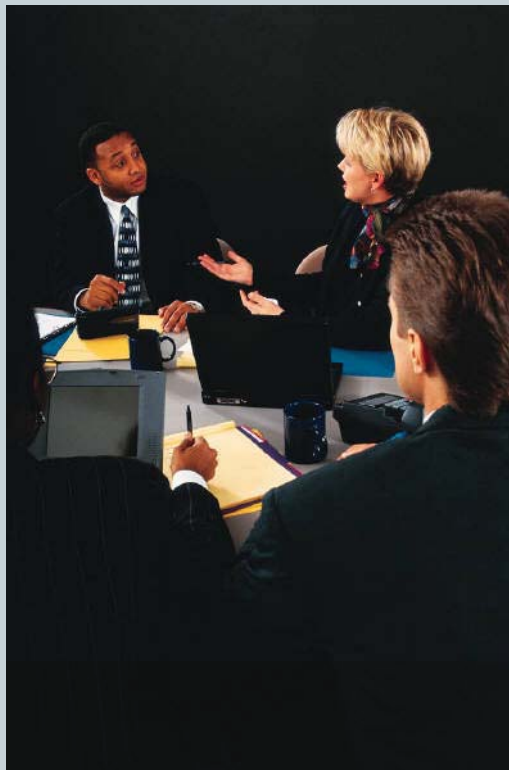


MINNESOTA SCHOOL



BOARDS ASSOCIATION

# The First Monday in January



EVERYTHING you need to know  
For your board's Organizational Meeting

Revised Oct. 1, 2013

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## **Introduction**

On the first Monday in January (or as soon as practicable thereafter) each year, newly elected school board members' terms of office begin, and school boards must meet to organize for the year (M.S. 123B.14, Subd. 1). School boards typically combine the work of seating newly elected school board members and organizing for the year into a single meeting. The purpose of this booklet, *The First Monday in January*, is to help school boards prepare for and conduct the organizational meeting.

The guidance provided in this booklet is based on relevant laws, knowledge of school board and superintendent roles and responsibilities, school board meeting processes and procedures, best practices, and experience. While the content addresses many organizational meeting-related issues, this booklet cannot address every potential problem or circumstance school boards may encounter when doing so. As a result, school boards would be well-served to review the contents and establish their officers' election-related processes prior to the organizational meeting. Upon review, school board members and superintendents are encouraged to call MSBA with questions pertaining to their unique situation.

Before beginning to look at the actual content of this booklet, five general terms used throughout this document should be explained. From this point forward, except in quotations from statute, the words, "board," "board member," "district," "chair," and "meeting," will be used instead of the formal terms, "school board," "school board member," "school district," "school board chair," and "school board meeting."

**Revised: October 1, 2013**

## **The First Meeting in January**

Under the law, "...the board must meet and organize by selecting a chair, clerk, and a treasurer, who shall hold their offices for one year and until their successors are selected and qualify" (M.S. 123B.14, Subd. 1). A remote possibility exists that all of the most recently selected board officers and members will no longer be on the board or are unavailable; in that case, the board as a whole should call the meeting to order. If the most recently selected chair (the person elected chair last year) is still on the board, that board member should call the meeting to order and run the meeting until his or her successor is selected and qualifies. If the most recent chair is no longer on the board or is not available, the most recently selected vice chair (if the board has one), clerk, or treasurer, in that order, should be asked to call the meeting to order and run the meeting. Otherwise, the board must select a different member to open the meeting and preside over the election of the chair, who will then move into place and conduct the rest of the elections and meeting. If all of the most recently selected officers are unavailable and the board is unable to reach a consensus, the board should use an agreed-upon method, such as calling on the most senior board member present or the member who draws the shortest straw, to choose a person to serve in that capacity. The board should use a similar process for determining who will serve as clerk and be responsible for recording the minutes until a successor is selected by the board. Additionally, because superintendents are considered *ex officio*, or nonvoting, members of the board (M.S. 123B.143), at no time should the superintendent act as chair. From this point on, the officers who are selected by the process just described to serve until new officers are selected will be referred to as "acting" officers.

Boards also need to adopt some basic rules for conducting the organizational meeting. The rules chosen by the board may be past practices or one of several options presented in *Robert's Rules of Order Newly Revised* or another parliamentary procedure if one has been adopted by the board. The adopted rules will allow the board members to discuss and make decisions in a timely and orderly manner. Boards are wise to not make the rules more complicated than necessary. The most commonly used option for electing officers is for the acting chair to open the floor for nominations. The rest of the process is provided beginning on page 3.

### **Sample Organizational Meeting Agenda**

The agenda for the organizational meeting should clearly state what business the board will transact. If the board schedules a special meeting to organize, the board must limit its business to the purpose(s) stated on the meeting notice (M.S. 13D.04, Subd. 2). A sample organizational meeting agenda is provided below.

- Call meeting to order  
The acting chair calls the meeting to order and conducts the meeting until a successor is elected by the board.
- Seat new board members  
The acting chair may administer a ceremonial oath of office to the new board members (depending on the board's election cycle and practice).
- Approve meeting agenda
- Elect a chair (who presides over remainder of meeting)

- Elect a vice chair, if appropriate
- Elect a clerk
- Elect a treasurer
- Set dates, times, and location(s) for regular board meetings
- Conduct other business
  - Designate district depositories
  - Name board's legal counsel and contacts
  - Fix board members' compensation, if any
  - Appoint board committee members

### **Seating New Board Members**

Boards seat their newly elected board members at their first meeting in January. At that time, the acting chair and the rest of the board welcome the new board member(s), and the acting chair may administer a ceremonial oath of office. Then, the board moves on to the organizational meeting. Additional information concerning board members' elections and pre-seating of newly elected board members can be found in the Appendix beginning on page 9.

### **Seating Members Elected to Fill Unexpired Terms**

When a vacancy on a board occurs, the board must fill the vacancy by appointment at a regular or special meeting (M.S. 123B.09, Subd. 5). State law outlines two processes for filling unexpired terms, based on the amount of the term remaining. If the board vacancy occurs before the first day to file affidavits of candidacy for the general election for the district and more than two years remain in the unexpired term, a special election must be held in conjunction with the district's general election (M.S. 123B.09, Subd. 5). The appointed board member serves until the person elected to fill the remainder of the unexpired part of the term at that special election qualifies. The elected board member is seated as soon as possible after the election. If less than two years remain in the unexpired term, no special election is held to fill the vacancy and the appointed person serves the remainder of the unexpired term and until a successor is elected and qualifies. Additional information concerning filling of vacancies can be found in Chapter 14 of the *MSBA Service Manual*.

### **Organizational Meeting**

The law does not specify that the organizational meeting must be a regular meeting. Because the law includes the words, "as soon thereafter as practicable," many boards prefer to schedule the January organizational meeting as early as possible, often scheduling a special meeting, to avoid the confusion that can result if situations requiring the board's immediate attention arise before the board has organized for the year. In the event of an emergency between January 1 and the first Monday of the month, the board members whose terms are ending may be called upon to help the board until the new board members are seated.

The board cannot transact business on any holiday, except in cases of necessity (M.S. 645.44, Subd. 5). State statute stipulates that when New Year's Day, January 1, falls on Sunday, the

following day shall be a holiday. So, if January 1 falls on a Sunday or Monday, the first Monday in January will be a holiday. Also, boards cannot meet on the observance of Martin Luther King Jr.'s Birthday, the third Monday in January. Boards are wise to consider these dates when planning their organizational meetings.

### **Open Meeting Law**

All board meetings must be held in compliance with the Minnesota Open Meeting Law (M.S. Chapter 13D). In addition, all votes must occur at an open meeting, and board members may not cast any straw votes or votes by secret ballot (M.S. 13D.01, Subd. 4). Boards may vote by paper ballot, but the voters must be identified and votes recorded. A schedule of the board's regular meetings must be kept on file at its primary office. If a special meeting is scheduled for the purpose of organizing the board, written notice of the date, time, place, and purpose of the meeting must be posted on the board's principal bulletin board (or on the door of the board's usual meeting room if no principal bulletin board exists) at least three days before the special meeting. All other requirements of statute also must be satisfied (M.S. 13D.04).

### **Election of Officers**

State law requires school boards to select a chair, a clerk, and a treasurer (M.S. 123B.14). Boards use elections to select officers. The board may decide to have additional officers, such as a vice chair (M.S. 123B.14). These officers shall hold office for one year and until their successors are selected and qualified. Persons who perform the duties of the clerk and treasurer need not be members of the board. The board, by resolution, may combine the duties of the offices of clerk and treasurer in a single person in the "Office of Business Affairs" (M.S.123B.14, Subd. 1). A sample resolution can be found in the Appendix.

### **Procedures for Election of Officers**

State statutes are silent as to the method of electing officers, except that the election must be by open vote and not by any form of secret ballot (M.S. 13D.01, Subd. 4). Each board, therefore, may establish its own procedures to address such issues, including procedures for nominating officers and voting procedures. The board should establish the procedures in advance of the meeting so that everyone will know what to expect from the outset. Once developed, the board needs to follow the procedures that it has adopted, but the procedures can be changed if the majority of the board members agree. Procedures for the election of officers are provided below. Once the meeting has been called to order, the acting chair has been determined, and the agenda has been approved:

- The acting chair asks for nominations.
- Any member of the board may nominate any other board member, and nominations do not require a second.
- If no other nominations are immediately received, the acting chair should pause and repeat the call for nominations.
- The acting chair should again pause and repeat the call for nominations a third time to ensure that any board member wishing to make a nomination has ample opportunity to do so.

- Under most rules of procedure, a motion to close nominations before such an opportunity is provided should be declared out of order. In fact, among bodies with rules that permit motions to close nominations, *Robert's Rules of Order Newly Revised* calls for a two-thirds majority vote to adopt the motion.
- After the third call for nominations, if no other nominations are forthcoming, the acting chair should close the nominations for the office.
- A motion to reopen nominations may be adopted on a majority vote.

For example, the board might follow the procedure provided below.

Acting Chair: "Nominations are now in order for the office of chair."

Board Member James: "I nominate Jane Smith."

Acting Chair: "Jane Smith is nominated. Are there any other nominations for the office of chair?"

Acting Chair: "Are there any further nominations for the office of chair?"

Acting Chair: "Are there any further nominations for the office of chair?"

Acting Chair: "If there are no further nominations ...[pause].... nominations for the office of chair are closed."

## **Voting**

If only one board member is nominated, board rules may allow the acting chair to declare that candidate elected. The acting chair could say to the rest of the board: "Jane Smith is the only candidate nominated for the office of chair, and I hereby declare her elected by acclamation and direct the acting clerk to so record in the minutes."

Board rules may provide for a show of hands or voice vote in which each board member has an opportunity to vote. The newly elected chair then immediately assumes the office and conducts the election of other officers.

If two or more members are nominated for an office, a show of hands or voice vote is necessary. All votes must be recorded as required by Minnesota's Open Meeting Law. Another option is for each board member to be given a piece of paper (ballot) on which to write the name of the person for whom they are voting, but the board member must also write his or her own name on that ballot so each vote may be recorded. The results of each individual board member's vote are read aloud at the meeting and recorded in the minutes. The person receiving a majority of the votes cast is elected and assumes the office, having been "selected and qualified."

## **Number of Votes Required**

Unless board rule or policy requires a majority of the board's full membership or other stipulation, according to *Robert's Rules of Order Newly Revised*, the number of votes required to elect an officer is the same as the vote required to carry other motions—namely, "more than half the votes cast, excluding abstentions." Absences or abstentions can reduce the number of votes required to less than a majority of the full board. For example, for a seven-member school board with two board members absent or abstaining, three votes would elect an officer, 3-2. Any other requirement to elect officers should be clearly articulated in the board's policies or procedures.

If more than two candidates are nominated, the possibility exists that no candidate will get a majority of the votes cast. For example, a seven-member board with three candidates could have an initial vote of 3-3-1, and, because four votes constitute a majority, no candidate would have enough votes to be elected. Some boards, in such instances, drop off the low vote getter and conduct a second vote. However, *Robert's Rules of Order Newly Revised* recommends retaining the low vote getter because a low vote getter could turn out to be the most satisfactory compromise for supporters of the two front runners and may be helpful in breaking a tie. If a multiple-candidate contest continues to produce no majority choice, the board may be left with no other option than to drop the low vote getter in an attempt to complete the election. If the board includes this option in its policies and procedures, language should specify when and how the decision would be made.

### **Order of the Vote**

The voting procedure used may follow whatever order the board typically employs to vote on motions. The acting chair may ask for a show of hands or go around the table calling on members by name, or the acting clerk may conduct a roll-call vote. The script for the voting procedure might look something like the one provided below.

Acting Chair: "All in favor of Jane Smith for the office of chair raise their hands."

Acting Chair: Then, "All in favor of James Nelson for the office of chair raise their hands."

Acting Chair: "Jane Smith received a majority of the votes cast and is elected chair of this school board."

To avoid any question regarding the validity of an election between two or more candidates, the board may need to conduct a roll call vote in whatever order the board normally follows and record each board member's vote in the minutes. The script for calling a roll-call vote is provided below.

Acting Chair: "The acting clerk will now call the roll for voting on the office of chair."

Acting Clerk: "Board member Arthur Brown."

Board member Arthur Brown: "I vote for Jane Smith."

Acting Clerk: "Board member Margo Anderson."

Board member Margo Anderson: "I vote for James Nelson."

And so on until all board members have been polled.

Acting Chair: "The acting clerk will now tally the votes."

Acting Clerk: "Jane Smith received four votes. James Nelson received three votes."

Acting Chair: "Jane Smith received a majority of the votes cast and is elected chair."

### **Board Unable to Elect a Chair**

Although the election of officers usually raises no significant question as to procedure or legal requirements, exceptions arise from time to time. For example, in the event of a tie between two candidates, a second vote should be taken, followed by a third vote prior to the close of the meeting, and, if the board is still unable to elect a chair, the election of a chair should occur at subsequent meeting(s), for as many meetings and votes that may be required, until one candidate



is elected. If a second vote to elect a new chair is unsuccessful, the board could: 1) move on to elect the other officers before attempting to vote a third time to elect a chair or 2) move on to conduct the other business before attempting to vote a third time to elect a chair before the close of the meeting. The acting chair presides until the deadlock for chair is broken, even if other officers have been selected.

Once a chair is elected, the newly elected chair assumes the duties of the presiding officer and conducts the election of a vice chair (if applicable), clerk, and treasurer following the same procedures.

### **Vice Chair**

The law does not require the board to elect a vice chair. If the board includes a vice chair, the newly elected chair should use the same call for nominations and election procedures to elect a vice chair as described for electing a chair.

### **Clerk**

The chair should then call for nominations for the office of clerk. Nominations and the election should be handled in the same manner as they were for chair. In selecting a clerk, certain tasks (such as keeping a record of all board meetings of the district; within three days after an election, notifying all persons elected of their election; and filing a report of the revenues, expenditures, and balances in each fund for the preceding fiscal year with the board by September 15 of each year) require the clerk to be “present” in the district administrative office. Board members who take minutes at meetings while participating in the meetings often have difficulty balancing the responsibilities of jobs; fortunately, the law allows other persons (such as the superintendent’s administrative assistant or board secretary under the direction of the board clerk) to perform the duties of clerk.

### **Treasurer**

The chair should then call for nominations for the office of treasurer. Certain tasks of the treasurer (such as depositing district funds in the official depository; making reports called for by the board and performing all duties a treasurer usually performs; and, in the event of insufficient funds to pay valid orders presented to the treasurer, receiving, endorsing, and processing the orders according to the law) require the treasurer to regularly be available to the district’s administration. The law allows the board (by resolution) to name a person in the business office to perform the duties of the offices of clerk and treasurer.

### **Other Business Conducted**

State law allows the board to conduct other business at the organizational meeting. Other business items commonly transacted by the board at the organizational meeting include designating district depositories, selecting the official district newspaper, selecting the district’s legal counsel and individuals authorized by the board to contact legal counsel, fixing board

member compensation, setting the board's regular meeting schedule, and appointing board committee members. These items are described below.

### **Designate District Depositories**

State statute requires the board to designate one or more official depositories for district funds (M.S. 118A.02, Subd. 1). State statute does not specify when the designation must be made; however, many boards prefer to address the designation decision at the board's annual organizational meeting.

### **Select Official Newspaper**

School districts are required by law to publish their meeting proceedings and many notices in their official newspaper. Common school districts (Franconia and Prinsburg) are required to annually pass a resolution designating the district's official newspaper at the first school board meeting following July 1 (M.S. 123B.95). All other boards select an official newspaper whenever the board believes is best, often at the board's organizational meeting.

### **Select District's Legal Counsel**

The organizational meeting is also a good time for the board to select the district's legal counsel and the individuals authorized to contact legal counsel. Persons authorized may include the chair, the superintendent, and the chief business official of the district. In addition, other district staff, including the human resources director or a person with similar duties, also may be authorized to contact legal counsel.

### **Fix Board Member Compensation**

Many boards set the board members' compensation for the year at the organizational meeting. State law allows the clerk, treasurer, and superintendent of any district to receive such compensation as may be fixed by the board. The law also allows the board to fix compensation for the other members of the board (M.S. 123B.09, Subd. 12).

### **Fix Regular Board Meeting Schedule for the Year**

The law includes specific notice requirements that must be satisfied for the board to meet, whether for regular, special, or emergency meetings. Many boards set the regular meeting schedule for the year at the board's organizational meeting. If the board sets a schedule for regular board meetings to be held during the year, the date, time, and place for such meetings is designated, and the schedule is kept at the district office, then no additional notice of those regular meetings is required (M.S. 13D.04, Subd. 1). If a regular meeting date, time, or location is changed, additional notice is required. Other notice requirements can be found in the *MSBA Service Manual*, Chapter 13, Law Bulletin C. When setting the schedule for regular board meetings, the board must keep in mind the dates when meeting restrictions and/or prohibitions apply. The board must avoid scheduling meetings on holidays and between 6:00 p.m. and 8:00 p.m. on General Election Day (M.S. 204C.03, Subd. 1), State Primary Election Day (M.S.

204D.03), School District Primary Election Day (M.S. 205A.03), and Township Election Day (M.S. 204C.03 and M.S. 205.075), and after 6:00 p.m. on Precinct Caucus Day (M.S. 202A.19, Subd. 1).

### **Appoint Board Committee Members**

Standing or ad hoc committees are often used by boards to facilitate the mission and work of the school board, are advisory, and have only that authority which is specified by the board. However, some boards avoid using committees and opt for the board to work as a whole instead. Many boards believe the organizational meeting is a good time to appoint board committee memberships. If the board has a policy addressing board committees, the board should follow that policy as well as any established procedures. If the board utilizes committees, the policy should clarify the following: when, how, and by whom the appointments will be made, what is the allowable number of board members per committee, whether committee appointments are continuing or rotating, and, if rotating, a schedule for doing so. Finally, board committee and subcommittee meetings are subject to the Open Meeting Law (even when the committee membership is less than a quorum of the board). The notification and public meeting requirements for committees and subcommittees are the same as for board meetings.

## **Appendix**

The Appendix provides additional background information concerning the board's first meeting in January. Specific topics addressed in the Appendix include board membership, elections, canvass of returns, certificates of election, qualified board members, terms of office, and seating of new board members.

### **Board Membership and Elections**

The membership of the board consists of six elected members, or seven members if the district voters have approved a seven-member board pursuant to M.S. 123B.09, Subd. 1. Elections take place on the first Tuesday after the first Monday in November of either the odd-numbered or the even-numbered year (M.S. 205A.04). The number of members may be different for combining or consolidating boards that are in a transition period (M.S. 123A.48, Subd. 2). The board also includes ex officio (non-voting) members, as provided by law. Superintendents are currently the only ex officio members of the board who are mentioned in statute (M.S. 123B.143). Vacancies in a board are filled by board appointment at a regular or special meeting (M.S. 123B.09, Subd. 5).

### **Canvass of Returns and Certificate of Election**

State law requires the board to canvass the returns and declare the results of the election between the third and tenth day after a district election, other than a special election (M.S. 205A.10, Subd. 3). The district clerk must certify the results of the election to the county auditor, and the clerk is the final custodian of the ballots and the returns of the election (M.S. 205A.10, Subd. 3).

### **Qualified Board Member**

To "qualify," a newly elected board member must complete a few necessary steps. The district clerk must ensure that each successful candidate has filed a campaign finance report (M.S. 211A.02 and M.S. 211A.05, Subd. 1) before issuing a certificate of election. The clerk must deliver, by personal service or certified mail, the certificate to the successful candidate who must return the certificate of election within thirty days, sign the oath of office, and sign the acceptance of office. A person who fails to qualify prior to the specified time shall be deemed to have refused to serve (M.S. 205A.10, Subd. 3).

### **Term of Office**

The term of office for school board members is four years. Generally, a board member is elected to fill an open seat on the board created by the expiration of a term (except as may be otherwise provided by a transition schedule from odd- to even-numbered year or from even- to odd-numbered year elections) beginning the first Monday in January (M.S. 123B.09, Subd.1). The member takes office on that date regardless of the date of the organizational meeting (M.S. 123B.09, Subd. 1, M.S. 205A.04, Op. Atty Gen. 161C, August 17, 1962).

Exceptions to this law exist. A board vacancy occurs when a member dies, resigns, ceases to be a resident of the district (M.S. 123B.09, Subd. 3), or is unable to serve on such board and attend its meetings because of illness or prolonged absence from the district (M.S. 123B.09, Subd. 4). Vacancies caused by these reasons must be filled within a reasonable time by board appointment at a regular or special meeting (M.S. 123B.09, Subd. 5). If the vacancy occurs before the first day of filing for the next school district general election and more than two years remain in the unexpired term, a special election must be held in conjunction with the next scheduled school district general election. The person appointed by the board to fill an unexpired term for which more than two years remain in the unexpired term serves until a qualified successor is elected to fill the unexpired part of the term at that special election. A board member who is elected and qualified to fill a vacancy caused by an unexpired term takes office for a term beginning the first Monday in January, regardless of the date of the organizational meeting (M.S. 123B.09, Subd. 1, M.S. 205A.04, Op. Atty Gen. 161C, August 17, 1962). If the vacancy occurs on or after the first day of filing for the district general election or when less than two years remain in the unexpired term, no special election is held to fill the vacancy, and the person appointed serves the remainder of the unexpired term and until a successor is elected at the next school district election and qualifies.

### **Post-Election and Pre-Seating of New Members**

Board members are elected in November (M.S. 205A.04), but their terms of office do not begin until the first Monday in January (M.S. 123B.09, Subd. 1). Currently serving members retain their seats until the expiration of their respective terms (M.S. 123B.09, Subd. 1). During the time between being elected and the first Monday in January, board members-elect are citizens who are not board members yet, and, for this reason, board members-elect should not be treated the same as seated members. As a result, wise boards do not allow board members-elect to sit at the board table, participate in the deliberations, be asked how they would vote on a topic during a meeting, receive or be given access to data that are classified as non-public, or be allowed to conduct or otherwise participate in any other board-related business. These restrictions avoid the confusion that can result when members-elect are allowed to participate in meetings prior to being officially seated.

Also, as the hiring authority (M.S. 123B.02, Subd. 14), sitting board members have the right to view data that are non-public when needed to make decisions (M.S. Chapter 13); citizens do not. To protect the data privacy rights of the district's students and staff, board members-elect should not be given access to non-public data.

In the interim, board members-elect can spend time preparing to take office. Boards can help board members-elect by providing an orientation, inviting them to meetings, sending them meeting agendas and packets (public information only) prior to the meetings, and encouraging them to attend MSBA's new board member trainings (Phase I and Phase II, which include school board member training in school finance and management as required under M.S. 123B.09, Subd. 2). Additional information can be found on MSBA's website.

## **Election of Officers and Sample Resolution**

As previously noted, state law requires boards to select from its members a chair, a clerk, and a treasurer. The law does not include a provision that would allow the board to select one of its members to serve in the combined office of clerk/treasurer. The law allows a board to combine and delegate the duties of the offices of clerk and treasurer to a single person who is employed by the district in its business office. A resolution is required if the duties of the clerk and treasurer are delegated. The resolution is a one-time requirement, not an annual one. Even so, the law still requires that an elected school board member hold each of the offices of chair, clerk, and treasurer. A “Sample Resolution” is provided below.

### **SAMPLE RESOLUTION**

WHEREAS, Minnesota Statutes §123B.14, Subd. 1. empowers the School Board to combine the duties of the office of Clerk and Treasurer of the School Board in one person in the Office of Business Affairs of the School District.

WHEREAS, the School District has decided to combine the duties of the Clerk and Treasurer in one person in the Office of Business Affairs.

THEREFORE, BE IT RESOLVED THAT the \_\_\_\_\_ of the School District is designated by the School Board of Independent School District No. \_\_\_\_ to perform the duties of Clerk and Treasurer of the District.

Moved by:

Seconded by:

The following voted in favor:

The following voted against:

WHEREUPON the resolution was declared adopted.

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