



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

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CURT T. SCHNEIDER
ATTORNEY GENERAL

November 27, 1978

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ATTORNEY GENERAL OPINION NO. 78- 374

Mr. Frederick K. Cross
Attorney at Law
4550 West 51st Street
Roeland Park, Kansas 66205

Re: Cities--Funds--Use Of

Synopsis: A payment of approximately \$1,500 to a former chief of police of the City of Roeland Park, unrelated to services performed for the city or to any benefit provided by city policy for retiring or terminating personnel, constitutes no more than a gift of public moneys for a personal and private use, and action of the city governing body approving such payment is beyond its authority.

* * *

Dear Mr. Cross:

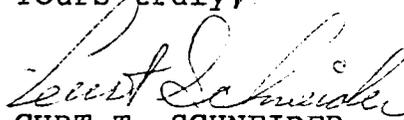
You inquire concerning a payment of approximately \$1500, representing one month's salary, which has been authorized by the governing body of the City of Roeland Park to be paid to the former chief of police, who submitted his resignation from that office during the month of October. The claimed compensation represents the equivalent of one month's salary for the former chief. You advise that the official had no leave time accumulated, and that the city has no policy providing for severance or termination pay.

The general rule is stated in McQuillin, *Municipal Corporations*, § 39.19 thus: "All appropriations or expenditures of public money by municipalities and indebtedness created by them, must be for a public and corporate purpose" He is entitled to be

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paid earned, but unpaid, compensation for services rendered, any payment for accumulated and unused leave authorized by city policy, and any other entitlement which may be available to city officers and employees upon termination. From the facts which you indicate, however, it clearly appears that the payment in question does not constitute compensation for services rendered, for unused leave, nor does it constitute a payment which is available to other officers and employees of the city upon termination. It appears to be nothing other than a gift of public monies for a former officer of the city, entirely unrelated to services performed for the city or to any benefit provided by city policy for retiring or terminating personnel. As such, it is not a payment for any public and corporate purpose of the city, but merely a gratuitous gift of moneys of the city for the personal use of the former chief of police. I find no authority whatever for such a use of public funds, and in my opinion, the action of the governing body approving such a payment is beyond its authority entirely.

Yours truly,


CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj