

Chapter Three

Township Government: Town Board Elections, Meetings & Functions

§ 3-1. Town Board

The governing body of a town is the town board. Typically, town government consists of five town officers: three supervisors, one clerk, and one treasurer. The optional forms of town government discussed in Section § 2.4 allow the residents to make some modifications to the typical five-person elected officer structure.

While there are five or seven town officers, technically, only the supervisors constitute the town board. Minn. Stat. § 366.01, subd. 1. The distinction likely has its basis in the fact that only town supervisors are authorized to vote on issues before the board. However, “town board” is commonly used inclusively to refer to all town officers – supervisors, clerk, and treasurer. Duties of each position are discussed in Chapter 4.

§ 3-2. Annual Town Election

Town Election Day has traditionally been the second Tuesday in March. Every year on that day the township voters have traditionally elected at least two town officers (one supervisor and either the clerk or the treasurer). Any ballot questions the town may wish to ask are also handled at the election.

More recently, towns received the option to move their election to November. Originally, few towns exercised the option to move their

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election to November; however, that changed when Congress adopted the Help America Vote Act (HAVA). HAVA's use of mechanical voting machines (AutoMARK), which require reprogramming for each election, resulted in a sharp increase in the number of towns moving their election to November.

Towns with more than 500 registered voters must use the HAVA machines at the March elections. Minn. Stat. § 206.57, subd. 5a. Town boards that question the decision to move to a November election do have a method available to them to move their election back to March. Under Minn. Stat. § 205.075, subd. 2a, a town that has conducted at least two of its elections in November may adopt a resolution to move the election to March and submit the question to the electors at the next town general election.

For March elections, the town board establishes when the polls open and close, but all town polls must be open at least between 5 and 8 p.m. In the eleven-county metro area, towns must keep their polls open at least from 10 a.m. to 8 p.m.

For November elections, polling hours are 7

a.m. to 8 p.m. However, townships under 500 and located outside the eleven-county metro area may, at the annual meeting, approve an opening time not later than 10 a.m.

Elections are an important part of town government, and are one of the most procedurally complicated activities towns must complete. Town clerks are primarily responsible

for completing the elections process and are required to obtain election training. Conducting elections is both a privilege and a massive responsibility. Clerks must take the responsibility seriously, attend the required training, and not hesitate to ask the county auditor, MAT or the Secretary of State's office if there are any questions. The Secretary of State's office developed a town election guide which is available on its web site at www.sos.state.mn.us.

Refer to Document Number **EL4000** for additional information on moving the town's election to November and Document Number **EL4100** for additional information on returning the town's election to March.



Eleven County Metro Area: Hennepin, Ramsey, Washington, Dakota, Scott, Carver, Wright, Sherburne, Anoka, Isanti, and Chisago Counties

Voting by mail: All non-metropolitan townships and cities with less than 400 registered voters located outside of the Minneapolis/St. Paul seven-county metropolitan area can choose to hold elections by mail. Voters can mail their ballot, drop off their ballot at the polling place, vote in person, or register on Election Day.

§ 3-3. Annual Town Meeting

The most notable feature of town government is the town meeting. Because the town residents have direct input into the operation of the town through the town meeting, town government is closer to a pure democracy than any other established form of government in Minnesota. The strength of town government is the voice it gives to its residents.

Every town must hold an annual town meeting on the second Tuesday in March. Minn. Stat. § 365.51. The location and time for the start of the meeting is set at the annual town meeting in the previous year. If the meeting must be cancelled because of inclement weather, the meeting is to be held on the third Tuesday in March.

What is unique about the annual town meeting is that it is the people's meeting. The town residents run the meeting through a moderator selected from those present. Minn. Stat. § 365.56. While an agenda is developed before the meeting by the town board with certain items of business that must be decided, the residents have an opportunity to raise any other item of town business to the floor for discussion and pos-

sible action. Whether the town board must follow the electors' decision at the annual town meeting depends upon the issue being decided, as will be discussed in Chapter 5.

For towns that hold their annual town meeting and town election on the same day, timing the two activities so there is no overlap can be challenging. At a minimum, towns, outside the metro area, must have their election polls open between the hours of 5 p.m. and 8 p.m. To accommodate this requirement, most towns start their annual town meeting after 8 p.m.; however, there are towns that hold their town meeting in the afternoon.

Refer to Document Number **TM6000** for additional information on preparing for and conducting the annual town meeting.

§ 3-4. Special Town Meetings

A special town meeting may be called to do any lawful business of the town that is appropriate to be conducted at a town meeting. Minn. Stat. § 365.52, subd. 1. Towns usually call special town meetings to address issues that arise between the annual town meetings or to revise/follow-up on a decision made at an annual town meeting. A special town meeting can be called in any one of four ways:

1. by agreement of all the supervisors and the town clerk;
2. by any two supervisors along with 12 other landowners;
3. by a supervisor and the clerk along with 12 other landowners; or
4. by a petition of town electors equaling at least 20 percent of the number of electors who voted at the last general election (which can include the last town election).

Whichever method is used, a statement indicating why the meeting is being called, the business to be transacted, and that the interests of the town require the meeting must be filed

with the town clerk. The clerk must record the statement after it is filed and give ten days published notice of the time, place, and purpose of the meeting. Minn. Stat. § 365.53, subd. 1.

A special town meeting is conducted in the same manner as the annual town meeting. The clerk calls the meeting to order and takes the meeting minutes, a moderator is chosen by the electors, the moderator states the order of business, which at a special meeting is limited to the purposes for which the meeting was called, the business is conducted, votes are taken as needed, the meeting is adjourned, and the minutes are filed in the clerk's office within two days. Approval of the minutes should be sought at the next annual town meeting. It is important to keep in mind that the business discussed at the meeting "is limited to the business listed in the meeting notice." Minn. Stat. § 365.56, subd. 2.

Refer to Document Number **TM2000** for additional information on special town meetings.

§ 3-5. Reorganization Meeting

The first regular board meeting after the annual town meeting each year is usually designated as the reorganization meeting. Towns with November elections commonly hold the reorganizational meeting at the first board meeting in January following the election. While boards are not statutorily required to hold this meeting, there are several

organizational matters that must be addressed in preparation for the upcoming year. In fact, there are a wide range of issues towns should consider adding to the agenda to get the most out of the meeting. The following list includes a variety of issues boards must, should, or may want to address at their reorganization meeting.

1. **Swearing in of newly elected officers:** Some town boards swear in new and reelected officers at the outset of the reorganization meeting. However, if the swearing in is to occur at the meeting, the board must pay close attention to the election laws to ensure the officers are sworn in within the permitted range of dates. **Officers elected at a March election or appointed to a town office must be sworn in within ten days after receiving a certificate or notice of election or appointment. Those elected in a November election must take the oath before assuming office.** Minn. Stat. § 367.25, subd. 2. The swearing in of officers does not need to occur at a board meeting. It is up to each officer to properly take and file the oath within the proper time period.
2. **Transfer Town Records:** Confirm the transfer, or arrange for the transfer, of town documents, information, etc. to any newly elected town officers. It is a misdemeanor for former officers not to turn over town records, property, etc. to the successor of the office. Minn. Stat. § 367.01.
3. **Select a town board chair and vice chair:** The town board should pass a motion designating a town board chairperson and vice chairperson.
4. **Adopt a schedule of the board's regular meetings:** Towns are required to keep a schedule of its regular meetings on file in their primary office. Minn. Stat. § 13D.04, subd. 1. A copy of the schedule should also be posted on the town's principal bulletin board. This schedule could also include regular meetings of other bodies that a quorum or more of the supervisors regularly attends (e.g., town planning commission). If the day of a regular meeting falls on a holiday, or for some other reason may not be held on the regularly scheduled day, designate an alternate date for the meeting so a special meeting doesn't have to be called.
5. **Holidays.** Towns have the option of determining whether Christopher Columbus Day and the Friday after Thanksgiving are holidays. If they aren't recognized, public business may be transacted on those days. Minn. Stat. § 645.44, subd. 5,
6. **Designate an official newspaper:** The town board needs to designate an official newspaper for the publication of town notices. The newspaper must be qualified under the statutes to publish legal notices. Minn. Stat. § 331A.04.
7. **Set compensation for town officers and employees:** The town board must set the compensation of town officers and employees, including the mileage rate. Minn. Stat. § 367.05. Boards should also review their policies on authorized expenses and reimbursement. Refer to Document Number **TO4000** for a sample compensation policy.
8. **Designate a supervisor to fill duties/positions created by the town board:** Some towns designate, for example, a "road supervisor" or the "town hall supervisor" as a way of delegating sets of responsibilities among the supervisors. Supervisors may also be designated to serve on boards or commissions such as a planning commission or a fire board. Review any spending authority delegated to officers to determine if any changes are needed. For example, some town boards will authorize the road supervisor to approve work up to a certain dollar amount as needed between meetings to complete work that cannot reasonably wait until the next meeting.
9. **Designate one or more posting places in the town:** Town boards must designate one or more places in the town where legal notices are to be posted. Minn. Stat. § 366.01, subd. 8. If practical, the town should try to designate three posting places. The town must provide facilities for posting notices at the designated sites.

9. **Designate a bank as the town depository:** The town board may designate a bank as the town depository. Minn. Stat. § 366.01, subd. 4. The designation must be in writing and set forth all terms upon which the deposits are made. The town chair and clerk must sign the writing. Confirm who are authorized to sign the accounts (Clerk, Treasurer & Chair). Go to Document Number **F3000** for information on how to set policies on how funds are handled by the Board.
10. **Consider potential conflict of interest issues:** If any supervisor contracts with the town or performs work for the town outside of his/her role as supervisor, the town board must review and decide whether to authorize, by resolution, the contract or work. Minn. Stat. § 471.87-.89. Unanimous board approval is one of the critical steps of authorizing an activity that would otherwise be a conflict of interest. Refer to **Document Number C6000** for more information.
11. **Review and amend board policies as needed:** The board may choose this meeting as the time to review certain board policies such as the cost charged for requested photocopies. If the board has not already done so, consider developing and adopting a snowplow policy and a policy to inspect and repair/replace road signs as needed.
12. **Adopting an Administrative Policy for the town.** Town boards encounter a variety of issues related to how they conduct their meetings, citizen participation in board meetings, and how people may gain access to town records. **Document Number TM7000** establishes uniform procedures for the Board in how it conducts its business and for those requesting information.
13. **Review town's AWAIR plan:** Boards that have adopted a workplace accident and injury reduction plan must review it annually to determine if any changes are needed. Document the review in the minutes of the meeting and consider whether safety equipment and procedures are being used and whether any new equipment or procedures are needed.
14. **Inventory training and reference materials:** Confirm the existence and location of training and reference materials such as the Town Law Book and the election materials. Make sure the materials are up-to-date.
15. **Review town ordinance book and resolution book:** All town ordinances are to be placed within a town ordinance book within 20 days after they are published. Minn. Stat. § 365.125, subd. 5. If the town has adopted any resolutions, it is advisable to place them in a resolution book. Review the books to make sure they are current, and confirm that a copy of the ordinances has been delivered to the county law library (Minn. Stat. § 415.021), and that any feedlot ordinances have been mailed to the Minnesota Department of Agriculture.
16. **Urban towns in the metropolitan area confirm compliance with the Data Practices Act:** Review the board's data practices public access procedures, the designated responsible authority, and the compliance official appointment. See Minn. Stat. Chap. 13.
17. **Towns with planning & zoning; confirm compliance with the 60-day rule compliance and preparation of the state report on fees:** Towns with planning and zoning must be sure they have implemented proper procedures to handle written requests within the time limits established by the 60-day rule. Minn. Stat. § 15.99. All towns that impose zoning fees must adopt management and accounting procedures to ensure that the fees are maintained and used only for the purposes for which they are collected. Minn. Stat. § 462.353, subd. 4. Also, towns that have adopted the state building code and that collect over \$5,000 in development-related fees must annually file a report with the state by June 30 detailing those fees. Minn. Stat. § 326B.145.
18. **Confirm the Town Financial Reporting Form has been completed and returned to the State Auditor's Office:** Each year all towns using cash basis accounting are required to complete the Town Financial Reporting Form provided by the State Auditor's Office. Minn. Stat. § 6.74. The deadline for returning the report is March 31. Towns that use GAAP reporting use a different report that must be returned to the State Auditor by June 30.
19. **Identify upcoming training opportunities:** Boards should take time to identify training opportunities for the year and consider authorizing town officers to attend. The MAT calendar mailed lists all the MAT training sessions.
20. **List of Officers:** Confirm that the form on which is listed the names and addresses of all current town officers has been completed and sent to the MAT office by the deadline. MAT uses this information for communications purposes, such as making sure the current officers are receiving the *Township Insider Magazine* and email notifications from MAT. Inform MAT if there are any changes to the information throughout the year.

§ 3-6. Town Board Functions

Every town board must annually complete certain functions by sitting as a particular type of board. The following are some of the functions of a town board. In each instance boards must remember that if the board meets to conduct any of these activities at a time other than a regular board meeting, it must provide notice of a special board meeting as required by the open meeting law. *Refer to § 7.6 on the requirement for posting a special meeting under the open meeting law.*

A. Board of Appeal and Equalization

Except for towns that have transferred their local board of review power and duties to the county as provided by law, the town board is the Board of Appeal and Equalization (BAE). Minn. Stat. § 274.01, subd. 1(a). It is the duty of the BAE to determine if all taxable property in the town is on the assessment list and is properly valued by the assessor. Minn. Stat. § 274.01, subd. 1(b)-(d). The BAE has limited authority to add property to the list and to make changes in the valuation as needed. However, the BAE may not grant an exemption or remove property from the tax rolls.

For a town to continue serving as the local BAE, ***at least one supervisor in attendance at the meeting must have attended a certified training course within the previous four years.*** Minn. Stat. § 274.014, subd. 2. ***The training must be completed by February 1st each year.*** The township no longer must provide certification to the county assessor that it complied with the training requirement. The Department of Revenue maintains online attendance rosters that town boards may refer-

ence to verify they have a trained member. If a town board does not have the proper training, the town is deemed to have transferred its BAE powers to the county for a minimum of two assessment years, beginning with the current year's assessment and continuing thereafter unless the powers are reinstated. Minn. Stat. § 274.014, subd. 3(a).

A BAE whose powers are transferred to the county may be reinstated by:

- resolution of the board;
- proof that at least one supervisor attended the certified training course within the last four years; and
- The resolution and proofs must be provided to the County Assessor by February 1 in order to be effective for the following year's assessment.

Minn. Stat. § 274.014, subd. 3(c).

A town's BAE must meet between April 1 and May 31 each year on the date fixed by the County Assessor. The Assessor must give notice of the time to the town before February 15 and then the Town Clerk must give at least ten days published and posted notice of the meeting. Minn. Stat. §§ 274.01, subd. 1(a); 274.03. The Assessor plays an important role at the meeting, but it is the board's meeting and the board's responsibility.

The local BAE provides the first opportunity for a person to contest the valuation of their property. If a person fails to appear in person, by counsel, or in writing to the board, that person is prohibited from raising the issue before the county Board of Appeal and Equalization.

Local Board of Appeal and Equalization Training

Each Board of Appeal and Equalization (LBAE) meeting must include a voting member who has completed a Department of Revenue training course within the last four years. The training is offered online at: http://www.revenue.state.mn.us/local_gov/prop_tax_admin/Pages/lbaetraining.aspx. A roster of all who have taken the training in the last four years is also on the website.

B. Board of Canvass

The town board serves as the canvassing board for township elections. **Within two days** of the town election held in **March** the town board must meet as the board of canvass. Minn. Stat. § 205.185, subd. 3. If the town election is held in **November**, the board of canvass must meet **between three and ten days following the election**.

It is the duty of the board of canvass to review and certify the results of the election. Certification of the results by the board triggers the running of a seven-day election contest period.

The steps to canvass the results are:

- the clerk prepares a canvass report to accumulate results from multiple precincts (this report may be available from the State Election Reporting System for towns with November elections);
- the canvass board takes the oath of office and publicly canvasses the election returns by reviewing the abstract and write-in reports; the board may ask to examine summary statements before it declares the results;
- when satisfied that the abstract reports are correct, the board signs the abstracts and they become the official results;
- in the case of a tie vote, the canvassing board determines the winner by lot;
- errors by election judges in counting may be corrected by following specific procedures as prescribed by law. Minn. Stat. §§ 204C.38; 204C.39; 205.185.

For more information, see **EL7000**, on the Board of Canvass requirements, including a sample agenda and precinct summary statement.

C. Board of Audit

At least once a year the town board must meet as the Board of Audit to audit and settle all charges against the town. Minn. Stat. § 366.20. 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.

Before the Board of Audit meets, the Treasurer is required to prepare and file with the clerk a written statement of money received and 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.

MAT encourages Town Boards to hold the meeting after the Clerk and Treasurer have met and reviewed the township books.

If the meeting is held as part of a regular board meeting, separate notice is not required. If the meeting is held other than at a regularly scheduled board meeting, the Board of Audit should be treated as a special board meeting and notice provided.

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 must post the report at least ½ hour before the annual town meeting and read publicly at the meeting. Minn. Stat. § 366.22.

See § 14.1 for additional information on the board of audit.

