

**BALDWIN TOWNSHIP SPECIAL MEETING
BOARD OF AUDIT**

February 18, 2009

Present – Supervisors Jeff Holm, Lester Kriesel, Bryan Lawrence and Jim Oliver.
Supervisor Paul Vollkommer was absent.

Call to Order – Chairman Bryan Lawrence called the Baldwin Township Board of Audit meeting to order at 9:17 p.m.

Pledge of Allegiance – All present recited the Pledge of Allegiance.

Perform 2008 Annual Board of Audit – Bryan Lawrence read Section 13-8, Duties and Recommendations Regarding the Annual Board of Audit:

§ 13-5. Mandatory Audit of Large Towns

Towns with a population of more than 2,500 according to the last federal census and annual revenues of more than \$670,500 (as adjusted for inflation since 2004) must have an annual audit performed by a CPA. Minn. Stat. § 471.097, subd. 1.

§ 13-6. Petitioned Investigative Audit

The town electors at an annual or a special town meeting may vote to call for an audit of the town's financial and legal affairs by the state auditor's office. Minn. Stat. § 6.64. The issue can be raised at any annual town meeting without prior notice. If a majority of the electors voting at the meeting vote in favor of a state audit, the vote is considered a petition calling for the audit.

§ 13-7. Discretionary Investigative Audit

The office of the state auditor has the authority to audit both the financial and legal affairs of a town on its own initiative. Minn. Stat. § 6.61. In some cases, the investigation has resulted in a recommendation by the state auditor to the county attorney to bring criminal charges against town officers because of their failure to follow proper statutory procedures.

§ 13-8. Duties and Recommendations Regarding the Annual Board of Audit

- The board of audit can be held any time between the close of the fiscal year (December 31) and a week before the annual town meeting, although for practical purposes it is virtually impossible to do it less than a week before the annual meeting. In fact, the board should normally attempt to hold the meeting as early as possible in order to allow sufficient time to develop the required report.
- In preparation for the board of audit activities, the treasurer is required to prepare and file with the clerk at least five days before the annual town meeting a written statement of money received from any source and all money paid out as treasurer. Minn. Stat. § 367.16. The treasurer is also required to provide the board of audit the book of accounts along with the treasurer's vouchers.
- In preparation for the board of audit activities, the clerk is required to furnish a statement from the county treasurer of money paid to the town treasurer, all information about the fiscal affairs of the town in the clerk's possession, and all accounts, claims, and demands against the town filed with the clerk. Minn. Stat. § 367.11.
- Many of the duties that must be performed at the annual board of audit under Minn. Stat. § 366.21 are a culmination of the activities performed by the board at each regular meeting. When the board examines each account or claim presented for payment, it is performing a part of the duties of the board of audit. It is then not necessary for the board to reexamine each claim in detail at the annual board of audit. However, at the annual board of audit, the board should randomly select claims to audit in detail to make sure everything is in order.
- The board of audit must develop a detailed report of the items of accounts audited and allowed or disallowed, the nature of each, and the person to whom allowed or disallowed.
- The clerk is required to post a copy of the report developed by the board of audit at least ½ hour before the annual town meeting and to read the report publicly at the meeting. Minn. Stat. § 366.22.
- Because a quorum or more of the supervisors is needed to hold the board of audit, the open meeting law must be followed in calling together and conducting the meeting. Therefore, if the meeting is held as part of a regular board meeting, separate notice is not required. On the other hand, if the meeting is held before, after, or on a different day than a regularly scheduled board meeting, the board of audit should be treated as a special board meeting for open meeting law purposes.

- If the board chooses or is required to have a CPA perform an audit of the town's financial affairs, it must still perform the duties of the annual board of audit. Of course, if a CPA has already completed an audit before the annual meeting, the board will find it much easier to complete its own duties.
- In addition to its role as a board of audit, the town board has a critical role to play throughout the year in maintaining the system of checks and balances and internal controls that are necessary to protect the integrity of public funds. A second set of eyes not only helps prevent fraud and embezzlement, it plays an equally important part in catching honest mistakes that can result in significant financial losses.

Refer to Document Number: FZ000 for information on developing and maintaining charts of accounts.

CHAPTER FOURTEEN TOWN ROADS

§ 14-1. Town Road Authority

Serving as the road authority for over 69,000 miles of road is one of the major tasks of town boards in Minnesota. Providing, maintaining, and managing roads is a major undertaking that consumes much of a board's time and resources. Some towns are alone responsible for over 80 miles of road. These roads constitute a critical part of the state's transportation system. People access their farms, fields, lake cabins, recreation areas, hunting areas, and their homes on these roads. Town supervisors need to make a special effort to understand the town's powers and obligations toward its roads.

§ 14-2. What is a Town Road?

Town roads can be thought of in both a physical and legal sense. For practical reasons, most town officers focus on the physical aspects of a road—whether it is structurally sound and sufficiently maintained to handle anticipated use. However, it is very important to gain at least a basic understanding of the legal nature of town roads because it is the legal aspects of roads that determine what the town's rights and responsibilities are toward the road. For that reason, this chapter will start with a brief overview of the legal status of town roads.

In Minn. Stat. § 160.02, subd. 6, "town road" is defined as including "those roads and cartways which have heretofore been or which hereafter may be established, constructed, or improved under the authority of the several town boards, roads established, constructed, or improved by counties that have been maintained by the towns for a period of at least one year prior to July 1, 1957." Furthermore, "road" is defined in Minn. Stat. § 160.02, subd. 7 as including "the several kinds of highways as defined in this section, including roads designated as minimum-maintenance roads, and also cartways, together with all bridges or other structures thereon which form a part of the same." Unfortunately, neither definition goes very far in actually describing what a town road actually is. Furthermore, including "cartway" in the definition of both "town road" and "road" adds to the confusion between roads and cartways. To avoid the potential of further confusion on the distinctions, cartways will be discussed separately later in this chapter.

In legal terms, a town road is typically an "easement" held by the town on behalf of the public for use by the public. In its most basic sense, an easement is an interest in property. It is a right given or acquired to use a described portion of another's property. Easements are usually granted for particular purposes, most commonly granting the right to travel over the property (ingress and egress rights).

It is also possible, though much less common, for a town to own a road in fee simple rather than by easement. Fee simple refers to an absolute title in land. Everything that is possible to own about property is held when one acquires a fee simple title to property. The trees, brush, gravel, etc. on the property are owned by the town as part of its fee simple interest. While the town's underlying property interest in a road does not affect the physical nature of the road, it does, as will be explained later, impact the powers of the board to maintain the road and has implications when a road is vacated.

The board specifically reviewed three (3 invoices) and all were allowed:

- Check #12919, Marv's True Value, \$442.61. The board specifically reviewed the Cemetery Fund charges of \$53.58
- Check #13232, Hayford Ford, \$34,121.00.
- Check #12490, Jeremy Evans \$360.73.

Kriesel/Oliver unanimous to approve 2008 disbursements as presented with the clerk obtainin additional information for check number 12490.

Adjourn – Holm/Kriesel unanimous to adjourn at 9:52 p.m.



Submitted By: (s/) Cathy Stevens
Clerk/Treasurer
Baldwin Township



Approved By: (s/) Bryan Lawrence
Chairman, Board of Supervisors
Baldwin Township