

# MUNICIPALITIES AND THEIR PUBLIC TRUSTS

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Several occurrences during the past three years suggest that it would be timely to consider how municipalities use public trusts and how others view them. Two of these occurrences were opinions of the Oklahoma Supreme Court which did not even involve a public trust. They did remind us however why public trusts exist. These cases reaffirm the Supreme Court's long-established commitment to strictly enforce the constitutional debt limitation in Article 10 §26 of the Oklahoma Constitution. *Muskogee Urban Renewal Authority v. Excise Board of Muskogee County*, 66 O.B.J. 2124 (July 1, 1995); *City of Del City v. Fraternal Order of Police Lodge No. 114*, 869 P.2d 309 (Okla.1993). See also, *City of Tulsa v. Public Employees Relations Board*, 845 P.2d 872 (Okla.1990).

Public trusts, of course, exist because of Article 10 §26. That section of the Constitution forbids a municipality to incur long-term debt (i.e. obligations payable from revenues of a future fiscal year) unless the debt is authorized by a vote of the people. It also restricts the municipality to incurring debt only in the form of general obligation bonds ("g.o. bonds"). Public trusts do not have such restrictions. **They are nothing more than alternative financing mechanisms for municipal purposes.** The enabling legislation for public trusts makes this clear. It defines--and limits--the public trust purpose:

1. "to issue obligations and to provide funds . . .
2. for the furtherance and accomplishment of any authorized and proper public function or purpose of the state or of any county or municipality or any combinations thereof . . .
3. with the state, or any county or municipality or any combinations thereof, as the beneficiary . . ." 60 O.S.Supp.1992 §176(a).

Within these statutory constrictions it is the trust indenture which establishes how a municipal beneficiary can use its public trust. It is important to note that a public trust is, in the first instance, an express trust as contemplated by The Oklahoma Trust Act, 60 O.S.1991 §171 et seq. and §175.1 et seq. See, *Board of County Commissioners of Oklahoma County v. Warram*, 285 P.2d 1034 (Okla.1955) and *Morris v. City of Oklahoma City*, 299 P.2d 131 (Okla.1956), which apply the general trust statutes to public trusts. This means that it is the trust indenture and not the statute which creates the trust. Whether the indenture states the trust purpose broadly or in narrow terms, the only thing that a public trust can do that a municipality cannot do directly is to provide multiple financing alternatives to general obligation bonds.

This alternative is available only because the public trust is a separate legal entity not subject to the constitutional debt limitation. **The trust's independent status must be maintained even though the enabling legislation contemplates and, in some circumstances requires, a certain amount of control of the trust by its municipal beneficiary.** As a result, it can be difficult to maintain the public trust's legal integrity without compromising its benefits for the municipality. The following discussion sets out circumstances which illustrate this conundrum.

### **1. Sales Tax Exemption**

For example, the Oklahoma Tax Commission recently challenged a sales tax exemption often claimed for public trust construction contracts. The original impetus for creating public trusts was to finance public works. Indeed, the stereotypical municipal beneficial trust is “The (Municipal) Public Works Authority” – the P.W.A. The P.W.A. obtains revenue by leasing utilities from the municipality. Other trusts operate the hospital or the airport. It is the public trust which pays for the bulk of municipal improvements other than public ways. A sales tax exemption for the contractors of these public contracts affects the final cost of the improvement project.

State law exempts sales to political subdivisions and certain agencies of the state ". . . or to any person with whom any of the above-named subdivisions or agencies of this state has duly entered into a public contract pursuant to law, necessary for carrying out such public contract or to any subcontractor to such a public contract." 68 O.S.1991 §1356, para. 10. The Oklahoma Tax Commission observed that public trusts are not among the enumerated entities whose contractors can claim the exemption. Although sales to public trusts are exempt under §1361, para. 1, which exempts sales to ". . . any political subdivision of this state or any agency of a political subdivision . . .", sales to contractors are expressly not exempt.

Public trusts and their contractors historically claimed an exemption, however, on the basis that the public trust acts for the municipality in financing public improvements. As a matter of logic and public policy, it makes little sense to allow a sales tax to raise the costs of public construction projects financed by revenue bonds or other obligations to be satisfied with public funds or other obligations to be satisfied with public funds. This principle was recognized and applied by an opinion of the Oklahoma Tax Commission dated June 2, 1987. See copy attached.

Even so, in 1994, the Oklahoma Tax Commission amended its rule 710:65-13-140 as follows:

(a) Trust authorities organized pursuant to 60 O.S. §176 et seq. may purchase material exempt from sales tax, but may not appoint an agent to do so. In order for the transaction to be exempt from sales tax, the purchase must be made-invoiced to and paid for by the authority, ~~using public monies or public bond monies as payment using authority funds or revenue received for bonds let by the authority.~~

Although it can be questioned whether a state administrative agency has authority to limit municipalities' power to appoint agents, at the very least the new language makes clear the Oklahoma Tax Commission's determination that a sales tax exemption for public trust contracts exists only if the public trust is the direct purchaser.

Several public trusts have preserved the benefits of the exemption by making purchases for the

public contract directly or through the municipality. Often the contractor is designated as a purchasing agent for the public body but the purchase order is issued by the public body rather than by the contractor. This additional contract administration increases project costs merely to retain the sales tax exemption historically claimed by public trust contractors.

The Legislature has failed to rectify the problem because it fears revenue losses from purchases by hospitals or economic development operations financed by public trusts. This fear misses the point, of course, because a public trust can make direct, tax-exempt purchases for its trust operations. The conundrum here is that the trust's specialized role as a separate financing entity obscures for some regulators the fact that its operations are "in furtherance of a public function".

## 2. Beneficiary Approval of "Obligations"

The tension between separateness and control has begun to generate litigation. It was recently explored in the District Court of Garvin County: *Oklahoma Municipal Power Authority v. Wynnewood City Utilities Authority*, C-92-126. Another action was filed in Pontotoc County: *The Valley View Hospital Authority v. City of Ada*, C-918-418.

### *Oklahoma Municipal Power Authority v. Wynnewood City Utilities Authority*

The controversy in that case concerned the meaning of the word "obligation" in 60 O.S.Supp.1992 §176(e). This statute states in pertinent part: "No trust in which a county or municipality is the beneficiary shall hereafter create an indebtedness or obligation until such indebtedness or obligation has been approved by a two-thirds (2/3) vote of the governing body of said beneficiary." (Emphasis added).

The issue was whether obligations requiring the two-thirds approval of the beneficiary municipality encompassed more than bonds, notes or other evidences of indebtedness. At the hearing on preliminary motions, the assertion was made " . . . that you can't purchase a paper clip without a

two-thirds vote." The word "obligation" was argued to include the hiring of a maintenance man or buying a box of screws. Several contrary arguments for a narrow definition of "obligation" were also presented to the Court.

### Historical Interpretation

The purpose of an obligation of a public trust is dictated by statute: "Express trusts may be created to issue obligations and to provide funds for the furtherance and accomplishment of any authorized and proper public function or purpose of the state or of any county or municipality...". 60 O.S.1991 §176(a) (Emphasis provided.)

Although "obligation" can mean many things, it must be construed in this context. *In re Certification of State Law*, 560 P.2d 195 (Okla. 1977). The usage of "obligation" and the limited application of Subsection (e) are persuasive indicators that the Legislature intended the word "obligation" to have a narrow and specialized meaning akin to a word-of-art. **"Obligation", in the context of this statute, means some type of bond or similar evidence of indebtedness and nothing else.**

Municipalities and their public trusts have relied on such a limited construction ever since the Public Trust Act became law. Municipal public trusts do not seek the approval of the municipal governing body for purchases or contracts related to the operation of the public trust. They submit for approval only those instruments which provide financing for trust operations in the form of bonds, notes or other evidences of indebtedness. To now expand the meaning of "obligation" would call into question the validity of the purchases and contracts of literally thousands of public trust transactions across the state.

### Merger of Estates

A broader construction of "obligation" also threatens the very existence of public trusts

themselves. The resulting involvement of the county or municipal beneficiary in day-to-day trust operations may constitute a merger of the estates of the trust and the beneficiary. Under Oklahoma law a public trust is merely an express trust with a statutorily prescribed trust purpose. 60 O.S.1991 §176(a). The public trust is subject to the general trust statutes and the common law applicable to trusts except as specifically provided by other law. 60 O.S.1991 §§171 et seq. and 175.1 et seq. See, Board of County Commissioners of Oklahoma County v. Warram, 285 P.2d 1034 (Okla. 1955) and Morris v. City of Oklahoma City, 299 P.2d 131 (Okla. 1956), which apply the statutes governing charitable trusts to public trusts.

This means that, as an express trust, a public trust is legally distinct from its governmental beneficiary. Board of County Commissioners of Oklahoma County v. Warram, 285 P.2d 1034 (Okla. 1955). General principles regarding merger of estates apply equally to public trusts. A merger of estates destroys public trusts' function of providing alternatives to financing under Ok.Const.Art 10 §26. The courts should construe "obligation" to give effect to the intention of the Legislature. Berry v. ex rel. Oklahoma Public Employees Retirement System, 768 P.2d 898 (Okla. 1989) and C & C Tile and Carpet Co., Inc. v. Aday, 697 P.2d 175 (Okla. 1985). To do otherwise would create an artificial distinction between public and private trusts which the Legislature could have created but did not.

#### Legislative Intent

The broader meaning of "obligation" is inconsistent with legislative intent that public trusts be a useful financing tool for local governments. Toward this end public trusts control revenue-producing operations to provide collateral for bonds. Why would the Legislature create burdensome inefficiencies in their operations by requiring double approval of a myriad of items of public trust business unrelated to financing? Why would the Legislature require an extraordinary 2/3 majority by

the beneficiary when the public trust is simply doing what the city or town could do directly by a simple majority? A city can issue a purchase order and buy widgets. It does not need a public trust for this purpose. 11 O.S.1991 §§17-102 and 22-101. A local government can enter into certain executory agreements and make long-term commitments regarding its operations. A public trust is not needed for these purposes. *Rogers v. Oklahoma City*, 45 Okl. 269, 145 P.357 (1914). Operational matters are merely ancillary to the financing function of a public trust. A burden on such matters serves no purpose and should not be attributed to the Legislature. *Board of Ed. of Burbank Independent School Dist. No. 20 v. Allen*, 156 P.2d 596 (Okla. 1945).

#### The Narrow Definition

This analysis gives us the proper construction of Subsection (e). **"Obligation" means only those instruments within the trust purpose which a county or municipality cannot issue directly by a simple majority.** These are the things for which a local government needs a public trust. "Obligation" means, therefore, bonds and similar evidences of indebtedness.

This construction is consistent with the recently-enacted definition of "obligation". 11 O.S.Supp. 1992 §22-152.

"Obligation" shall mean collectively, bonds, notes or other evidences of indebtedness, or any of them, issued by a municipality pursuant to Section 27B of Article X of the Oklahoma Constitution and the provisions of the Oklahoma Municipal Utility Revenue Bond Act, and may include refunding obligations;"

This definition comports with legislative use of "obligation" in other financing statutes. See, e.g., 60 O.S.1991 §§752, 753. Although it was enacted after the Public Trust Act, it is controlling. 25 O.S.1991 §2 states:

Whenever the meaning of a word or phrase is defined in any statute, such definition is applicable to the same word or phrase whenever it occurs, except where a contrary intention plainly appears.

A statutory definition supersedes the commonly accepted, dictionary or judicial definition. *Minnix v.*

*State*, 282 P.2d 722 (Okla. Cr. 1955). Therefore, the Court may not look first to generic meanings or common usage to construe "obligation". Its statutory definition as a type of debt instrument controls unless a contrary legislative intent is plain from the context of 60 O.S.1991 §176(a) and (e). *Dolese Bros. Co. v. Privett*, 622 P.2d 1081 (Okla. 1981).

### Purpose and Origin

The Legislature plainly meant a narrow usage of "obligation" in Subsection (e). The **purpose** and **origin** of the Public Trust Act establish that the word "obligation" expresses a specific legislative authority to issue bonds. Therefore, it is not redundant even though it is a type of indebtedness.

The **purpose** is stated in the first sentence of 60 O.S.1991 §176(a): "to issue obligations". (Emphasis added.) A public trust does not "issue" a promise to do something - an obligation in the broad sense. Not all types of debt are "issued". The obligations meant by Subsection (a) are issued. It is clear from the plain language of Subsection (a) that the Legislature limited "obligation" to instruments that are issued for redemption for an ascertainable sum of money.

This view is strengthened by an historical perspective. At the **origin** of public trust financing in 1951, the only way municipalities could incur long-term debt was by issuing general obligation bonds. *Burch v. City of Pauls Valley*, 201 Okl. 78, 201 P.2d 247 (1948). The Public Trust Act provided revenue bonds and similar evidences of indebtedness as a financing option. That is what the Legislature had in mind when it used the phrase "to issue obligations". That is the meaning of "obligation" in the context of Subsection (e). Thereafter the word "obligation" is not used in the Public Trust Act. The Legislature instead refers to bonds or uses the phrase "bonds, notes or other evidences of indebtedness". 60 O.S.1991 §176(f).

### Public Policy

Such a narrow and specialized construction gives a reasonable meaning to Subsection (e)'s



requirement for dual approval and a super majority vote by the beneficiary. This unusual procedure provides accountability to the public whenever the public trust creates a debt or issues an obligation which the beneficiary government could not. A super majority vote - such as a 2/3 vote to approve "obligations" - is an extraordinary requirement. It is even more rare to require two legal bodies to approve the same transaction. These mechanisms are mandated only when the governmental action involves substantial interests.

There is no such substantial interest when a public trust is doing what a municipality could do itself by a simple majority. As a municipality assumes contractual duties, it is only when a municipality undertakes an obligation in the form of a debt instrument that the law requires a super majority vote of the people themselves. Okla. Const. Art. 10 §26. In creating an alternate means to finance public operations, the Legislature also created in Subsection (e) an alternate method to protect the public when such financing occurs. Subsection (e) allows a public trust to fulfill its purpose expeditiously. At the same time, it gives the elected representatives of the people responsibility for debt creation on their behalf. A narrow construction of "obligation" best fulfills the legislative intent of the Public Trust Act and best serves the public interest.

The Garvin County District Court recently ruled that the word "obligation" is limited to bonds and other evidences of indebtedness. It is foreseeable that the issue will arise again in other cases until the Supreme Court provides a definitive answer.

*The Valley View Hospital Authority v. City of Ada*

This case arises at the opposite end of the definitional spectrum. The issue is whether the word "obligation" applies to a refinancing of bonds so that a two-thirds majority of the City Council must first approve such refinancing.

The District Court ruled that : (1) a refinancing does not create a new indebtedness but merely

changes the form of the existing debt; (2) a dedicated sales tax approved by a vote of the people to retire the original bonds would, therefore, remain in effect and earmarked to retire the refinancing. The City had contended that statements made to the people during the sales tax election subjected the sales tax to a 17-year limit.

As a result of the Court's ruling, a public trust's decision to refinance bonds can extend a municipal sales tax beyond the time originally contemplated by the elected officials and the voters. The resulting breach of trust has obvious political consequences for future sales tax questions. Extended earmarking of the tax for hospital purposes likewise has policy implications because it forecloses a possible revenue source for other municipal purposes.

The City Council did not approve the refinancing by the two-thirds majority required by 60 O.S.1991 §176(e). Although a simple majority favored it, two council members voted against it. The public trust filed an Application for Further Declaratory Relief, etc. on July 6, 1995. It alleges that the two dissenting council persons refused to approve the refinancing in order to force the trust "to restructure the terms of the 1984 financing . . .". It was further alleged that one of the two dissenters had a conflict of interest because family members owned a portion of the original bonds.

The hospital trust now seeks a declaratory judgment that the City Council does not have to approve the refinancing because the Court ruled that it is not a new indebtedness. In the alternative, the trust seeks mandamus to the City to approve the refinancing or as a further alternative, an injunction against the City ". . . continuing to block the actions of [the trust] in seeking to refinance the bonds".

In this action the public trust argues against the elected governing body of the City having oversight of a decision affecting municipal tax policy and availability of tax revenues. Its argument would be the same, however, if the hospital's revenue stream were the collateral for the refinanced

bonds.

The statute requiring a two-thirds majority approval of the City council does not turn on the method of paying the bonds. The issue, regardless of the source of public funds, is whether a refinancing is or ought to be an "obligation" within the Legislature's usage of that word. The trust appears to believe that "indebtedness" and "obligation" are synonymous. Between the Wynnewood trust's arguments and those of Ada hospital trust, the Oklahoma Supreme Court may receive a vehicle to decide the proper meaning of "obligation". Is it all (Wynnewood) or nothing (Ada) or somewhere in between?

### The Conundrum

There appears to be increasing discord between municipalities and certain of their public trusts. Hospital trusts in particular are sources of friction in several communities. Issues over the trust's budget and its "obligations" will continue to create tension.

The conundrum here is whether an inclusive construction of "obligation" would endanger the legal separateness of public trusts. The detailed involvement of the beneficiary in the minutia of public trust operations could constitute a merger of the estates under general trust principles. Also, the burdensome delays and inefficiencies of dual approval for daily expenses could undermine the ability of the public trust to fulfill its function. On the other hand, should a public trust be empowered to enter into long-term operational contracts or refinancings without the approval or oversight of the municipal elected officials?

### 3. The Illusory Trust

A second issue before the District Court of Garvin County raised the specter of the "illusory trust". Although it did not prevail, the "illusory trust" argument reminds us that the issue continues to be pressed.

It was first announced in *Roberts v. South Community Trust*, 742 P.2d 1077 (Okla. 1986), which held that a hospital trust operating like a private business without accountability to the beneficiary city was illusory and outside the purview of the (then) Political Subdivision Tort Claims Act. *Roberts* appeared to be limited by its facts and the Court explained, "Our rationale is analogous to the piercing of the corporate veil where one corporation is so organized and controlled that it is merely an adjunct or instrumentality of another." *Id.* at page 1083.

That sanguine reaction to *Roberts* was destroyed by *Fowler v. Norman Municipal Hospital*, 810 P.2d 822 (Okla. 1991). *Fowler* broadened the "illusory trust" concept to apply to a hospital trust which was financed originally by g.o. bonds and which was subject to some oversight by the city council. Instead, *Fowler* applied the following criteria:

- Profits from the hospital did not go to the city treasury but instead were reinvested in the hospital.
- The city could not dictate who was hired or fired nor could it exercise any authority or control over any employee of the hospital.
- The hospital was self-operating and self-sufficient without financial aid from the city.
- The operation of the hospital was not subject to the city's approval.
- The city did not investigate or handle any claims against the hospital but instead forwarded any such claim to the hospital.
- The city did not plan financially for any outlay because of claims against the hospital.
- The hospital failed to put its patients on notice that it purported to be a political subdivision.
- In short, the hospital retained control of its finances and operations, neither of which were subject to approval by the city. *Id.* at page 825.

From these criteria the Court drew the conclusion that there was no intent to transfer. This conclusion is a reference to the fuller explanation in the *Roberts* case, which concluded from similar criteria that there was no intent by the settlor to transfer control over the trust property. In such a circumstance, the Court noted, the trust " . . . has no real substance and is in reality an incomplete trust." *Roberts*, supra at page 1083.

Although a footnote in *Fowler* states the Court's intention to limit its holding to inquiries under the Governmental Tort Claims Act, 51 O.S.1991 §151 et.seq., the fundamental holding of the Court is that there is no completed trust arrangement. Understandably, municipalities were uneasy about relying on a fiction that a trust exists for some purposes and not for others.

It is no surprise, however, that the principle arose in cases involving municipal hospitals. Hospitals, in particular, could benefit from a legal audit in light of *Roberts/Fowler*. This is especially so where the administrative structure for the hospital includes not only the board of trustees of the public trust but also a virtually independent hospital board and/or a professional administrator or management company. On more than one occasion this writer has heard administrators of publicly-owned and financed hospitals state that, according to professional standards, the hospital should be as independent as possible from the public entity. Certainly, where there are many administrative layers between the public and the city council, it is more likely the Court will conclude that the hospital is not carrying out a function of the municipal beneficiary.

In the aftermath of *Fowler*, new legislation was enacted to protect public trust financing from the illogic that a trust can exist and not exist at the same time. The statute, 60 O.S.Supp.1992 §176.1, provides that, subject to certain conditions, ". . . a public trust duly created in accordance with the provisions of §176 et.seq. of Title 60 of the Oklahoma Statutes shall be presumed for all purposes of Oklahoma law to:

1. Exist for the public benefit;
2. Exist as a legal entity separate and distinct from the settlor and the governmental entity that is its beneficiary; and
3. Act on behalf and in furtherance of a public function or functions for which it is created even though facilities financed by the public trust or in which the public trust has an ownership interest may be operated by private persons or entities pursuant to contract."

The statute goes on to create certain conditions which must be satisfied in order for the presumption of the statute to attach. The purpose of the legislation was to change the criteria which are applied to determine whether a public trust is "illusory" or "real".

#### The Conundrum

It is submitted, however, that the legislation does not weaken the viability of the "illusory trust" argument for inquiries under the Governmental Tort Claims Act. This conclusion is based on Justice Opala's concurring opinion in *Roberts* and on *Fowler's* perfunctory application of *Roberts'* criteria and rationale. The concurring opinion emphasizes the Court's policy that immunities under the Tort Claims Act will shield only those entities that actually conduct public business for the public. Even though the *Roberts/Fowler* criteria are virtually impossible to satisfy, it may be that the "illusory trust" analysis will become more realistic if evidence of other facts shows that the trust is "a public service enterprise both de jure and de facto". *Roberts*, supra at page 1084 (J. Opala, concurring.)

Municipalities, meanwhile, are faced with the "catch 22" presented by the criteria in *Roberts/Fowler*. Those criteria are virtually impossible to satisfy because they are in conflict with municipal finance laws and other trust principles and statutes. The dilemma arises from the fact that, in order to preserve the protections of the Tort Claims Act for public trusts, municipalities may become so involved in the operations of the trusts that they accomplish a merger of estates and destroy the

benefits of the trust. This means that public trust operations other than hospitals are vulnerable to the "illusory trust" conundrum.

#### 4. Accountability

In *Burkhardt v. City of Enid*, 771 P.2d 608 (Okla. 1989), the Court allowed a municipality to use its public trust to develop new ways to promote economic development in conjunction with private entities. Although the negotiated arrangements between the private and public sectors was complex and nontraditional, the Court held that it furthered a public purpose.

Contrast this with *Roberts/Fowler's* refusal to see a public purpose in those hospital trusts. Operating a hospital is just as much a traditional function of municipal government as economic development. See *Ruth v. Oklahoma City*, 143 Okl.62, 287 P. 406 (1930). So why the different results?

Perhaps the answer lies in *Burkhardt's* teaching that accountability is an essential key to establishing that a particular use of public resources is a public rather than a private enterprise. Accountability necessarily implies some degree of control, at least through legally-enforceable obligations to the public body. *Id.* at page 611.

The desire for accountability is the common thread in the recent developments affecting public trusts. More to the point, the issues discussed in this paper reveal a fear that municipalities do not secure sufficient accountability from their public trusts.

This fear led in part to the 1990 addition of §27B to Article 10 of the Oklahoma Constitution. The amendment authorizes cities and towns, for the first time, to issue revenue bonds directly under certain circumstances. See the implementing legislation at 11 O.S.Supp.1992 §22-150. It was the stated hope if the amendment's principal author that public trusts would eventually become obsolete.

## 5. Advising Public Trusts

In the meantime, public trusts remain viable as the most accessible and versatile financing tool for municipal operations. The temptation also remains to gain accountability by blurring this trust's separate legal status. It may seem expedient in a particular circumstance to treat a public trust as a branch of the city or town, for example, to gain the use of the sinking fund to pay judgments against the public trust.

The office of the Attorney General experienced this temptation. It concluded that a public trust could not make donations to a private charitable organization--a desirable result. It reached this conclusion by applying the prohibitions against such donations by cities and towns in Article 10 §§15 and/or 17 of the Oklahoma Constitution--an analysis of broader consequence. Atty.Gen.Op. No. 81-120. The Attorney General acknowledged that §§15 and 17 do not expressly apply to public trusts. Even so, that office opined that a public trust is an agency of the state, which is governed by §15, and of the municipality, which is governed by §17. Therefore, the prohibition applies to public trusts. Unfortunately, the constitutional debt limitation also applies to public trusts under such an analysis.

A subsequent Attorney General Opinion substituted a proper analysis to reach the same result that a public trust cannot make donations to private entities. In so doing, Atty.Gen.Op. No. 86-131 provides a model for resolving public trust questions.

1. **It recognizes the independent legal status of public trusts.** It concludes from the face of Ok.Const.Art. 10 §§15 and 17 that these provisions do not apply to public trusts.
2. **It considers the trust purpose.** A public trust only has authority under its enabling statutes to act in furtherance of authorized and proper public purposes of its beneficiary.
3. **It considers the relationship between the trust and its beneficiary.** Under the prohibitions of Article 10 §17, donations to private entities can never be an authorized and



proper purpose of the beneficiary municipality. Therefore, pursuant to 60 O.S. §176(a), such donations do not fall within the trust purpose.

4. **It preserves the function of the public trust.** The constitutional debt limitation is not implicated by this analysis, which is consistent with the trust's statutory function to provide financing for its beneficiary.

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