



STATE OF KANSAS

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May 24, 1982

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ATTORNEY GENERAL OPINION NO. 82- 104

Dorothy Shearer
County Clerk
Norton County Courthouse
P. O. Box 70
Norton, Kansas 67654

Re: Townships and Township Officers -- Township
Treasurer -- Duties

Synopsis: The duties of a township treasurer are set forth in Article 4 of Chapter 80, Kansas Statutes Annotated, and include the custody of all moneys of the township, the keeping of account books and voucher files and the publishing of notices concerning the financial position of the township. Furthermore, if the payment of money by the township is made by a warrant issued pursuant to K.S.A. 10-801 et seq., the treasurer must sign the warrant before it may be presented to the payee. Interference by other township officials with such duties can, if necessary, be the subject of a quo warranto action initiated by the county attorney. Cited herein: K.S.A. 10-803, 10-804, 60-1203, 80-401, 80-402, 80-403, 80-404, 80-405, 80-410.

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Dear Ms. Shearer:

As County Clerk for Norton County, Kansas, you request our opinion on behalf of the treasurer of Solomon Township as to the scope of that official's duties. You inform us that at present the township clerk writes and signs all checks drawn on the township, while the township trustee makes deposits and countersigns the checks. The treasurer does not receive any record of deposits which are made or checks which are issued, and so is unable to keep account books in preparation for the annual report due in October.

The duties of a township treasurer are numerous, being set forth for the most part at K.S.A. 80-401 et seq. They include the following:

K.S.A. 80-401.

"The township treasurer shall receive and take charge of all moneys belonging to the township, or which are by law required to be paid to him or her, and shall pay out and account for the same upon orders drawn upon him or her by the township trustee, and shall discharge such other duties as may be required of him or her by law." (Emphasis added.)

K.S.A. 80-402.

"The township treasurer shall keep a true account of all moneys by him or her received by virtue of his or her office, and the manner in which the same have been disbursed, keeping a separate account with each fund, in a book to be provided at the expense of the township for that purpose, and shall exhibit such account, together with his or her vouchers, to the township auditing board at their annual meeting on the last Saturday of October in each year for adjustment and settlement." (Emphasis added.)

K.S.A. 80-403.

"The account as provided for in the last preceding section shall be made out in duplicate, and shall be verified by affidavit that the same is in all respects true and correct, and that it contains the full and true amount of all moneys received by him or her during the full period of time for which he or she should make such statement; and one of such verified duplicates shall be filed forthwith by the treasurer in the office of the county clerk." (Emphasis added.)

K.S.A. 80-404.

"In all townships the township treasurer shall deposit all public money coming into his or her hands in an official capacity in a bank which is a member of the Federal Deposit Insurance Corporation or a savings and loan association which is a member of the Federal Savings and Loan Insurance Corporation within the

county, the same to be designated by the township board. Such deposits shall be made in the name of such treasurer as such officer. Township moneys not immediately required for the purposes for which such moneys were collected or received may be invested in the manner provided by K.S.A. 1977 Supp. 12-1675." (Emphasis added.)

K.S.A. 80-405.

"Every township treasurer shall keep, in a book provided for that purpose, a true account of all moneys received and disbursed by him or her by virtue of his or her office, specifying particularly the sources from which money has been received by him or her; and the person or persons to whom and the objects for which the same has been paid out by him or her; and he or she shall present to the township board, at their quarterly meeting in October, a full and correct itemized statement, duly signed and certified by him or her, of all moneys received and of all moneys paid out by him or her during the year, and he or she shall exhibit the vouchers therefor, which certified statement shall be on a blank provided for that purpose. Said report of said treasurer shall be carefully examined by the board, and when found correct shall be approved by them, and placed in charge of the township trustee." (Emphasis added.)

K.S.A. 80-410.

"The treasurer of each and every township shall publish, or cause to be published, in some newspaper published in the township of which he or she is treasurer, or in some newspaper published in the county in which such township is located and having a general circulation in such township, immediately following the annual settlement in December of each year, a full and detailed statement, duly verified, of the receipts, expenditures and liabilities of such township for the year ending at the time of such annual settlement." (Emphasis added.)

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In addition, duties of the treasurer concerning warrants or warrant checks drawn on the township are set out at K.S.A. 10-801 et seq. While the trustee initially signs such instruments (K.S.A. 10-803), which are then recorded by the clerk (K.S.A. 10-804), the treasurer must thereupon "enter in a book kept for that purpose, the number, date and amount of such warrant, or warrant check, on what fund drawn, and the name of the payee." (K.S.A. 10-805). Further, the treasurer must sign the instrument before it may be delivered to the payee. V Op. Att'y Gen. 631 (Letter of September 15, 1966 to Charles W. Thompson).

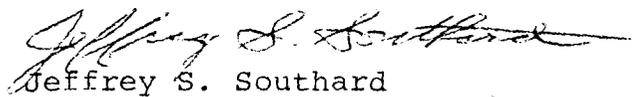
While numerous duties of the three elected township officials have been found to be joint ones, exercised through the township board meeting as a body (Attorney General Opinion No. 81-141), those duties set out above are clearly placed solely upon the township treasurer. Given the facts that you present, it may currently be difficult for the treasurer to exercise such duties. Should the impasse continue, a remedy at law exists in the form of a proceeding in quo warranto, K.S.A. 60-1201 et seq. This action may be used to oust the other township officials from an improper exercise of powers given by statute to the treasurer. See, e.g., State ex rel., Stephan v. Carlin, 229 Kan. 665 (1981). By statute, the county attorney is empowered to bring such an action (K.S.A. 60-1203). However, this remedy is an extraordinary one, and it may well be that a meeting between the township officials and the county attorney could resolve the situation before such an action was brought.

In conclusion, the duties of a township treasurer are set forth in Article 4 of Chapter 80, Kansas Statutes Annotated, and include the custody of all moneys of the township, the keeping of account books and voucher files and the publishing of notices concerning the financial position of the township. Furthermore, if the payment of money by the township is made by a warrant issued pursuant to K.S.A. 10-801 et seq., the treasurer must sign the warrant before it may be presented to the payee. Interference by other township officials with such duties can, if necessary, be the subject of a quo warranto action initiated by the county attorney.

Very truly yours,



ROBERT T. STEPHAN
ATTORNEY GENERAL OF KANSAS



Jeffrey S. Southard
Assistant Attorney General

RTS:BJS:JSS:hle