

Opinion No. 66-96

August 3, 1966

BY: OPINION OF BOSTON E. WITT, Attorney General Gary O'Dowd, Assistant Attorney General

TO: Mayor Gordon Lucas, Village of Fort Sumner, Post Office Box 465, Fort Sumner, New Mexico

QUESTION

FACTS

Fort Sumner plans to purchase the site of Old Fort Sumner and land surrounding it for use as a park and recreation area. Part of the property will be conveyed to the Museum of New Mexico which will participate in a long-range project to rebuild the old Army post on the original site. The surrounding area will be developed by the Village as a park with parking areas, camp grounds, etc., for the use of visitors to the site.

Assuming the purchase of land is consummated, Fort Sumner then plans to apply for benefits from the United States Government under Operation Greenspan. Operation Greenspan is a federal program providing for the payment of benefits, up to one-half of the purchase price of the land, to the local government body which acquires crop land to be used for recreational purposes.

QUESTIONS

1. If approved by the qualified voters of the Village, could the Village of Fort Sumner issue general obligation bonds in the amount of \$ 25,000 for the purchase of the site of Old Fort Sumner and land surrounding it for use as a park and recreation area?
2. Are there any legal objections to putting the benefits received from the federal government under Operation Greenspan into the sinking funds of these bonds and then levying only a sufficient amount to pay the remainder of the interest and principal due each year?

CONCLUSIONS

1. Yes.
2. No.

OPINION

{*131} ANALYSIS

Section 14-29-5, N.M.S.A., 1953 Compilation (P.S.) provides:

"Subject to the limitations and in accordance with article 9 of the Constitution of New Mexico and sections 11-6-13 and 11-6-14 New Mexico Statutes Annotated, 1953 Compilation, a municipality may issue and dispose of negotiable bonds for the purpose of securing funds for:

* * *

D. Building, beautifying and improving public parks within or without the municipal boundary;

E. Acquiring land or buildings for playgrounds, recreation centers, zoos and other recreational purposes, and the equipment thereof, or any combination thereof;"

As this section indicates, the Village may issue such bonds. However, several limitations on a municipality's power to contract debts should be kept in mind:

1. Section 12, Article IX of the New Mexico Constitution requires the passing of a taxing ordinance in conjunction with the issuance of a bond.

2. Section 13, Article IX of the New Mexico Constitution limits the amount of indebtedness which a village can contract to "four per centum on the value of the taxable property within such . . . village, as shown by the last preceding assessment for state or county taxes."

3. Section 11-6-13, N.M.S.A., 1953 Compilation, requires the forwarding of a notice of the proposed bond issue "to the local government division, or public school finance division, of the department of finance and administration."

4. Section 11-6-14, N.M.S.A., 1953 Compilation, is a follow-up to Section 11-6-13 specifying the duties of the village and the "local government division, or public school finance division, of the department of finance and administration" once the said notice is forwarded.

This office sees no legal objections to your plan for using benefits received under Operation Greenspan. We assume that the money in the sinking funds will be invested in government-guaranteed obligations.