not deemed invalid solely because the agreement was not executed contemporaneously with the acquisition of the collateral).

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Minn. Stat. § 118A.03, subd. 5.

¹⁹ Minn. Stat. § 118A.03, subd. 7.

As mentioned earlier, if the board fails to designate a depository within 30 days after the annual town meeting, the treasurer is to select a depository in the name of the town.²⁰ Even with that power, the town treasurer is not liable for the loss of money deposited within the limits above specified if depository closes or becomes insolvent.²¹ One exception, however, is if the treasurer was somehow negligent in carrying out his or her duties in a way that led to damages suffered by the town.

C. Proof of Organization

Some banks request documents showing the town is recognized by the State of Minnesota as a legal entity. Such banks expect that the organization of a township is recognized by the Minnesota Secretary of State's office in the same way as a corporation or other legal entity is recognized. However, towns are not formed based on recognition by a state agency and there is no document available to prove the legal existence of the town.²² Banks requesting this kind of information likely do not work with township-depositors, and are unfamiliar with the statutes governing townships. If a bank requests such documents, they should be informed that no such document exists or is issued, and referred to Minnesota Statutes Chapter 379 and Minnesota Statute 365.02. If a bank refuses to open an account without proof of organization, the town should be prepared to find a different bank.

D. Agreements With the Bank

Towns may negotiate with banks about the policies, expectations, and services the bank will provide in the administration of the account. Board members should at least question bank staff about the bank's policies on the issues discussed here in order to understand the bank's normal business processes.

1. **Original checks:** Obtaining the original checks back from the bank is becoming more difficult with the rise of electronic forms of payment and the ability to view scanned copies of the checks online. In some cases, banks turn paper checks into electronic transfer orders and immediately dispose of the paper check.

Towns are not required to obtain copies of paper checks, but may request copies from the bank if desired. Bank statements and online resources likely identify the check numbers and amounts paid or received, so the paper check is not necessary for accounting purposes or to prove the payment of a claim. The board should consider whether the bank charges fees associated with issuing the original or substitute check and whether the cost is prohibitive. Regardless of



It's a brave new paperless world!
As banks and retailers continue to favor electronic fund transfers, towns must adjust to electronic means of banking and accounting, or face increased fees and expenses to receive paper copies of checks.

²⁰ Minn. Stat. § 366.07.

²¹ Minn. Stat. § 366.08.

²² See Minn. Stat. Ch. 379 (the Chapter that allows formation of townships does not include any requirement the formation be recognized by a State agency).

whether paper checks are requested, the town should routinely examine the resources available from the bank to quickly identify any potential problems. If a check looks questionable, pay the fee to obtain the original check or the full substitute check to help preserve the protections associated with those documents and to facilitate a resolution to the problem.

2. Establishing Terms & Limits: Town boards should consider passing a resolution setting the terms of how its funds are to be handled by the bank. The resolution could address such issues as who is authorized to sign checks on the account, prohibiting cash withdrawals from the account, and indicating that three signatures are required on town checks. The board should ensure the documents on file with the bank are current.
3. Resolutions: Some banks ask towns to pass a corporate authorization resolution that lists the officers authorized to act on behalf of the town, what their individual powers are, whether there are any specific limitations on the account, and how many signatures are required on checks and other transactions regarding the account.

3. INVESTMENTS

The town board is authorized to invest funds not presently needed for other purposes or restricted for other purposes. Only investments authorized by law may be made.²³ Before making any investments, make sure: (1) the investment is authorized by statute; and (2) the board has not left the town with insufficient funds to handle anticipated expenses. The town board should develop and follow an investment policy.

The State Auditor has more information about investments available at: https://www.auditor.state.mn.us/other/State-ments/custodialcredit-risk_0703_statement.pdf

Before completing an initial transaction with a broker, the board must annually provide a written statement of investment restrictions which must include a provision that all future investments are to be made in accordance with Minnesota Statutes governing the investment of public funds.²⁴ “A broker must acknowledge annually receipt of the statement of investment restrictions in writing and agree to handle the government entity’s account in accordance with these restrictions. A government entity may not enter into a transaction with a broker until the broker has provided this written agreement to the government entity.”²⁵ Funds used for authorized investments may be moved electronically or by wire.²⁶

The “Notification to Broker and Certification by Broker” form is available at: <http://www.auditor.state.mn.us/forms/aud/broker-Aud.pdf>

²³ Minn. Stat. § 118A.04, subd. 1.

²⁴ Minn. Stat. § 118A.04, subd. 9(b).

²⁵ Minn. Stat. § 118A.04, subd. 9(c).

²⁶ Minn. Stat. § 471.381, subd. 1.

4. PAYING CLAIMS

A. Claims: The town board has the authority to receive and consider properly made demands for payments against the town, and allow or disallow them, subject to the right of the claimant to appeal the decision.²⁷ No claim against the town can be allowed until the person claiming payment, or the person's agent: (1) reduces the claim to writing; (2) provides an itemized list of charges, when possible; and (3) signs a declaration stating that no portion of the claim has been paid.²⁸ Claims against the town that can be itemized must be specifically itemized before the town can pay them.²⁹ The courts have given the following examples of the type of specificity that should be required on claims:

1. Travel: Payee should "specify the dates and the manner in which he traveled, the distances he covered and the amount he charged per mile, or the actual cost of public transportation, if used."³⁰
2. Services: "[T]he services should be described, hourly rates should be specified, and the time and place of performance set forth."³¹
3. Meetings: "[I]t does not seem unreasonable to require in addition that the payee show separately the amounts actually expended each day for meals and lodging and for other legitimate purposes."³²

B. Claims with a Declaration: A declaration is sufficient if it is in the following form: "I declare under the penalties of law that this account, claim or demand is just and correct and that no part of it has been paid. {signature}"³³

C. Claims without a Declaration (Check Declaration):

The board may allow a claim prepared by the clerk without a signed declaration if the declaration is made on the check by which the claim is paid. If the claim is prepared by the clerk, and the board permits, the board need not receive a prior declaration if the following language is on the back of the check used to pay the claim above the space for the endorsement: "The undersigned payee, in endorsing this check (or order-check) declares that the same is received in payment of a just and correct claim against the town, and that no part of it has heretofore been paid."³⁴ When considering whether to accept a check declaration, the board should consider how the declaration will be documented in the town's records if the town's bank does not return the paper copy of the cancelled check.

If the board allows a Check Declaration, and the town's bank does not return the paper copy of the check, the town will need a copy or photograph of the check in the town's records to show that the declaration was made. At the very least, a board member may photograph the check with a mobile device and email the photo to town's email address so a copy can be held there.

²⁷ Minn. Stat. § 471.40.

²⁸ Minn. Stat. § 471.38, subd. 1.

²⁹ Minn. Stat. § 366.20; *see also* Op. Atty. Gen., 63a-2, May 6, 1965.

³⁰ *Leskinen v. Pucelj*, 115 N.W.2d 346, 350 (Minn. 1962).

³¹ *Id.*

³² *Id.*

³³ Minn. Stat. § 471.391, subd. 1.

³⁴ Minn. Stat. § 471.391, subd. 2.

D. Exceptions to Claim Requirement: A separate, detailed, claim is not needed for a salary or wage that has been fixed on an hourly, daily, weekly or monthly basis by the town board and which is authorized by law to be paid on a payroll basis.³⁵ In general, this means that if a town has one or more employees with a fixed salary, then payment of the salary to the employee does not need to wait for the board to review and approve the payroll claim. However, this exception does not apply to the types of claims town officers would submit for attending meetings or their hourly work for the town.

E. Payment Methods: A town may pay claims by “warrant, check, or all forms of electronic or wire funds transfer.”³⁶

F. Penalties:

The following penalties are associated with the claims process:

1. Anyone who makes a false declaration to the town is guilty of a felony.³⁷
2. Any officer who audits and allows a claim that is required to be itemized that is not duly itemized and verified, shall be guilty of a gross misdemeanor.³⁸
3. Taxpayer Suits: Any taxpayer of the town can bring suit in an attempt to stop a proposed payment they believe is improper or to invalidate an expenditure already made.³⁹ Such a suit could attempt to make the town officers personally liable to return amounts improperly expended.
4. The treasurer could be held liable for claims that are paid when they are not properly itemized and are insufficient on their face.⁴⁰ Reliance on the advice of an attorney is not a defense if the payment was clearly not proper.⁴¹ A treasurer will likely not be held liable for expenditures if they are “fair upon their face, in good faith, and without knowledge of the facts showing illegality of the claims upon which the order or warrant purports to have been issued”⁴²

G. Duplicate Checks: Issuing duplicate checks to replace lost or destroyed check is allowed by the process described in Minnesota Statute section 471.415. The duplicate check must bear the same check number, date, amount, and signatures as the original check.⁴³ The duplicate check must also bear the word “Duplicate” on the front of the check and include the date the duplicate was issued. The statute also imposes record keeping duties on the officers who issued a duplicate check.⁴⁴

³⁵ Minn. Stat. § 471.38, subd. 2; *see also Cahill v. Beltrami County*, 29 N.W.2d 444, 447 (Minn. 1947).

³⁶ Minn. Stat. § 471.381.

³⁷ Minn. Stat. § 471.392.

³⁸ Minn. Stat. § 471.41.

³⁹ *Conant v. Robins, Kaplan, Miller & Ciresi, L.L.P.*, 603 N.W.2d 143, 146-47 (Minn. App. 1999).

⁴⁰ *Leskinen*, 115 N.W.2d at 350.

⁴¹ *Id.* at 351.

⁴² *Town of Buyck v. Buyck*, 127 N.W. 452, 454 (Minn. 1910).

⁴³ Minn. Stat. § 471.415, subd. 1.

⁴⁴ *Id.* At subd. 3.

5. ADMINISTRATIVE TASKS

- A. Imprest fund (petty cash fund):** “The town board may establish an imprest fund for the payment in cash of any proper claim against the town which it is impractical to pay in any other manner, except that no claim for salary or personal expenses of an officer or employee shall be paid from the fund. The town board shall appoint a custodian of the fund who shall be responsible for its safekeeping and disbursement according to law. Money for the operation of the fund shall be secured by a transfer from the general fund. A claim itemizing all the various demands for which disbursements have been made from the fund shall be presented to the town board at the next town board meeting after the disbursements have been made. The town board shall act upon it as in the case of other claims and an order shall be issued to the custodian for the amount allowed. The custodian shall use the proceeds of the order to replenish the fund; and if the town board fails to approve the claim in full for any sufficient reason, the custodian shall be personally responsible for the difference.”⁴⁵
- B. Capital Reserve Fund:** “The electors may authorize creation of a capital reserve fund and designate its use for any lawful purpose.”⁴⁶
- C. Transfer of Funds:** “A town board by unanimous vote may transfer a surplus beyond the needs of the current year in a town fund to any other town fund to supply a deficiency.”⁴⁷
- D. Credit Cards:** Towns boards can now authorize town officers or employees to use a credit card to make purchases on behalf of the town.⁴⁸ If the board does not authorize a credit card purchase, the officer or employee who made the purchase is personally liable for the amount. Purchases by credit cards must otherwise comply with all statutes, rules, or town policy applicable to town purchases. It is very important for the board to develop a policy clearly outlining the permissible uses of credit cards before they are allowed. Furthermore, be sure the credit limit on the account is set low enough to reduce the risks associated with potential abuse. The Office of the State Auditor has a more information on credit card use found here: https://www.auditor.state.mn.us/other/Statements/creditcardusepolicies_0703_statement.pdf .
- Towns are also authorized to accept payment owed them by “credit card, debit card, or all forms of electronic or wire funds transfer.”⁴⁹ However, any town choosing to accept payment in one of these forms is first required to adopt a policy and procedures regarding the payments.
- E. Electronic Approvals:** Towns are authorized to use “electronic approvals” in place of an actual signature as needed with respect to electronic transfer or payment of funds. An electronic approval is defined as “any electronic identifier intended by the person making, executing, or

⁴⁵ Minn. Stat. 366.01, subd. 12.

⁴⁶ Minn. Stat. § 365.10, subd. 18.

⁴⁷ Minn. Stat. § 366.04.

⁴⁸ Minn. Stat. § 471.382.

⁴⁹ Minn. Stat. § 471.381, subd. 2.

adopting it to authenticate and validate a [town] administrative action.”⁵⁰ Before a town may use electronic approvals it must first establish policies and procedures to ensure their validity.

6. PROMPT PAYMENT REQUIREMENTS

- A. Prompt Payment:** A town must pay each vendor obligation according to the terms of the contract. If no contract terms apply, payment must be made within the standard payment period unless the town has a good faith dispute regarding the obligation. If the board regularly meets once a month, the standard payment period is within 35 days of the date of receipt of the claim.⁵¹ For those who meet less frequently, the standard payment period is 45 days after the receipt of the goods or service or the invoice, whichever is later.
- B. Penalties:** If payment is not made promptly, interest must be paid on the outstanding balance at a rate of 1.5% per month or part of a month.⁵² The minimum monthly interest penalty payment that must be paid for an unpaid balance of over \$100 is \$10. If the unpaid balance is less than \$100, the town must calculate and pay the actual interest penalty due, at a rate of 1.5%, to the vendor.
- C. Errors in the Invoice:** If an invoice is incorrect, the town must notify the vendor within 10 days of receipt. Once the corrected invoice is received, the standard payment period applies.⁵³
- D. Demands on the Prime Contractor:** A town contract must require the prime contractor to pay any subcontractors within 10 days of the prime contractor’s receipt of payment.⁵⁴ The contract must also require the prime contractor to pay an interest penalty at a rate of 1.5% to its subcontractors on any undisputed amount. The penalty payment is the same for the prime contractor as for towns, requiring at least \$10 if the prime contractor owes \$100 or more, and the exact amount due at a rate of 1.5% if the amount owed is less than \$100.

7. LEVY & FUND CATEGORIES

The town board establishes the fund categories for which levies are set. Towns will normally have, at a minimum, a general fund and a road & bridge fund, but the Board may establish any other accounts it desires. The town electors set the levy at the annual town meeting or at a continued annual meeting held later in the year at a time when the board and voters can more accurately determine the expenses expected for the following year. The town board does not have the

⁵⁰ Minn. Stat. § 471.381, subd. 3.

⁵¹ Minn. Stat. § 471.425, subd. 2.

⁵² Minn. Stat. § 471.425, subd. 4.

⁵³ Minn. Stat. § 471.425, subd. 3.

⁵⁴ Minn. Stat. § 471.425, subd. 4a.

authority to change the levied amount on its own. Once set, the levy must be certified to the county auditor by September 15.⁵⁵

The town levy may be changed by a vote of the electors at a special town meeting provided it is certified to the county auditor by five working days after December 20.⁵⁶ However, relying on this opportunity to change the levy after it has been certified to the county auditor should be considered a last resort.

In general, the board may shift money levied by the voters between different accounts. For example, if the voters levy \$50,000 to be used to renovate the town hall, the board could choose to use that money for any other lawful purpose. This is because only the town board has the authority to spend town funds and the voters cannot usurp that authority. When transferring funds between accounts, the board must ensure that *all* town road account funds (gas-tax money) is spent only on the maintenance of the town's roads and bridges.⁵⁷

8. AUDITS

- A. Board of Audit:** The town board of supervisors must sit as the board of audit at least once a year to audit and settle all charges against the town.⁵⁸ As a practical matter, the board incrementally performs the auditing requirements at its regular meetings when it reviews claims made against the town and decides whether to allow or not allow the claims. However, this on-going auditing function does not supplant the need to formally sit as the board of audit at least annually (including those towns that have an outside audit performed). The board of audit should normally meet between the close of the fiscal year and the annual town meeting. After reviewing the claims made against the town, a report must be developed that contains a statement of the fiscal affairs of the town and an estimate of the sum necessary to be raised for the upcoming year.⁵⁹
- B. Outside Audits:** Beside the auditing functions of the town board, there are both voluntary and mandatory outside audits (meaning a CPA is hired to perform an audit of the town).
1. **Mandatory Audits:** Towns that have adopted the option to combine the clerk and treasurer positions are required to have an outside audit done of the town's fiscal affairs.⁶⁰ If the town's annual revenues are more than \$150,000 (adjusted for inflation starting in 2005), the audit must be performed annually. Otherwise, the audit is required at least every five years. A copy of the audit is forwarded to the state auditor. An annual outside audit is also required for towns with a population of over 2,500 and annual revenues of

⁵⁵ Minn. Stat. § 275.07, subd. 1.

⁵⁶ *Id.*

⁵⁷ Minn. Stat. § 162.081, subd. 4(b).

⁵⁸ Minn. Stat. § 366.20.

⁵⁹ Minn. Stat. § 366.21.

⁶⁰ Minn. Stat. § 367.36, subd. 1.

more than \$670,000 (adjusted for inflation starting in 2005).⁶¹ Finally, it is possible for the town electors to vote at an annual or special town meeting to petition for an audit of the town's affairs by the state auditor's office.⁶² Towns needing an outside audit typically worked with a local CPA firm to have the audit conducted.

Towns may receive a notice from the Office of the State Auditor informing the town of that they will be audited based on the Auditor's rotating schedule of non-mandatory audits. Towns should know that these audits are not the same as the investigatory audits the State Auditor occasionally conducts of towns based on allegations of wrongdoing. However, all mandated audits conducted of towns must comply with the audit guidelines established by the State Auditor's office, which does include conducting a legal compliance review of the town's activities. For additional information on town audits refer to Chapter 13 of the *Manual on Town Government*.

2. Voluntary Audits: Boards can also choose to have a CPA or the state auditor's office come in to audit its books even though it is not required to do so by law.⁶³ There are a variety of reasons why a town may call for an audit ranging from a new treasurer wanting to make sure everything is in order as they take over, to the board wanting to confirm for residents that the books and the town's finances are in order.

9. INTERNAL CONTROLS

While most towns do not adopt formal internal control procedures beyond those required by statute, it is advisable for all towns, regardless of size, to consider how the town's funds are handled to prevent accounting errors and unauthorized expenditures. It is important for each board member to examine the town's accounts and handling of funds to satisfying the board's fiduciary duty to protect public funds. Each board member should understand that such examinations are not an issue of distrusting fellow officers. It does not matter how long a board member has served on the board, or how trusted he or she is in representing the town's financial information. Some possible controls include:

1. Easy Access to Financial Information: More than one board member should be tracking and aware of the town's income. The board should examine the regular sources of revenue, set a method to track the revenue from its source, and have at least 2 board members regularly monitor the sources of income. This reduces the likelihood of mistakes, accounting errors, or illegal activities related to the town's income. This makes sense when compared to the well-established procedures for spending money, which requires several signature to make any authorized payment.

⁶¹ Minn. Stat. § 471.697.

⁶² Minn. Stat. § 6.54.

⁶³ Minn. Stat. § 6.55.

2. Regulated & Limited Powers to Withdraw Funds: In the resolution establishing the depository of town funds, the board can place limits on the access and use of the funds. The resolution may: (i) describe who is authorized to sign on the account (do not forget to include the deputies), (ii) prohibit cash withdrawals, (iii) require three signatures on a check to withdraw funds, and (iv) limit the transfer of funds and who is authorized to make such transfers. Be sure the bank is aware of these restrictions.
3. Periodic Unscheduled Audits: Perform periodic internal audits of the town's accounts and financial records to make sure everything balances. These audits should examine the full transaction, from confirming the expenditure was for a public purpose and properly authorized, through the record keeping of the transaction and accounts, to the returned check or statement reflecting the transaction.

... Because we have always done it that way.

Many boards don't remember how or why they began operating in a particular way. They may not have a good reason for continuing to operate that way, but are opposed to change because "they have always done it that way." That excuse will not save the board or the town if, in fact, the town has operated wrongly. Boards should reexamine their procedures from time to time, and adopt changes that help them better comply with the law or produce better local government.

10. DEBT

- A. Authority:** A town can incur debt when authorized by statute. The two primary sources of debt authority are certificates of indebtedness authorized by Minn. Stat. § 366.095 and the bonding authority in Minn. Chap. 475.
- B. Limits:** There are some important, though not always clear, limits on a town's ability to incur debt.
1. Towns are subject to a net debt limit which indicates a town may not "incur or be subject to a net debt in excess of three percent of the market value of taxable property in the [town]."⁶⁴
 2. "A town must not contract debts or spend more money in a year than the taxes levied for the year without a favorable vote of a majority of the town's electors."⁶⁵
 3. "A town must not levy more taxes in a year than are authorized by law."⁶⁶
 4. "No ... town shall contract any debt or issue any warrant or order in any calendar year in anticipation of the collection of taxes levied or to be levied for that year in excess of the average amount actually received in tax collections on the levy for the three previous calendar years plus ten percent thereof, and an average of other income This section shall not apply to any ... or town, wherein the mineral net tax capacity, exceeds 25 percent of the net tax capacity of real property in such taxing district. As soon as practicable after the beginning of each calendar year, the clerk or other re-

⁶⁴ Minn. Stat. § 475.53, subd. 1.

⁶⁵ Minn. Stat. § 365.43, subd. 1.

⁶⁶ *Id.* at subd. 1.

ording officer of any municipality described in this section shall present to the governing body of the municipality a statement of tax collections and other income excluding gifts credited to each fund of the municipality during each of the three previous fiscal years and the yearly average thereof. The auditor of the county shall be required to furnish information as appears in the office records to the clerk upon request.”⁶⁷

Additional Information: For additional information refer to Document Number: F6000 in the Information Library called “Public Finance and Borrowing.”



⁶⁷ Minn. Stat. § 471.69.