

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of the Petition for the
Incorporation of Baldwin Township
(MBAU Docket I-75)

**AMENDMENT TO
FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND ORDER**

This matter is pending before Administrative Law Judge Jessica A. Palmer-Denig upon a request by the Baldwin Town Board (Township) for amendment of the Findings of Fact, Conclusions of Law, and Order issued in this matter on July 16, 2024 (Incorporation Order), pursuant to Minn. R. 6000.3100 (2023).

Michael C. Couri and Robert T. Ruppe, Couri & Ruppe, P.L.L.P., appear on behalf of the Township.

FINDINGS OF FACT

1. This Court issued the Incorporation Order on July 16, 2024, granting the Township's Petition for Incorporation. The Township was the only party to the proceeding.

2. Paragraph 6 of the order section of the Incorporation Order provided for the timing of a special municipal election of a Mayor and City Council members for the City of Baldwin, including setting forth the time period for the filing of affidavits of candidacy as required by Minn. Stat. § 414.09 (2022) for an election to be held on November 5, 2024.

3. The Township requests amendment of paragraph 6 due to conflicts between the time for the filing of affidavits of candidacy as set forth in Minn. Stat. § 414.09 and the time frame for the filing of affidavits of candidacy provided in Minn. Stat. § 205.13, subd. 1a (2022), as well as the requirements for mailing to absentee voters under the federal Uniformed Overseas Citizens Absentee Voting Act (UOCAVA).

4. The Township consulted the Sherburne County Attorney, Sherburne County Auditor/Treasurer, and Minnesota Secretary of State's Office to determine the best way to address these conflicts.

5. The Township requests that paragraph 6 of the order section of the Incorporation Order be amended to revise the dates for the filing of affidavits of candidacy for the Mayor and City Council positions for the City of Baldwin special election on

November 5, 2024, in order to conform to the requirements of UOCAVA and, as much as possible, to Minn. Stat. § 205.13 (2022).

6. Specifically, the Township requested the following changes to paragraph 6 of the Incorporation Order:

- Publication in the Township's official newspaper of a notice stating the first and last dates on which affidavits of candidacy may be filed in the Clerk's office and the closing time for filing on the last day for filing shall occur on July 25, 2024, and August 1, 2024.¹
- The Township shall post a notice stating the first and last dates on which affidavits of candidacy may be filed in the Clerk's office and the closing time for filing on the last day for filing on its website and shall post the same notice on its approved physical posting boards on July 22, 2024.²
- Affidavits of candidacy shall be received by the Township Clerk commencing July 30, 2024, and terminating August 13, 2024.
- The Township polling places shall consist of two precincts, one located in the Town Hall and the other located in its Maintenance Building, both addressed at 30239 128th Street, N.W., Baldwin Township, Minnesota.

7. The changes proposed by the Township to paragraph 6 of the Incorporation Order do not fully comply with the requirement of Minn. Stat. § 205.13, subd. 2, that at least two weeks before the first day to file affidavits of candidacy, the Township publish in its official newspaper a notice stating the first and last dates on which affidavits of candidacy may be filed in the Clerk's office and the closing time for filing on the last day for filing.

8. The changes proposed by the Township to paragraph 6 of the Order do not fully comply with the requirement of Minn. Stat. § 205.13, subd. 2, that the Township Clerk, at least ten days prior to the first day of acceptance of affidavits of candidacy, post a notice stating the first and last dates on which affidavits of candidacy may be filed in the Clerk's office and the closing time for filing on the last day for filing.

CONCLUSIONS OF LAW

1. Under Minn. R. 6000.3100, any party may request amendment of the findings of fact, conclusions of law, and order issued in a matter under Minn. Stat. ch. 414 (2022), by filing a written request for amendment within seven days from the date of service of the order. The request must specifically identify the reasons for the

¹ The Township sent the required publication notice to the Township's official newspaper for publication on July 25, 2024, and August 1, 2024, in the event this Court amended the order as requested by the Township.

² The Township posted the required notice on its website and on its approved physical posting boards in the event the Court amended the order as requested by the Township.

amendment, any claimed errors, and any proposed amendments to the findings of fact, conclusions of law, and order.

2. The Township's request for amendment was timely filed and contains all of the information required by Minn. R. 6000.3100. The Administrative Law Judge has jurisdiction to consider the Township's request.

3. Pursuant to Minn. R. 6000.3100, any other parties to the matter may submit a response within seven days of from the date of service of the request for amendment. There are no other parties to this proceeding and, therefore, no person may submit a response to the Township's request for amendment. This matter is properly before the Administrative Law Judge for a determination as to the request.

4. The legislature has adopted a comprehensive system of statutes governing municipal elections in Minn. Stat. ch. 205 (2022). The requirements of Minn. Stat. § 414.09, subds. 3(a) and 3(d), are inconsistent and irreconcilable with the procedural timelines for elections established by Minn. Stat. § 205.13, subd. 1a, as to the timing of the filing of affidavits of candidacy. The timelines provided in Minn. Stat. § 414.09, subds. 3(a) and 3(d), for holding the election and for filing affidavits of candidacy do not provide sufficient time for those persons filing affidavits of candidacy for the Mayor or Council member positions to appear on the November 5, 2024 ballot.

5. The timelines provided in Minn. Stat. § 414.09, subds. 3(a) and 3(d), are inconsistent and irreconcilable with the requirements of UOCAVA in that the candidates' names for Mayor and Council Members could not appear on absentee ballots mailed in compliance with UOCAVA if the Township adhered to the timelines in Minn. Stat. § 414.09.

6. The Township's proposed revision of paragraph 6 of the order section of the Incorporation Order will allow affidavits of candidacy to be filed within the time frame required by Minn. Stat. § 205.13, would allow the candidates for Mayor and Council member to appear on the November 5, 2024 ballot, and would allow compliance with UOCAVA.

7. The Township's proposed revision of paragraph 6 of the order section of the Incorporation Order does not allow the Township to meet the publication and posting requirements of Minn. Stat. § 205.13 related to the notice of filing of affidavits of candidacy. The Township's proposal to make an additional notice of publication in the newspaper and to post other additional notices is reasonably calculated to adequately inform the public of such filing requirements and mitigates the Township's lack of compliance as to publication and posting.

8. Minn. Stat. 414.09, subd. 3(e), authorizes this Court to order an election that is to be “conducted in conformity with the charter and the laws for conducting municipal elections insofar as applicable.”

9. Because Minnesota statutes conflict with each other and with federal law, no order of this Court can direct the Township to comply with all with all election laws and the Township is incapable of strict compliance with all provisions of law.

10. The deficiencies in the affidavit of candidacy notice requirements inherent in the Township’s proposed amendment to paragraph 6 of the order section of the Incorporation Order are minor and are adequately mitigated by the additional publication and posting requirements imposed by this Amended Order.

ORDER


1. Paragraph 6 of the order section of the Incorporation Order is hereby amended to read as follows:

6. Joan Heinen shall be the acting clerk for the election and shall prepare the official ballot. Publication in the Township’s official newspaper of a notice stating the first and last dates on which affidavits of candidacy may be filed in the Clerk’s office and the closing time for filing on the last day for filing shall occur on July 25, 2024 and August 1, 2024. The same notice shall be posted on the Township’s website commencing July 22, 2024 through August 13, 2024, and shall be posted on the Township’s approved physical posting boards on July 22, 2024. The Clerk shall accept affidavits of candidacy commencing July 30, 2024 and terminating August 13, 2024. The polling places shall be the Baldwin Town Hall located at 30239 128th Street N.W., Baldwin Township, Minnesota for one precinct and the Township Maintenance Building, also located at 30239 128th Street N.W., Baldwin Township, Minnesota for a second precinct. The election judges shall be appointed in the same manner as the Township has appointed election judges for prior State General Elections. The hours of the election shall be 7:00 a.m. to 8:00 p.m. Candidates shall be permitted to file for the position of Mayor whose term shall expire on December 31, 2026, a Council Member seat whose term shall expire on December 31, 2026, or a Council Member seat whose term shall expire on December 31, 2028. The two candidates filing for the Council Member seats expiring on December 31, 2026, who receive the most votes shall be elected to terms ending December 31, 2026. The two candidates filing for the Council Member seats expiring on December 31, 2028, who receive the most votes shall be elected to terms ending December 31, 2028. As the aforementioned terms begin to expire, elections shall be held during the November general elections of the year of the above-referenced term expiration dates, commencing with the general election to be held on November 2, 2026. Thereafter, the terms for City Council Members and the

Mayor shall be for four years and two years respectively, as provided in Minn. Stat. Section § 412.02, and municipal elections shall be held during the November general election in even years. The position of Mayor and all Council Member positions shall be at-large positions. In all other respects, the election shall be conducted in conformity with the provisions of the Minnesota Statutes concerning the conduct of municipal elections, except as may be set forth herein.

2. Other than as amended herein, the Incorporation Order remains in effect as issued on July 16, 2024.

Dated: July 22, 2024


JESSICA A. PALMER-DENIG
Administrative Law Judge

NOTICE

This Order is an amendment of the Incorporation Order issued on July 16, 2024. Pursuant to Minn. R. 6000.3100, issuance of this Order does not extend the time for appeal. Pursuant to Minn. Stat. § 414.07, subd. 2, any person aggrieved by the Incorporation Order may appeal to Sherburne County District Court by filing an Application for Review with the Court Administrator within 30 days of July 16, 2024. An appeal does not stay the effect of the Incorporation Order or this Order.