

N.D.A.G. Letter to Wild (Sep. 6, 1988)

September 6, 1988

Mr. Steven J. Wild
Bowman County State's Attorney
P.O. Box 260
Bowman, ND 58623

Dear Mr. Wild:

Thank you for your letter of August 23, 1988, inquiring of the ability of a county to contribute to the maintenance of an existing city garbage disposal site without establishing a county-wide system. Your letter notes that the county is reluctant to establish and operate a county-wide disposal system as authorized by N.D.C.C. § 11-11-14(13). The county wishes to contribute towards an existing city disposal site and inquires as to their ability to do so.

Other than the authority to establish and operate a garbage and trash collection system provided for by N.D.C.C. § 11-11-14(13), there appears to be no other specific statutory authority discussing the contribution a county may make to an existing garbage collection system. However, the joint function authority of N.D.C.C. § 54-40-08(1) appears to be available to the county and city. This statute allows public entities to agree with one another for joint or cooperative action on a cost-sharing basis or otherwise in carrying out any function or duty which is authorized by law to one or more of them. In carrying out such a joint or cooperative agreement, the entities are authorized to expend their funds, use unexpended balances of their respective current funds, enter into lease option agreements, accumulate funds, or otherwise share or contribute property.

You further inquire concerning the funds which be used for participating in an existing trash disposal site. N.D.C.C. § 11-23-09 states that a county may spend money only in accordance with the annual appropriations of the board of county commissioners. Thus, we can only suggest that the appropriations of the board of county commissioners be reviewed to determine whether authority exists for such an expenditure of county funds and where those funds may be found within the budget. N.D.C.C. § 54-40-08(1) specifically allows the use of unexpended balances of current funds if such balances exist. However, the requirement of an appropriation must be satisfied prior to the use of such unexpended balances.

In summary, the county and the city may invoke the authority of N.D.C.C. § 54-40-08(1) in jointly and cooperatively agreeing to carry out the assigned responsibility of garbage disposal. County funds may be expended in furthering the purposes of such a joint agreement where such funds are found with unexpended balances of current funds and for which appropriations have been made by the board of county commissioners for such a purpose.

I hope this information is helpful to you.

Sincerely,

Nicholas J. Spaeth

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