

Opinion No. 58-21

January 29, 1958

BY: OPINION OF FRED M. STANDLEY, Attorney General Fred M. Calkins, Jr.,
Assistant Attorney General

TO: Mr. Patrick F. Hanagan, District Attorney, 5th Judicial District, County Court House,
Roswell, New Mexico

QUESTION

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May the Board of County Commissioners of Chaves County contribute to the support of the Roswell Museum from the County General Fund?

CONCLUSION

Yes.

OPINION

ANALYSIS

The City of Roswell owns the Roswell Museum which is located within the City of Roswell, New Mexico and it is operated through a Board appointed by the City Council. The Chaves County Commissioners, in past years, contributed to the support of the Museum activities but have discontinued such contributions as they question the legality of the expenditure of County funds for this purpose.

The Roswell Museum Board is aware that they are not entitled to the use of Cigarette Tax funds for the operation of the Museum activities and any contribution from the county would necessarily come from the General Fund.

The Board of County Commissioners of Chaves County is agreeable to setting up an annual appropriation in their budget to support the Museum, provided that this office expresses the opinion that the appropriation and expenditure of such funds is legal.

It is the opinion of this office that such expenditure is both legal and proper. Section 15-37-16, N.M.S.A., 1953 Compilation which refers to the powers of the County Commissioners and management of county property in general states:

"To represent the county and have the care of the county property and the management of the interest of the county in all cases where no other provision is made by law."

This office on several occasions has indicated that Section 15-37-16 is an exceedingly large grant of power to the county commissioners and the said commissioners may, in their discretion expend the county's general funds for any purpose which will be of benefit to the county unless such expenditure is expressly prohibited by law. We have found no such prohibition and believe that the county commissioners may enter into an agreement with the City of Roswell whereby the county agrees to appropriate a given sum of money to the use of the Museum and in consideration thereof the people in Chaves County will be allowed the use of the facilities of the Roswell Museum. By way of conclusion we think it necessary to point out that the estimated county attendance at the Roswell Museum on a yearly basis is approximately 45% of those attending the Museum. Enrollment in art, archaeological and geological classes is made up to a large degree of people from the county. One-third of the enrollment in dance classes held by the Museum is from people in the county. Of the seven members, who form the Board of Trustees of the Roswell Museum, four of these members are from the county. The Treasurer and one member of the staff live in the county.

In view of the above, certainly people residing from without the City of Roswell and in Chaves County are benefited by the Museum. Inasmuch as we have found nothing which prohibits such a use of the County's General Fund, we believe it proper for the Board of County Commissioners of Chaves County to contribute to the support of the Roswell Museum from the County's General Fund.