

**BALDWIN TOWNSHIP
SPECIAL TOWN BOARD MEETING**

June 24, 2009

Notice is hereby given that the Town Board of Baldwin Township, Sherburne County, Minnesota, will hold a special meeting on Wednesday, June 24, 2009, at 6:00 p.m. at the Baldwin Town Hall to conduct a closed session as required by Minnesota State Statute § 13D.05, subdivision 2 for preliminary consideration of allegations or charges against an individual subject to its authority. The person subject to the closed session has the option to request that it be open to the public. The Town Board may also open the meeting after the closed session in order to take action if it determines it may be warranted.

Dated this 17th day of June, 2009. Posted on June 17th, 2009.

Present – Supervisors Jeff Holm, Bryan Lawrence, Jim Oliver and Jay Swanson. Supervisor Larry Handshoe arrived at 6:17 p.m.

Call to Order – The Baldwin Town Board special meeting was called to order by Chairman Jeff Holm at 6:07 p.m.

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

Hear and Consider the Allegations Made Against the Employee and Possibly Take Action as Determined by the Town Board – The employee, firefighter Bill Swigart, requested an open meeting so there is no need to close the meeting per Minnesota State Statute §13D.05, subdivision 2.

Lawrence stated that the chief is not asking for any action at this time regarding suspension or dismissal. The meeting was called by Mr. Swigart for possible suspension based on not making call percentages. Mark Bennett asked Swigart if he was saying that he was not on suspension. Swigart responded that it was not decided in March and he believed it was still up in the air. He was given an ultimatum to resign or take a 90 day suspension. It was a March 16, 2009 meeting. He is asking for clarification of his status on the department. Bennett stated that Swigart was given a letter dated May 7th indicating that he was suspended for the reasons on the letter. Swigart chose not to take the resignation. With the 90 day suspension, Swigart stated that he would take it to the town board. Bennett stated that Swigart's suspension became active after their conversation and with the choice of either resignation or suspension, gave him a few days to think about it. It ended up being 6 weeks. Swigart replied that he was never notified in writing or verbally that he was suspended from the department and the reason it has been weeks since the conversation on the phone is he had to request a meeting with the town board and he had to go by the board's schedule. He did go through the proper chain of command. Lawrence asked Swigart if he had a chance to see his call percentages with Swigart replying that he knows he did not meet the percentages. He stated that a 90 day suspension was a little steep as he would then have to make every day and night call to

make his percentages. It would be hard to make up for the entire year in a period of 5 months.

Lawrence stated the main issue is, per the rules and regulations; you are having difficulty making percentages. These are the steps the officers go through. The reason for the options is because the next step is dismissal. Bennett stated that the rules and regulations that Swigart falls under is evaluating under the quarter standard. Larry Boeke stated that the revised rules, dated November 2006, calculate every calendar year. Number 7 in the rules stated that the discretion is made by the chief and assistant chief for special circumstances. Bennett stated that Swigart was judged from 6 years of accumulating call percentages. He was in disciplinary action already. The next steps defer to the chief and assistant chief and what he calls an ultimatum is what we call trying to help you out. Discussion was held regarding Swigart's call percentages for the years 2003 through 2008. Bennett stated that when he was chief he had worked personally with Swigart to help him make his call percentages.

Mike Rademacher stated that he was assistant chief for 2 years and him and Swigart hand talked about it. Swigart stated, at that time, that he was able to make most of his training when he planned. We have money invested in him. He was going through a difficult time. He is not quite sure why Swigart is locked into the old policy when it was discussed at officers meetings. Bennett stated that Swigart did receive a scanner to address the issue. Swigart replied that another issue was the extreme amount of paper problems at that time. The pagers are not the main reason he has not made his percentages, but it is a part of it. He is not disputing that the department has worked with him over the years, but he feels that they are not working with him now. Bennett stated that without rules and regulations in place, a service cannot be maintained. Without them we are just spending money. Oliver stated that Swigart is willing to accept a suspension, however is it too hard for him to make up calls after a 90 day suspension? Holm stated that he feels the punishment is the suspension. Swigart stated that he did not choose to resign that night as he wants to remain part of the department and, who's to say as there is no guarantee that both the current chief and assistant chief would be in their positions and no guarantee that he would be allowed back in the department. Boeke questioned how they can hold a guy to an old policy. Swigart is asking for a chance to prove himself and go from there. He is not changing policy. There are special circumstances.

Swanson stated that the common theme is that if there is anybody who deserves another change and has a good reason to miss the calls is Mr. Swigart. Lawrence stated that, if the board treats Swigart as a unique situation, they are not undermining the leadership by any means. The leadership is following the SOP's which were approved by the firefighters and the board. They are following the procedure. Swanson stated that he totally agrees that we can be lenient in some cases and that it should happen. Holm stated that the board approved the SOP's and here we have a situation where we see the page being played out. The thing to look at is where he has a good chance to make a recovery. The township has made an investment in this individual and we should take that into consideration. Lawrence stated that he did talk to the chief at some length and wanted Swigart to know that, in no instance, did the chief make any derogatory comments and the conversation was strictly regarding your calls.

Lawrence moved to give a directive to the fire department that Mr. Swigart, as of July 1st, be allowed an opportunity to make up his call percentages and prove that he can make up those percentages in light of his past with the dates of July 1st through December 31st. Holm stated that he is in favor of a full year because of the ups and downs. Swanson stated that he would hate to revisit this issue on January 1st. He would recommend a probationary period from July 2009 to July 2010 and a regular calendar year. If he does not make his percentage by the end of July 2010 then he did not make his criteria. The term 'probationary' has the intent of attendance probation.

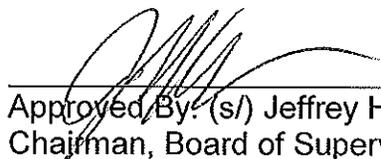
Lawrence/Oliver to allow Mr. Swigart to continue service as a firefighter beginning July 1st and start out under the present standard operating procedures and start a fresh slate. Lawrence stated that there is a lot of courtesy in that motion and should allow more than enough time to get the calls in. He would start out July 1st and start making his calls. He has pleaded his case. He would be considered a new firefighter under the current SOP's. Oliver asked what would happen if he did not make the calls. Boeke responded then it would be a written reprimand. Swanson stated that we have rules in place where we have to make call percentages. This has to continue. Mr. Swigart thinks he can and we hope that he can. He did not second this motion as he thinks we need to have some teeth in this. He needs to show that he can do this and have something to work towards. Holm stated that the flaw is the 90 day suspension and the policy of having the chief and assistant chief discretion when it should be the town board's discretion. Lawrence stated that the chain of command did not bring Swigart here, he brought it here himself. Swanson stated that he felt it was unwise to have an absolute clean slate. Lawrence asked to call the question. All in favor of calling the question. Upon voice vote of the motion: Oliver: aye; Lawrence: aye; Swanson: nay; Handshoe: nay. The motion failed.

Swanson/Handshoe that as of July 1st, Mr. Swigart is back on the force and he is given a 1 year probationary period, a disciplinary period, and he has until July 1, 2010 of this period to make 33-1/3% calls. He will then have approximately 7 months of call percentages for 2010 and, if he did not make the 33-1/3% calls, he will have 5 more months to make them up. If he does not make the 33-1/3% of calls, then he will be terminated by the Northeast Sherburne Fire & Rescue. A friendly amendment was made by Holm to have the ending date of the probationary period of June 30, 2010. Upon voice vote: Swanson: aye; Handshoe: aye; Oliver: aye; Lawrence: nay. The motion carried.

Adjournment – Swanson/Lawrence unanimous to adjourn at 8:17 p.m.



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



Approved By: (s/) Jeffrey Holm
Chairman, Board of Supervisors
Baldwin Township