

EUREKA TOWNSHIP

**DAKOTA COUNTY
STATE OF MINNESOTA**

TOWN BOARD MEETING OF JULY 8, 2019

Call to Order

The Eureka Township Town Board meeting was called to order at 7:03 p.m. by Chair Donovan Palmquist and the Pledge of Allegiance was given.

Members Present: Donovan Palmquist (Chair)
Tim Murphy (Vice Chair)
Butch Hansen (Supervisor)
Mark Ceminsky (Supervisor)
Lu Barfknecht (Supervisor)

Others Present: Chad Lemmons (Kelly & Lemmons)
Randy Wood (Planning Commission Liaison)
Ralph Fredlund (Planning Commission Chair)
Marcia Wilson (Treasurer)
Ranee Solis (Town Clerk)

See attached list for all others in attendance.

Approval of the Agenda

The following changes were made to the agenda:

1. Add "General discussion of the open meeting law" to item D. Open Meeting Law under Old Business.
2. Add item B. Public Folder under Other Business.

Motion: Supervisor Hansen moved to approve the Agenda as amended, seconded by Chair Palmquist. *Motion carried 5-0.*

Treasurer's Report

The Treasurer's Report was given by Marcia Wilson (*see attached report*).

Motion: Supervisor Ceminsky moved to approve the Treasurer's Report of July 8, 2019 as read, seconded by Supervisor Hansen. *Motion carried 5-0.*

A. Bills and Receipts

Motion: Supervisor Hansen requested to table the Otte Excavating claim for discussion, seconded by Supervisor Ceminsky. *Motion carried 5-0.*

Supervisor Barfknecht requested that the Treasurer present all invoices for claims to the Board for the next several months.

B. Budget

Treasurer Wilson expressed concern about the expenses and suggested the Board start looking at cost-cutting measures. Vice Chair Murphy explained that the Board is aware that they would be dipping into reserves due to the fact that we are operating on an under-funded levy.

Supervisor Ceminsky stated that he is cutting back on road expenses enough so that we do not go over budget. The road contractor is grading on an as-needed basis, and dust control will not be taking place for the remainder of the year.

Chair Palmquist and Vice Chair Murphy agreed to set a time with the Treasurer to go over line items in the budget.

C. Remaining Reports: Outstanding Invoices/Escrows/Permit Worksheet

D. 2018 Audit Report

Supervisor Hansen requested to discuss the Otte Excavating Bill. Supervisor Ceminsky asked Bryce Otte if the bill reflected all costs for the culverts, Bryce indicated that they did.

Motion: Supervisor Hansen moved to approve the bills and receipts as presented, seconded by Vice Chair Murphy.

Roll Call Vote: Butch Hansen: Aye
Tim Murphy: Aye
Donovan Palmquist: Aye
Lu Barfknecht: Aye
Mark Ceminsky: Aye

Motion carried 5-0.

E. CD at Castle Rock Bank

Treasurer Wilson stated she did not recommend taking out another CD and that we might have to cash out one of our CD's.

Public Comment

A. Those Signed In:

1. Jeff Otto of 25580 Dodd Blvd spoke regarding the permit request for Friedges. He stated that the settlement agreement was a legal compromise and suggested that the Board review the Special Meeting minutes of August, 2017.
2. Nancy Sauber of 9445 225th St W. spoke regarding the Open Meeting law and the Country Stone settlement agreement. See attached documents.
3. Ryann Tann signed the public comment sign-in sheet in error.

4. Deanna Alevizos signed the public comment sign-in sheet in error.
5. Georgie Molitor, 8875 225th St W. spoke regarding the Scott's Miracle Gro expansion and the Commercial-Industrial proposal.

B. All Others

Chair Palmquist asked if there were any others who would like to speak. Hearing none, the Public Comment portion was closed.

Citizen Business

(None)

Road Contractor Update- Otte Excavating - Bryce Otte

- Truck signs were put on the north end of Highview, but should be moved to the north side of 225th. There will be 8 signs in total.
- All gravel has been done.
- The hill on Ipava has been rocked yet, Supervisor Ceminsky stated we will have to wait on that.

A. Road Status (Mark Ceminsky)

- Road grading will be on an as-needed basis, not scheduled.
- The "stop ahead" sign on 225th toward Dodd Blvd is covered up, we need to either move the sign or cut the right-of-way.
- Need to move the sign on Highview & 240th.
- Pick up the trees on the south side of 225th and another just before Dodd.

B. "No Thru Traffic" signs status

Previously addressed.

Planning Commission Update (Randy Wood - Liaison)

A. Summary of the July 2, 2019, Planning Commission Meeting

- Recommended denying the permit request for Friedges for the following reasons: Office and warehouse space are not a permitted or conditional use; Office and warehouse space are not allowable structures or uses in the Ag District; The Country Stone settlement agreement does not have language allowing for expansion of use or additional buildings.
- Recommended approval for Mark Hansen's Ag building.
- Recommended approval for Jerome Phillippe's Lot Split.

B. Public Hearing scheduled for the Phillippe text amendment on July 22, 2019.

Planning Commission Chair Fredlund requested attorney presence at the Public Hearing on July 22nd. Chair Fredlund also recommended that the Board issue a formal denial of the Hallcock borrow pit permit request.

Motion: Supervisor Barfknecht moved for the Clerk to send a formal letter to Wayne Hallcock informing him that the contractor withdrew the permit request for a temporary borrow pit.
Motion carried 5-0.

Permit Requests

A. Friedges, Holding, 22447 Highview Ave., PID# 13-00500-05-010 – Accessory Building

Motion: Supervisor Hansen moved to approve the accessory building permit application for Friedges, seconded by Supervisor Ceminsky.

Chair Palmquist stated that he received a legal summary from attorney Norder that stated the Country Stone agreement was a stand-still agreement where both parties agree not to challenge it. It was a legal compromise for an accepted use not otherwise allowed. Friedges would need to renegotiate the terms of the agreement.

Supervisor Barfknecht called the question, seconded by Chair Palmquist, motion carried 3-2, with Supervisors Hansen and Ceminsky opposed. *Vote on the original motion failed 0-3*, with Supervisors Hansen and Ceminsky abstaining.

B. Mark Hansen, 26190 Highview Ave., PID# 13-02800-27-020 – Ag Exempt Building

Motion: Supervisor Ceminsky moved to approve the Ag exempt building application for Mark Hansen, seconded by Lu Barfknecht. *Motion carried 4-0*, with Supervisor Hansen abstaining.

Land Use Requests

A. Jerome & Jeremy Phillipe, Jamaica Ave., PID# 13-03100-52-013 – Lot Split

Motion: Supervisor Hansen moved to approve the lot split application for Jerome Phillipe, seconded by Supervisor Ceminsky with a friendly amendment that the building right will remain on parcel A. *Motion carried 5-0.*

Sheriff's Department Update (Deputy Smith)

- There have been thefts of equipment on solar farms.
- There have been 2 fatal car accidents, watch your speed and put your phones down.
- Phone scams continue, do not give out personal information.

The Clerk provided a copy of the new Parking Ordinance to Deputy Smith to forward to the Sheriff's Department.

New Business

A. Weed Inspection update (Donovan Palmquist)

Chair Palmquist provided information about the weed app, EDD Maps Pro, and the State weed-eradication grant.

B. Receipt of New Complaint - Noise

The Board acknowledged receipt of the complaint.

Motion: Supervisor Ceminsky moved to assign Chair Palmquist and Vice Chair Murphy to the complaint, and for the Clerk to inform the complainant to contact them when the noise is occurring, seconded by Chair Palmquist. *Motion carried 5-0.*

Supervisor Barfknecht and Vice Chair Murphy will meet with the Dakota County Sheriff to discuss the Township's issues with him and determine when he will be available to attend a Town Board meeting.

C. Schedule Clerk Annual Review

Motion: Vice Chair Murphy moved to schedule the Clerk's annual review for July 31, 2019 at 6:30 p.m. at the Town Hall, seconded by Supervisor Barfknecht. *Motion carried 5-0.*

D. Town Hall Lighting, Pricing to Retro Fit to LED

The Board agreed to table the item until the August meeting. The Clerk was asked to check into commercial rebates from Dakota Electric for converting to LED lighting in the Town Hall.

E. Item missing from Town Hall wall (Butch Hansen)

Supervisor Hansen indicated that a Dakota Electric award for Township Supervisor Leader of the Year was removed from the Town Hall without Town Board approval and requested that it be returned to the Town Hall.

F. Discuss additional attorney contact (Butch Hansen)

Chair Palmquist stated that he has had a conversation with the attorney about response times.

Motion: Supervisor Hansen moved to schedule a closed meeting with Chad Lemmons and Patrick Kelley on July 31, 2019, at 7:30 p.m., seconded by Supervisor Barfknecht with a friendly amendment to discuss and review their performance and contract with Eureka Township. *Motion carried 5-0.*

Old Business

A. Dakota County Sheriff

Addressed above.

B. Ordinance Misdemeanors

The Board will follow up on misdemeanors and petty misdemeanors with attorney Lemmons after the meeting with the Sheriff's Department.

C. Chub Lake settlement agreement updated

Attorney Norder informed the Board that the check came today, made out to the attorney, and will be submitted to the Board once the check clears.

D. Open Meeting Law

1. Doodle Poll

Attorney Norder indicated that the Board can respond to the Clerk to choose dates for meetings.

2. General discussion about the open meeting law

Supervisor Barfknecht provided case law regarding the open meeting law and requested that attorney Norder forward the information to attorney Lemmons and obtain a definitive answer about the open meeting law as it relates to the Commercial-Industrial Work Group.

E. Revised Joint Resolution for orderly annexation agreement

Attorney Norder noted the changes and will send to the Clerk by the end of the week.

F. Commercial Group Open House

The Commercial-Industrial Work Group Open House is scheduled for July 9, 2019 at 7:00 p.m.

G. Chris Hale letter

Motion: Chair Palmquist moved for the attorney to send a certified letter to Chris Hale stating he has 5 days from receipt of the letter to provide a Certificate of Occupancy or vacate the premises, seconded by Supervisor Ceminsky. *Motion carried 4-1*, with Supervisor Hansen abstaining.

H. MN Paving & Materials (Sibley Aggregate) update

Motion: Chair Palmquist moved for the attorney to send a letter stating they are in violation of the Ordinance and will be cited with a misdemeanor and subject to fines, seconded by Vice Chair Murphy. *Motion carried 3-2*, with Supervisors Hansen and Ceminsky abstaining.

Other Business

A. Clerk Update

1. Potential Lakeville School District Election at Town Hall

2. Inspectron septic subcontractor information

The Clerk confirmed receipt of the septic subcontractor's name and license number from Inspectron.

Motion: Supervisor Ceminsky moved for the Clerk to create a septic permit application and forward to Inspectron for review, seconded by Supervisor Barfknecht. *Motion carried 5-0.*

3. CFS storage building gas tank/line update

The Clerk reported that CFS has placed flags for the gas line and is awaiting approval from Gopher One to move the tank and bury the gas line.

B. Public Folder

Supervisor Barfknecht clarified that all documents that are provided to the Board must be included in the public packet.

Approval of Meeting Minutes

A. Approve the May 6, 2019 Round Table meeting minutes

Motion: Chair Palmquist moved to approve the May 6, 2019, Round Table meeting minutes as presented, seconded by Supervisor Ceminsky. *Motion carried 5-0.*

B. Approve the June 10, 2019 Town Board meeting minutes

Motion: Vice Chair Murphy moved to approve the June 10, 2019, Town Board meeting minutes as presented, seconded by Supervisor Hansen. *Motion carried 5-0.*

Meeting Summary

A. Clerk tasks

- Provide a copy of the parking ordinance to the Sheriff's department.
- Notify the complainant to contact the appointed Supervisors directly.
- Check with Dakota Electric to see if they offer rebates for switching to LED.
- Create a septic permit and forward to Inspectron for review.

B. Attorney tasks

- Notify Chad Lemmons and Patrick Kelly of the meeting on July 31st.
- Clarify the open meeting law as it pertains to the commercial-industrial work group.
- Send letter to MPM (Sibley Aggregate).
- Send letter to Chris Hale.

Adjournment

Motion: Chair Palmquist moved to adjourn the meeting, seconded by Supervisor Barfknecht. *Motion carried 5-0.*

Meeting adjourned at 10:41 p.m.

Respectfully submitted,

Ranee Solis

Ranee Solis, Town Clerk

Minutes Officially Approved By:



Town Chair

on: 8/12/19
Date

EUREKA TOWNSHIP

Dakota County, Minnesota



Town Board Meeting

Attendance

Monday, July 8, 2019

7:00 PM

Printed Name

BECKY BUNTING

JEFF OHO

Nancy Aarber

Ryan Tenn

Marye Jodi Jensen

Jody Arman-Jones

Jim Peltz

Address

5092 220th St W

25580 Dodd Blvd

9445 225th St. W L

22447 Highway Ave. S

26190 Highway Ave.

6905 255th St W.

27797 Tamara Ave LKE

Printed Name

Gloria Belzer

Bruce ~~Ther~~

Ken ~~Sumara~~

Julie Larson
Allen ~~Nocack~~

Address

24335 Dodd Blvd

6215 235th St W Farmington

6298 255th St W Farmington

24510 Highview Ave Lakeville

718119
Nancy Sauber



JON K. IVERSON
PAUL D. REUVERS
JEFF M. ZALASKY
JASON J. KUBOUSHEK
PAMELA J.F. WHITMORE
JASON M. HIVELEY
SUSAN M. TINDAL
STEPHANIE A. ANGOLKAR
ANDREA B. WING
AMANDA L. STUBSON

OPEN MEETING LAW BASICS AND PITFALLS

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IVERSON REUVERS
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April 21, 2011

The Minnesota Open Meeting Law generally requires all township meetings be open to the public. This presumption of openness serves three basic purposes: (1) to prohibit actions from being taken in a secret meeting where it is impossible for the interested public to become fully informed concerning decisions of public bodies or detecting proper influences. *See Rupp v. Mayasich*, 533 N.W.2d 893 (Minn. App. 1995); (2) to ensure the public's right to be informed; and (3) to inform the public of an opportunity to present its views to the public body. The Minnesota Open Meeting Law also contains specific notice and recordkeeping requirements.

BASICS

The Minnesota Open Meeting Law applies to all meetings of townships and any committees, subcommittees, boards, departments or commissions of the township. *See* Minn. Stat. § 13D.01, subd. 1.

Questions typically arise as to what is considered a "meeting." There is no statutory definition for the term "meeting" for the purpose of the Minnesota Open Meeting Law. Because the term "meeting" is not clearly defined, the issue of whether or not a "meeting" has been held must be decided on a case by case basis. The Minnesota courts have determined the Minnesota Open Meeting Law applies to any gathering or "meeting" of a quorum or more of public officials where the members **discuss, decide or retrieve information** as a group on issues related to the official business of the public body. *See, Moberg v. Indep. Sch. Dist. No. 281*, 336 N.W.2d 510 (Minn. 1983). A "quorum" is a majority of the members of the township board or committee. Thus, the Open Meeting Law would apply to the following types of gatherings: (1) regular and special meetings; (2) public hearings; (3) executive sessions; (4) work sessions; (5) retreats.

EXCEPTIONS TO THE BASIC RULE

There are some exceptions to the Open Meeting Law. Under certain circumstances, some meetings may be closed. There are also some meetings that must be closed. Before a meeting can be closed under any specific exception, the township must state on the record the specific grounds permitting the meeting to be closed and describe the subject to be discussed. *See*, Minn. Stat. § 13D.01, subd. 3. All closed meetings, except those closed meetings as permitted by the attorney/client privilege, must be electronically recorded at the expense of the public body. *See*, Minn. Stat. § 13D.05, subd. 1(d). Unless otherwise provided by law, the recordings must be preserved for at least three years after the meeting date.

1. Meetings That May Be Closed. The township may choose to close certain meetings. The following types of meetings may be closed: (1) meetings to consider strategies for labor negotiations under PELRA; (2) meetings to evaluate the performance of an individual subject to the township's authority; (3) attorney/client privilege. Meetings between the township and its attorney to discuss active, threatened, or pending litigation may be closed when the balance of the purposes served by the attorney/client privilege against those served by the Open Meeting Law dictates the need for absolute confidentiality. *See, Prior Lake American v. Mader*, 642 N.W.2d 729 (Minn. 2002). The need for absolute confidentiality should relate to litigation strategy, and will usually arise only after a substantive decision on the underlying matter has been made. This privilege may not be abused to suppress public observations of the decision making process. It also does not include situations where the council will be receiving general legal opinions or advice on the strengths and weaknesses of a proposed underlying action that may give rise to future litigation. *See, The Free Press v. County of Blue Earth*, 677 N.W.2d 471 (Minn. App. 2004) (holding a statement that a meeting was being closed under the attorney/client

privilege to discuss “pending litigation” did not satisfy the requirement to “describe the subject to be discussed” at the close of the meeting).

Additionally, a township may close a meeting to determine the asking price for real or personal property be sold by the township, review confidential or non-public appraisal data, develop or consider offers or counter-offers for the purchase or sale of real or personal property. This exception, however, does not apply to appraisal data acquired for special assessments.

Meetings Which Must Be Closed. The Open Meeting Law requires certain meetings must be closed. The following is a list of meetings which must be closed:

(1) meetings for preliminary consideration of allegations or charges against individuals subject to the public body’s authority;

(2) portions of meetings at which any of the following data is discussed;

- Data that would identify alleged victims or reporters of criminal sexual conduct, domestic abuse, or maltreatment of minors or vulnerable adults.
- Internal affairs data related to the allegations of law enforcement personnel misconduct or active law enforcement investigation data;
- Educational data, health, medical data, welfare data, or mental health data that are not public data;
- Individual medical records governed by Sections 144.291 - 144.298.

NOTICE REQUIREMENTS

The Open Meeting Law requires public notice be given to all meetings of a public body. The notice requirement is different depending on the type of meeting. However, if a person receives actual notice of a meeting at least 24 hours before the meeting, all legal notice

requirements under the Open Meeting Law are satisfied regardless of the method of receipt. *See*, Minn. Stat. § 13D.04, subd. 7.

- (1) **Regular meetings.** A schedule of regular meetings must be kept on file at the township office. If the Township decides to hold a meeting at a different time or place, it must give the notice requirement for a special meeting. *See*, Minn. Stat. § 13D.04, subd. 1. Townships must keep a schedule of regular meetings of the board on file at the primary office of the township. This requirement can be complied with by posting a regular meeting schedule in a convenient public location.
- (2) **Special meetings.** A special meeting is a meeting which is held at a time or location different from that of a regular meeting. *See*, Minn. Stat. § 13D.04, subd. 2. The township must post written notice of the special meeting on its principal bulletin board on the door of its meeting room if it doesn't have a bulletin board. If the notice is posted on a bulletin board, the bulletin board must be located and placed reasonably accessible to the public. The notice must give the date, time, place, and purpose of the meeting. It must also be mailed to each individual who has filed a written request for notice of special meetings.

As an alternative to posting the notice, the township can publish notice in the official newspaper at least three days before the meeting. In calculating the number of days for providing notice, do not count the first day the notice is given but do count the last day. If the last day is Saturday, Sunday or a legal holiday, that day is omitted from the calculation and the following date is considered the

last day, unless of course it happens to be on a Saturday, Sunday or legal holiday.
See, Minn. Stat. §§ 645.15 and 331A.08.

- (3) **Emergency Meetings.** An “emergency meeting” is a special meeting called because of circumstances that, in the opinion of the public body, require immediate consideration by the public body. Posted or published notice of an emergency meeting is not required. The township, however, must make a good faith effort to notify each news outlet that has filed a written request for notice. Notice must be given by telephone or other method to notify members of the public body. The notice must include the subject of the meeting. *See*, IPAD 06-027 (advising the city council of Breezy Point had improperly held an emergency meeting to consider complaints against the city’s building inspector); *Slipy v. Rach*, No. C5-06-3574 (9th Judicial District, June 8, 2007) (after the advisory opinion from the department of administration was issued, the trial court held the city council’s decision to hold an emergency meeting complied with the Open Meeting Law).
- (4) **Recessed or Continued Meetings.** No additional notice is needed for a recessed or continued meeting if all of the following criteria are met: (1) the meeting is a recessed or continued session of a previous meeting; (2) the time and place of the meeting was established during the previous meeting; (3) the time and place of the meeting was recorded in the minutes of the previous meeting. Minn. Stat. § 13D.04, subd. 4.
- (5) **Closed Meetings.** The same notice requirements apply to closed meetings as open meetings. Additionally, advanced notice to an individual who will be the

subject of such a meeting is needed under certain circumstances (such as to employees who are the subject of performance evaluations or disciplinary proceedings). *See*, Minn. Stat. § 13D.04, subd. 5.

- (6) **Written Materials.** At least one copy of the materials must be made available to the board at or before the public meeting. A copy must also be made available for inspection by the public. This does not, however, apply to non-public data or materials relating to the agenda items of a closed meeting. *See*, Minn. Stat. § 13D.01, subd. 6.

OPEN MEETING LAW UNCERTAINTIES

This section provides an overview of some of the more common situations where the Open Meeting Law is unclear and how the law may be applied.

- (1) **Data Practices.**¹ Typically, meetings may not be closed to discuss data that is not public. For example, not public data may generally be discussed in an open meeting without liability or penalty if both of the following criteria are met: (1) the disclosure relates to a matter within the scope of the board's authority; (2)

¹ The Minnesota Government Data Practices Act ("MGDPA") has limited application to townships. The MGDPA specifically states "[a]ll government entities shall be governed by this chapter." Minn. Stat. § 13.01, subd. 1. (emphasis supplied). A "government entity" is defined as "a state agency, statewide system, or political subdivision." Minn. Stat. § 13.02, subd. 7a (emphasis added). The MGDPA goes on to define a "political subdivision" as "any county, statutory or home rule charter city, school district, special district, any town exercising powers under chapter 368 and located in the metropolitan area, as defined in section 473.121, subdivision 2, and any board, commission, district or authority created pursuant to law, local ordinance or charter provision." Minn. Stat. § 13.02, subd. 11 (emphasis added). The term metropolitan area means the area "over which the Metropolitan Council has jurisdiction, including only the counties of Anoka; Carver; Dakota excluding the city of Northfield; Hennepin excluding the cities of Hanover and Rockford; Ramsey; Scott excluding the city of New Prague; and Washington." Minn. Stat. § 473.121, subd. 2.

disclosure is necessary to conduct the business or agenda item before the public body.

The township, however, just closes any part of a meeting at which certain types of not public data are discussed (such as active law enforcement investigative data, police internal affairs data, medical records data, certain victim, health, medical or welfare data). *See*, Minn. Stat. § 13D.05, subds. 1(a), 2(a). If not public data is discussed in an open meeting when the meeting is required to be closed, it is a violation of the Open Meeting Law. *See*, Minn. Stat. §§ 13D.05, subd. 2(a) and 13D.03, subd. 11. Discussions of some types of not public data may also be a violation of the Minnesota Government Data Practices Act. Data which is discussed at an open meeting retains its original classification under the Minnesota Government Data Practices Act. The record of the meeting is public, however, regardless of the form. We suggest not public data which is discussed at an open meeting not be specifically detailed in the minutes.

- (2) **Executive Sessions.** The Minnesota Attorney General has advised the executive sessions of a township board must be open to the public. *See*, A.G. Op. 63-A-5 (June 13, 1957); *see also*, Minn. Stat. § 13D.01, subd. 1(b)(4).
- (3) **Committees and Liaisons.** The Attorney General has advised citizen advisory panels which are appointed by the governing body are also subject to the Open Meeting Law. *See*, A.G. Op. 10-B (July 3, 1975). Many townships create committees to make recommendations to the board (i.e., cemetery committees). Commonly such committees will be responsible for researching a particular area or submitting a recommendation to the board for its approval. Such committees

are usually advisory and the board is still responsible for making the final decisions. Township boards routinely appoint individual board members to act as liaisons between the board and the particular committees.

These types of meetings may also be subject to the Open Meeting Law if the committee contains a quorum or more of the board or has decision making authority. In addition, notice for a special board meeting may be needed if a quorum of the board will be present at the meeting to participate in the discussion. *See, Sovereign v. Dunn*, 498 N.W.2d 62 (Minn. App. 1993); IPAD 07-025. For example, when a quorum of a city council attended a meeting at the city's planning commission, the Minnesota Court of Appeals ruled there was a violation of the Open Meeting Law, not because of the council member's attendance at the meeting, because the council members conducted public business in conjunction with that meeting. *See, Thuma v. Kroschel*, 506 N.W.2d 14 (Minn. App. 1993). Based upon this decision, the Attorney General has advised mere attendance by additional public body members at a meeting of a committee held in compliance with the Open Meeting Law would not constitute a special public meeting requiring separate notice. The Attorney General warned, however, the additional members should not participate in committee discussions or deliberations absent a separate notice of the special meeting.

- (4) **Chance or Social Meetings.** Chance or social meetings of a quorum are not considered meetings under the Open Meeting Law. They are therefore exempt from it. However, a quorum may not as a group discuss or receive information on official business in any setting under the guise of the social gathering. *See, St.*

Cloud Newspapers, Inc. v. District 742 Cmty. Sch., 332 N.W.2d 1 (Minn. 1983);
Moberg v. Ind. Sch. Dist. No. 281, 336 N.W.2d 510 (Minn. 1983).

- (5) **Serial Gatherings.** The Minnesota Supreme Court has noted meetings of less than a quorum of the public body held serially to avoid public hearings or to fashion agreement on an issue may violate the Open Meeting Law. *See, Moberg v. Ind. Sch. Dist. No. 281*, 336 N.W.2d 510 (Minn. 1983). In short, this type of situation is a circumvention of the statute. Accordingly, board members should avoid this type of practice.
- (6) **Training Sessions.** The Attorney General has advised a board's participation in a non-public training program devoted to developing skills is not covered by the Open Meeting Law. *See, A.G. Op. 638-5* (Feb. 5, 1975). The opinion, however, also states if there were to be any discussion of township business by the attending members, either outside or during the training session, it could be seen as a violation of the Open Meeting Law.

TECHNOLOGY CONCERNS

The Open Meeting Law does not address situations which may occur as a result of communication through telephone calls, letters, e-mail or similar technology. The Minnesota Supreme Court, however, has found the Open Meeting Law did not apply to letters or telephone conversations between less than a quorum. *See, Moberg v. Ind. Sch. Dist. No. 281*, 336 N.W.2d 510 (Minn. 1983). While it is possible a similar decision might be reached concerning the use of e-mail or other forms of technology, it should be stressed if a quorum of members are involved in a communication, it would likely be considered a violation of the Open Meeting Law. This is especially true for three-member township boards. In addition, serial discussions between less

than a quorum of the board which are used to deliberate matters that should be dealt with at an open meeting, the open meeting would likely violate the Open Meeting Law. Therefore, township boards and other groups to which the Open Meeting Law applies should not use letters, telephone conversations, e-mail or other technology if the following circumstances exist: (1) quorum of the board is involved; (2) information relating to township business is being discussed.

WHAT HAPPENS IF THERE IS A VIOLATION OF THE OPEN MEETING LAW?

A public officer who intentionally violates the Open Meeting Law can be fined up to \$300. This fine may not be paid by the public body. In addition, a court may also award reasonable costs, disbursements and attorney's fees up to \$13,000 to the person who brought the violation to the court. *See*, Minn. Stat. § 13D.06, subs. 1, 4.

If a plaintiff prevails in a lawsuit under the Minnesota Open Meeting Law, a court shall award reasonable attorney's fees if the court determines the public body was the subject of a prior written advisory opinion from the commission of the department of administration, and the court finds the opinion is directly related to the lawsuit and the public body did not act in conformity with the opinion. *See*, Minn. Stat. § 13D.06, subd. 4. The court is also required to give deference to the advisory opinion in a lawsuit brought to determine whether the Open Meeting Law was violated.

If a public official is found to have intentionally violated this chapter in three or more separate actions, the public official must be removed from office and may not serve in any other capacity with the public body for a period of time equal to the term of the office the person was serving. *See*, Minn. Stat. § 13D.06, subd. 3. However, removal is only required if the conduct

constitutes malfeasance or nonfeasance. *See, Brown v. Cannon Falls Township*, 723 N.W.2d 31 (Minn. App. 2006).

The Open Meeting Law does not address whether actions taken at an improper meeting would be invalidated. Moreover, courts are conflicted on this issue. For example, the Minnesota Supreme Court once held an attempted school district consolidation was fatally defective when the initiating resolution was adopted at a meeting which was not open to the public. *See, Quast v. Knutson*, 150 N.W.2d 199 (Minn. 1967). More recently, however, Minnesota courts have refused to invalidate actions taken at improper closed meetings. *See, Sullivan v. Credit River Township*, 217 N.W.2d 502 (Minn. 1974); *In Re DNA Trucking Line, Inc.*, 524 N.W.2d 1 (Minn. App. 1994). The Minnesota Court of Appeals has also indicated “even the violation of the Open Meeting Law will not invalidate actions taken at that meeting.” *See, Lac Qui Parle-Yellow Bank Watershed Dist. v. Wollschlager*, No. C6-96-1023 (Minn. App. Nov. 12, 1996) (unpublished decision).

Treasurer Report July 8, 2019

Bank Balance

June 30, 2019

Checking Account	\$1,513.54
Outstanding Checks	-\$620.74
Savings Account	\$167,215.48
CD Accounts	<u>\$106,698.92</u>

Total Investments

\$273,914.40

ACCOUNT BALANCES **\$274,807.20**

Petty Cash In
Cash Box

\$100.00

TOTAL INCLUDING CASH **\$274,907.20**

	CD Matures	Original Investment
\$39,942.44	6/29/2021	5 yr
\$41,125.60	6/27/2022	5 yr
\$25,630.88	6/22/2023	5 yr
<u>\$106,698.92</u>		

TOTAL DISBURSEMENTS

Total June Claims	\$101,401.93
Total June Payroll	<u>\$4,130.77</u>
	<u>\$105,532.70</u>

Date Range: 7/1/2019 To 7/16/2019

Date	Vendor	Description	Claim #	Total	Account #	Account Name	Detail
07/08/2019	Internal Revenue Service	fed tax deposit due in July	3884	\$838.49	100-41421-122-212	Treasurer	\$158.42
					100-41421-125-212	Treasurer	\$37.04
					100-41422-122-212	Deputy	\$111.98
					100-41422-125-212	Deputy	\$21.49
					100-41422-115-212	Deputy	\$17.76
					100-41425-122-212	Clerk	\$349.68
					100-41425-125-212	Clerk	\$81.78
					100-41425-115-212	Clerk	\$60.34
07/08/2019	PERA	July 19 payroll pmt	3885	\$700.09	100-41421-121-212	Treasurer	\$178.86
					100-41422-121-212	Deputy	\$126.42
					100-41425-121-212	Clerk	\$394.81
07/08/2019	Minnesota Department of Revenue	Withholding tax 2nd qtr	3886	\$263.87	100-41421-126-212	Treasurer	\$49.76
					100-41425-126-212	Clerk	\$170.71
					100-41422-126-212	Deputy	\$43.40
07/08/2019	MN Department of Labor and Industry	Bldg permit Surcharge March0370352019	3887	\$39.09	100-41975-129-211	Surcharge	\$39.09
07/08/2019	Kelly & Lemmons, P.A.	June Legal Bill	3888	\$2,485.00	100-41615-304-216	Legal Services	\$2,485.00
07/08/2019	Otte Excavating Inc.	June 19 road bill	3889	\$40,024.56	201-43230-313-236	Waste (Refuse) Collection	\$162.50
					201-43134-313-201	Dust Control	\$1,235.00
					201-43122-313-201	Unpaved Streets	\$17,115.00
					201-43127-313-233	Signage	\$247.50
					201-43122-313-230	Unpaved Streets	\$7,311.76
					201-43265-313-207	Tree/ Brush Removal	\$4,400.00
					201-43128-313-231	Culverts/ Ditches	\$8,922.80
					201-43122-313-201	Unpaved Streets	\$630.00
07/08/2019	TKDA	Professional services invoice 002019002085	3890	\$2,619.05	240-41960-314-223	Planning and Zoning	\$2,619.05

[Handwritten signatures and initials]

Date Range : 7/1/2019 To 7/16/2019

<u>Date</u>	<u>Vendor</u>	<u>Description</u>	<u>Claim #</u>	<u>Total</u>	<u>Account #</u>	<u>Account Name</u>	<u>Detail</u>
07/08/2019	Earl F Anderson	road signs Invoice 0120458-IN	3891	\$658.20	201-43127-226-233	Signage	\$658.20
07/08/2019	Dakota Electric Association	June Electric Bills	3892	\$160.33	100-41940-381-220	General Government Buildings and Plant	\$145.21
07/08/2019	DSI/LSI	acct# 007602 June bill	3893	\$79.93	100-41940-381-220	General Government Buildings and Plant	\$15.12
07/08/2019	Culligan	June bill	3894	\$65.13	100-41940-384-220	General Government Buildings and Plant	\$79.93
07/08/2019	T & C Commercial Cleaning	Cleaning Town Hall	3895	\$130.00	100-41940-382-220	General Government Buildings and Plant	\$65.13
07/08/2019	MN Dirt Works	Lawn Service July	3896	\$650.00	100-41940-315-220	General Government Buildings and Plant	\$130.00
07/08/2019	BroadView Technology Solutions LLC	invoice July bill	3897	\$193.00	100-41940-316-220	General Government Buildings and Plant	\$650.00
07/08/2019	De Lage Landen Financial Services I	July services	3898	\$95.83	100-41920-309-212	Data Processing	\$193.00
07/08/2019	JTN Communications	July invoice and services on July 3	3899	\$523.99	100-41425-352-218	Clerk	\$95.83
07/08/2019	Marketing Clarity	New Website Downpayment	3900	\$1,000.00	100-41425-325-213	Clerk	\$523.99
					100-41920-325-213	Data Processing	\$1,000.00




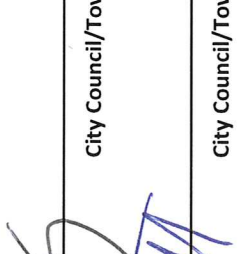

Handwritten signatures and initials:
 CBF
 \$523.99
 \$1,000.00

Date Range : 7/1/2019 To 7/16/2019

<u>Date</u>	<u>Vendor</u>	<u>Description</u>	<u>Claim #</u>	<u>Total</u>	<u>Account #</u>	<u>Account Name</u>	<u>Detail</u>
07/08/2019	Frontier Communications	Acct 952046903736 053101 7 June bill	3901	\$97.56	100-41940-321-213	General Government Buildings and Plant	\$97.56
07/08/2019	Tops Inc	Invoice 40753 postcards and postage for mailing	3902	\$629.66	100-41425-322-213	Clerk	\$629.66
07/08/2019	City of Lakeville	2019 Fire Contract	3903	\$41,375.00	100-42210-317-208	Fire Administration	\$41,375.00
07/08/2019	Lewis Kisch & Associates	Audit 2018 Invoice 19994	3904	\$6,700.00	100-41530-301-217	Accounting	\$6,700.00
07/08/2019	General Code	Invoice PG000018899 Downpayment on Code Project	3905	\$1,859.00	100-41425-203-212	Clerk	\$1,859.00
07/08/2019	Marcia Wilson	Mileage Expenses May and June 2019	3906	\$31.90	100-41421-331-222	Treasurer	\$31.90
07/08/2019	CardMember Services	R Solis acct 9554 Misc office expenses Phone lightbulbs and hooks	3907	\$151.05	100-41425-223-212	Clerk	\$151.05
07/08/2019	CardMember Services	M Wilson acct 5669 Email service	3908	\$31.20	100-41425-223-212	Clerk	\$31.20
Total For Selected Claims				\$101,401.93			\$101,401.93

Date Range : 7/1/2019 To 7/16/2019

Detail

<u>Date</u>	<u>Vendor</u>	<u>Description</u>	<u>Claim #</u>	<u>Total</u>	<u>Account #</u>	<u>Account Name</u>
	Charles Hansen		City Council/Town Board			Date 7/8/19
	Donovan K Palmquist		City Council/Town Board			Date 7/8/19
	Lucretia Banfknecht		City Council/Town Board, Chair			Date 7/8/19
	Mark Ceminsky		City Council/Town Board			Date 7/8/19
	Timothy Murphy		City Council/Town Board, Chair			Date 7/8/19