

TODD COUNTY BOARD OF COMMISSIONERS

Work Session Agenda

Date: May 27th 2014

Time: 10:00 a.m.

Meeting to be held at the Historic Courthouse 215 1st Avenue So, Long Prairie, Minnesota

Item #		Approx. Time
1	Call to Order and Roll Call	10:00 a.m.
2	Amendments to the Agenda	
3	Cheryl Perish - LP Airport Legal Description Corrections	10:05
	Cheryl to present legal description correction airport property	5 min
4	Chris Odden - Abatement Policy	10:15
	Discussion on Todd County Abatement Policy	30 min
5	Tim Stieber - Soil & Water Division	10:45
	Residential Zoning - R10	10 min
6	Denise - Budget Training	10:55
	Discussion on Budget Training -	10 min
7	Commissioner Neumann	11:05
	Discussion on Work Session schedule	10 min
8	Expo Building	11:15
	Discussion on roofing options	10 min

Standing Reports

Adjourn

The County Board Meeting will begin promptly at the prescribed time. The County Board reserves the right to alter the order of the agenda items and the amount of time allowed for an item based on business needs.

Todd County Abatement Policy

WHEREAS, The Todd County Board of Commissioners and those to whom the Board has delegated authority, shall consider and may grant abatement of property values, classification, taxes, penalty and interest consistent with Minnesota Statute 375.192; and

WHEREAS, all abatement standards as defined in this policy are consistently applied and all taxpayers are treated equitably; and

WHEREAS, abatements should only be used as a last resort method to correct assessments and /or collection errors due to the costly administrative expense and reduced tax levy revenues, with no statutory levy authority to recover abated levy dollars from any other source.

NOW, THEREFORE, BE IT RESOLVED, that the abatement policy of the Todd County Board of Commissioners is as follows:

Policy

1. No abatement will be approved if any of the following conditions are met:
 - A. A petition has been filed with tax court on the parcel in question and the outcome is still pending.
 - B. The actual reduction in tax is less than \$50.
 - C. It involves a year other than current tax year.
 - D. The applicant has owned the property as of the assessment date and has received a Notice of Valuation and Classification or a Proposed Tax Notice, and no response was received as of December 15 of the assessment year.
 - E. The social security number of the applicant is not provided.
 - F. It involves a reduction of a special assessment, unless it is accompanied by a written recommendation for approval by the governmental unit responsible for the original special assessment.
2. A maximum of one abatement per parcel during a calendar year shall be considered in order to correct a valuation or classification error.
3. Abatements of penalty on current taxes:
 - A. An abatement of the penalty on a current tax will be approved if an error on the part of the County resulted in the nonpayment of the tax.
 - B. Pursuant to Minnesota Statute 279.01, Subdivision 2 the Todd County Board delegates to the Treasurer of Todd County the power to abate the penalty for late payment of taxes in the current year, upon finding that the imposition of the penalty would be unjust and unreasonable.

Definitions

Abatement: Reduction in valuation, classification, taxes, penalty and interest on property taxes.

Assessment Date: Statutory date on which the County Assessor determines market value and classification.

Classification Error: An error in application of the statutory description for calculation of values and tax according to type and use of property.

Clerical Error: An error made by the County, municipality or other taxing authority performing clerical duties which causes erroneous classification, erroneous valuation, or late payment of tax.

Current Tax Year: Year in which property taxes are payable.

Disaster Abatement (Local Option): A reduction of taxes on property that has been unintentionally damaged due to a disaster that renders the property uninhabitable or unusable and the damage is at least fifty percent of the structure value.

Hardship: A tragedy or casualty suffered by the taxpayer, such as death, extreme or extended illness, accident, fire or other hardship that is documented to the County Assessor, which results in erroneous classification, erroneous valuation, or late payment of tax. Hardship does not apply to business entities unless documentation is presented that demonstrates that no other persons, other than the applicant are involved in or have responsibility for property tax matters. Financial hardship alone does not fall within this definition.

Penalty/Interest/Cost: The dollar amount specified by Minnesota law that is over and above the originally calculated tax, paid by the taxpayer for which an abatement is sought.

Delegation of Authority

The County Assessor will consider all market value abatement requests for approval.

The County Assessor has the authority to classify and value approved abatements consistent with comparable properties.

The County Auditor will determine the tax due based upon the County Assessor recommended classification and value.

All abatements that have been approved by both the County Assessor and the County Auditor which result in a value reduction of greater than \$50,000 must be approved by the County Board by board action. In the case of abatement of cost, penalty and interest, only County Auditor/Treasurer prior approval is required.

The County Board delegates its authority to approve all resulting in a reduction of estimated market value equal to or less than \$50,000 to the County Auditor, after approval by the County Assessor. Changes are processed with the proper documentation and kept in the County Auditor's office for inspection.

The County Board delegates its authority to approve disaster abatements to the County Assessor. The Assessor applies the standards set forth in Minn. Stat. 273.123

All abatement applications that are denied by the County Assessor or the County Auditor are considered final.

12.01 – ABATEMENTS

Abatements

Abatements, as provided in M.S. 375.192, are an administrative method of correcting errors in valuation or classification. The assessor can make no changes in valuation or classification that are intended to correct errors in judgment after the County Board of Appeals and Equalization, except for the correction of clerical errors and the extension of homestead status. Subsequently, any changes made after the conclusion of the County Board of Appeal and Equalization must be handled by abatement or tax court petition. A tax amount is not necessary for the abatement to be processed.

 **NOTE**

“Clerical” errors are narrowly defined in that they are made by someone doing the work of a clerk. These include math errors, transposition of numbers, keypunch errors, and coding errors. Clerical errors do NOT include poor estimations or incorrect data used in making the estimations, such as an incorrect record of the actual square footage or the number of bathrooms. These errors would be “errors in judgment.”

Upon written application by the owner of any property, the county board may grant the reduction or abatement of estimated market value or taxes and any costs, penalties or interest on them as the board deems just and equitable and order the refund in whole or in part of any taxes, costs, penalties or interest when they have been erroneously or unjustly paid.

Powers and Restrictions

Court rulings dictate that while abatements are discretionary, counties must consider all applications for abatements. Taxpayers must be allowed to file an application for abatement even if there is a certainty it will be turned down. Counties should not charge taxpayers to apply for abatements as no explicit authority exists for doing so, especially if the abatement is due to a county error.

 **NOTE**

A city may abate (per M.S. 469.1816) their share of taxes on business property with a market value of \$250,000 or less if a public transportation project has impeded access to the business for more than three months resulting in a loss of revenue. Property taxes are levied and paid to the county by the business. The abatement granted will be paid by the city to the business.

Abatements may not be granted to provide an incentive for economic development or redevelopment. (Economic development abatements are reviewed in Section 13.03).

Abatements may only be granted for current taxes payable year and two prior years. Abatements may be granted for the current taxes payable year for virtually any legal reason that the county deems just and equitable. It should be noted that taxes accurately extended cannot be abated. However, abatements for the two prior years may only be granted:

- 1) to correct clerical errors, or
- 2) when the taxpayer fails to file for adjustment due to hardship.

Once again, clerical errors are limited to errors of a clerical nature, such as inputting incorrect codes, transposing numbers, keypunch errors, and mathematical errors. Errors that occur when making

CHAPTER 12 – TAX ADJUSTMENTS

estimations during the inspection and appraisal process (judgment errors) are not considered to be clerical errors.

Hardship is more difficult to define. The Department of Revenue has encouraged the counties to develop their own written policies as to what constitutes a hardship. In the absence of a written hardship policy, auditors and assessors should defer to the county board to determine the existence of hardship on a case by case basis.

If an application for abatement exceeds \$10,000 in tax, penalty and interest, the county board must give 20 days notice to the school and the municipality in which the property is located. In these cases, the city or town and/or school can choose to challenge the abatement. Still, the abatement is at the discretion of the county board. School districts and cities can levy for revenue that is lost due to abatements. County governments cannot levy for revenue that is lost due to abatements.

Decisions on abatements cannot be appealed to tax court or to either the local or the county board of appeal and equalization. The broader complaint or issue, however, may still be appealed if it is appealed within the statutorily required time frame.

Subject to the approval of the Commissioner of Revenue, the county board may authorize the county auditor to grant homestead credits that were denied for failure to file a Certificate of Real Estate Value if the CRV is filed with the county auditor. These requests shall not be heard after May 31 of the taxes payable year.

Auditor and Treasurer Approvals

Abatements must be approved by the county assessor (or the city assessor, if the property is in a city of the first or second class and has its own city assessor) and by the county auditor before being considered by the county board. However, approval of the county assessor is not required for an abatement of penalty and interest. Any part of an abatement application, which is for penalty and interest, must be approved by the county auditor and the county treasurer. If any of the required parties (assessor, auditor, treasurer, or county board) denies the application for abatement, it is not granted.

It should be noted that there is a separate statute (M.S. 279.01, subd. 2) which provides for the possibility of the county treasurer to have the power to abate the penalty for late payment of taxes in the current year. However, this is only possible if both the county board and the county treasurer have agreed to delegate such authority to the county treasurer.

It is a common practice that special assessments placed upon a parcel by a local unit of government should only be removed upon the request of the respective local unit of government. Counties should not remove these special assessments of their own volition.

EXAMPLE

An assessor is unable to view a newly constructed property and estimates that the home has a full basement. The 2004 and 2005 market values (for taxes payable in 2005 and 2006) are derived based on this estimation. The taxpayer questions his 2006 tax bill and the assessor discovers that the property only has a partial basement. The property owner files for an abatement for both years. Should the abatement be approved?

Answer: Yes and no. The abatement may be approved for the current year (Pay 2006). However, the abatement for taxes paid in 2005 should be denied since the “overpayment” of tax was not due to a clerical error or hardship. Rather, the “overpayment” was due to the fact that the assessor estimated a full basement when in fact the property only had a partial basement. This is an error due to estimations that the assessor rightfully made when they were unable to inspect the property.

Delegation of Powers to the Auditor

The county board may delegate the responsibility for approving abatements to the county auditor. However, if the county auditor is elected, the delegation of this responsibility may only be made if the auditor agrees to the delegation.

Auditor to Notify Commissioner

The county auditor is required to notify the Commissioner of Revenue of all abatements resulting from errors in classification of real property as non-homestead property. For abatements relating to the current year’s tax processed through June 30, the auditor must notify the commissioner by July 31 of that same year of all abatement applications granted. For abatements relating to the current year’s tax processed after June 30 until the end of the year, the auditor must notify the commissioner by the following January 31 of all applications granted. The auditor must submit a form containing the social security number of the applicant and any other information the commissioner prescribes.

School Tax Abatement Report

The Department of Education must also be notified twice annually through the school tax abatement reporting process. This process is outlined in greater detail in Chapter 7.

Local Option Disaster Abatement (273.1233)

Eligibility

The county board may grant an abatement of net tax for homestead and nonhomestead property (except property that is required by law to be appraised by the commissioner of revenue) for taxes payable in the year in which the destruction occurs if:

- the property owner submits an application to the county assessor as soon as practical after the damage has occurred;
- the property owner submits an application to the county board as soon as practical after the damage has occurred; and
- the county assessor determines 50% or more of a homestead dwelling or other building has been (1) unintentionally or accidentally destroyed, or (2) destroyed by arson or vandalism by someone other than the owner.

Abatements granted by the county board are not subject to approval by the commissioner of revenue.

The commissioner of revenue may grant an abatement of net tax for commissioner appraised property for taxes payable in the year in which the destruction occurs if:

- the property owner submits an application to the commissioner as soon as practical after the damage has occurred;
- the property owner provides a copy of the application to the county board as soon as practical after the damage has occurred; and
- the commissioner determines 50% or more of the property has been (1) unintentionally or accidentally destroyed, or (2) destroyed by arson or vandalism by someone other than the owner.

Abatements granted by the commissioner are not subject to approval by the county board.

Computation

The county assessor (or the commissioner for state-assessed property) must establish a reassessed market value for all damaged property for which an application has been made or which is located in a disaster or emergency area. “Reassessed market value” is defined as the taxable market value of all property established for the January 2 assessment in the year that the disaster or destruction occurs, as adjusted by the county assessor to reflect the loss of market value caused by the damage.

For property located in a disaster or emergency area, the abatement is limited to the difference between (1) the net tax on the property computed using the market value of the property established for the January 2 assessment in the year in which the damage occurred, and (2) the net tax computed using the reassessed market value.

For property not located in a disaster or emergency area, the abatement is limited to the result determined by multiplying (i) the difference in net tax on the property computed using the market value of the property established for the January 2 assessment in the year in which the damage occurred, and the net tax computed using the reassessed value, by (ii) a fraction representing the time its value was reduced (the number of full months in the assessment year that the structure was unusable divided by 12). If the structure was usable for a fraction of a month, that month is not included in the numerator.

If application is made after payment of all or a portion of the taxes being abated, the portion already paid must be refunded by the county treasurer as soon as practical.

A “disaster or emergency” includes:

- major disasters determined by the president of the United States;
- natural disasters determined by the secretary of agriculture;
- disasters determined by the administrator of the small business administration; or
- a tornado, storm, flood, earthquake, landslide, explosion, fire or similar catastrophe for which a local emergency is declared pursuant to M.S. 12.29.

A “disaster or emergency area” includes geographic areas for which:

- (1) (i) the president of the United States, the secretary of agriculture, or the administrator of the small business administration has determined that a disaster exists pursuant to federal law; or (ii) a local emergency is declared pursuant to M.S. 12.29; and
- (2) an application is submitted by a local jurisdiction requesting property tax relief has been received by the governor and approved by the Executive Council.

The Executive Council consists of the governor (who serves as the chair), lieutenant governor, secretary of state, state auditor, and attorney general. The Executive Council shall not approve an application unless:

- a completed disaster survey is included; and
- within the boundaries of the applicant, (i) the average damage for the buildings that are damaged is at least \$5,000, and (ii) either at least 25 taxable buildings were damaged, or the total dollar amount of damage to all taxable buildings equals or exceeds 1% of the total taxable market value of buildings for the applicant as reported to the Department of Revenue on the Assessment Abstract in the year prior to the year of the damage.

CHAPTER 12 – TAX ADJUSTMENTS

“Net tax” is defined as the market value and net tax capacity taxes imposed on real and personal property under M.S. 272.01, including the state general tax levy and after the subtraction of credits under M.S. 273.1393 clauses (2) to (9). Net tax excludes special assessments regardless of how computed.

Examples

The calculation of local option abatement amounts is the same as the calculation of local option credits. See the examples provided (pages 06.06-10 through 06.06-12) for the description of Local Option Disaster Credits under M.S. 273.1235.

How Applied

To the extent that the net tax capacity and referendum market value reductions are separately computed, the abatements associated with each are separately applied to local net tax capacity based taxes, any state net tax capacity based taxes, and referendum market value based taxes.

Payment

If the destruction occurs as a result of a disaster or emergency in a disaster or emergency area, the county auditor shall certify the abatements granted to the commissioner of revenue for reimbursement. The state pays the reimbursement of the abatements directly to the local taxing districts. The Department of Revenue pays each taxing district other than school districts, which are reimbursed by the Department of Education.

For abatements granted which are not eligible to be reimbursed by the state (abated tax for destruction occurring from something other than a disaster or emergency or destruction occurring outside a disaster or emergency area), local taxing authorities may levy in the following year the amount of unreimbursed tax dollars lost due to abatements granted under this program. The levy for this purpose would be outside any existing levy or tax rate limit.

Reporting

For reporting purposes it will be very important to distinguish between reimbursable abatements (those located in a disaster or emergency area) and those that are not reimbursable. Abatements should also be tracked separately from the following year credits provided under the following sections. An application for reporting reimbursements is available by contacting DOR.

Relationship to Tax Rates, TIF, LMV, etc

Tax rates, TIF captured values, limited market value, and any other calculations based on a measure of value should use the January 2 pre-disaster value. The computed reassessed values are only used in computing the abatement and credit amounts.

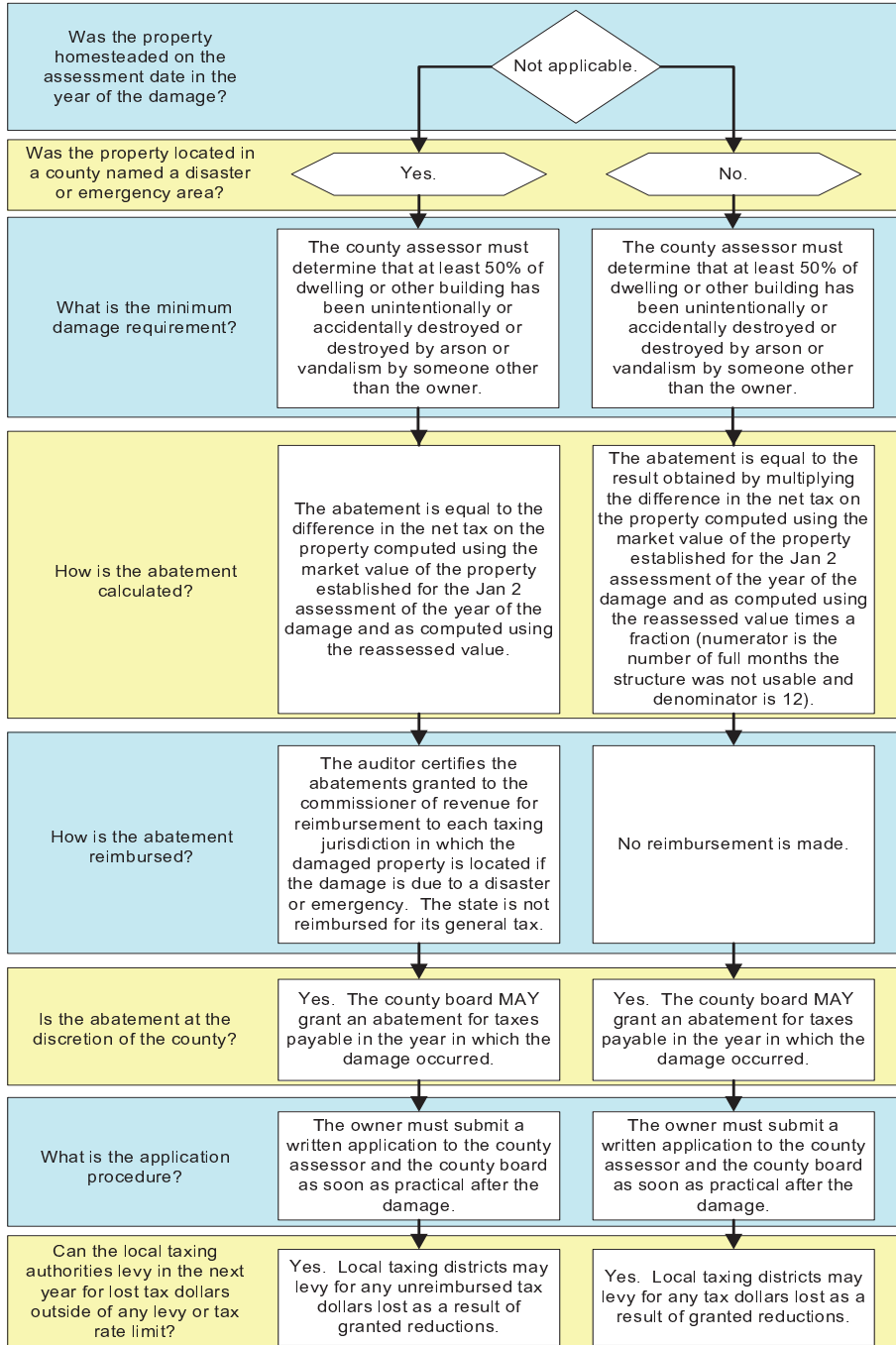
Flow Chart

The flow chart, Chart 12.01-1 on the following page, details the local option disaster abatement.

Chart 12.01-1

Revised 10/2010

Local Option Disaster Abatement
(for taxes payable the year in which the destruction occurs)



Statutory Reference

M.S. 273.1233

M.S. 273.1233

Reference

M.S. 272.1233

M.S. 279.01, subd. 2

M.S. 375.192

M.S. 469.1816

2013 Minnesota Statutes

375.192 REDUCTIONS OR ABATEMENTS OF VALUATION OR TAXES.

Subdivision 1. [Repealed, [1990 c 604 art 3 s 65](#)]

Subd. 2. **Procedure, conditions.** Upon written application by the owner of any property, the county board may grant the reduction or abatement of estimated market valuation or taxes and of any costs, penalties, or interest on them as the board deems just and equitable and order the refund in whole or part of any taxes, costs, penalties, or interest which have been erroneously or unjustly paid. Except as provided in sections [469.1812](#) to [469.1815](#), no reduction or abatement may be granted on the basis of providing an incentive for economic development or redevelopment. Except as provided in section [375.194](#), the county board may consider and grant reductions or abatements on applications only as they relate to taxes payable in the current year and the two prior years; provided that reductions or abatements for the two prior years shall be considered or granted only for (i) clerical errors, or (ii) when the taxpayer fails to file for a reduction or an adjustment due to hardship, as determined by the county board. The application must include the Social Security number of the applicant. The Social Security number is private data on individuals as defined by section [13.02, subdivision 12](#). All applications must be approved by the county assessor, or, if the property is located in a city of the first or second class having a city assessor, by the city assessor, and by the county auditor before consideration by the county board, except that the part of the application which is for the abatement of penalty or interest must be approved by the county treasurer and county auditor. Approval by the county or city assessor is not required for abatements of penalty or interest. No reduction, abatement, or refund of any special assessments made or levied by any municipality for local improvements shall be made unless it is also approved by the board of review or similar taxing authority of the municipality. On any reduction or abatement when the reduction of taxes, costs, penalties, and interest exceed \$10,000, the county board shall give notice within 20 days to the school board and the municipality in which the property is located. The notice must describe the property involved, the actual amount of the reduction being sought, and the reason for the reduction.

An appeal may not be taken to the Tax Court from any order of the county board made in the exercise of the discretionary authority granted in this section.

The county auditor shall notify the commissioner of revenue of all abatements resulting from the erroneous classification of real property, for tax purposes, as nonhomestead property. For the abatements relating to the current year's tax processed through June 30, the auditor shall notify the commissioner on or before July 31 of that same year of all abatement applications granted. For the abatements relating to the current year's tax processed after June 30 through the balance of the year, the auditor shall notify the commissioner on or before the following January 31 of all applications granted. The county auditor shall submit a form containing the Social Security number of the applicant and such other information the commissioner prescribes.

Subd. 3. **Homestead credit.** Subject to the approval of the commissioner of revenue, the county board shall authorize the county auditor to grant the credits denied under section [272.115, subdivision 4](#), if a certificate of value has been filed with the county auditor. The county board shall not hear any requests under this subdivision after May 31 of the year in which the taxes are payable.

Subd. 4. **Delegation by county board.** Notwithstanding any law to the contrary, the county board may delegate to the county auditor any authority, power, or responsibility assigned to the county board in this section. If delegation is granted under this subdivision, the county board shall prescribe the conditions for the delegation and may revoke delegation without good cause or prior notice. If the county auditor holds elective office,

no delegation shall be made under this subdivision unless the county auditor concurs in the delegation.

History: 1949 c 76 s 1; 1949 c 485 s 1; 1963 c 591 s 1; Ex1967 c 32 art 8 s 4; 1973 c 582 s 3; 1977 c 423 art 4 s 3; 1980 c 607 art 3 s 8; 1Sp1981 c 1 art 8 s 17; 1984 c 629 s 2; 1986 c 444; 1988 c 719 art 5 s 84; art 6 s 16; 1989 c 277 art 2 s 58; 1989 c 329 art 13 s 20; 1990 c 604 art 3 s 38; 1991 c 291 art 12 s 21; 1992 c 511 art 2 s 34; art 4 s 22; 1993 c 375 art 5 s 31; 1995 c 264 art 3 s 26; 1996 c 471 art 3 s 36; 1997 c 231 art 2 s 32; 1999 c 243 art 13 s 19

Copyright © 2013 by the Office of the Revisor of Statutes, State of Minnesota. All rights reserved.

Residential Zoning (R10 and R2) as Defined in Todd County Ordinance

Background

As you know the County has developed a Comprehensive Land Use Plan and revised that plan several times over the years. Based on that plan and input from the public and townships, zoning districts were established for the purpose of protecting the public health, safety, and general welfare of all citizens.

The zoning districts and associated ordinances have served the county fairly well for county government to regulate and guide development over the years. Some problem areas related to land zoning have become apparent over the years and Planning and Zoning staff have worked to address these problems without changing the ordinances too aggressively. One such area is that it does not seem that the original intent of R10 zoning was realized. R10 areas were to be dedicated to rural residential and had restrictions to keep out many activities allowed in AF1 and AF2 such as auction sales areas, feedlots, mini-storages, outdoor recreation businesses, sawmills, etc.. Splitting land in R10 must be completed using the survey and plat process which is more detailed and expensive than the metes and bounds process allowed in AF1 and AF2.

The extent of R2 and R10 zoned land in Todd County is illustrated in the table below as of November 2013. Based on survey results from this past winter - the highlighted townships indicated that they wish to convert their R10 zoned land to AF-2. The four townships listed have 125 parcels of land covering 4017 acres they wish to be rezoned.

Township	R-2 # Parcels	R-2 # Acres	R-10 # Parcels	R-10 # Acres	Total
Grey Eagle	10	314.66	32	874.25	1188.91
Birchdale	2	9.28	17	620.72	630.00
Kandota	16	1922.61	48	1751.69	3674.30
Burnhamville	0	0.00	14	404.04	404.04
Round Prairie	26	274.51	42	1451.92	1726.43
Little Sauk	11	34.43	0	0.00	34.43
Gordon	14	915.94	30	319.65	1235.59
Bruce	2	1.04	0	0.00	1.04
Long Prairie	115	1795.52	3	114.77	1910.29
Reynolds	4	6.00	0	0.00	6.00
Leslie	0	0.00	3	130.65	130.65
Hartford	75	1048.45	44	1533.91	2582.36
Iona	2	0.39	0	0.00	0.39
Burleene	0	0.00	143	5556.73	5556.73
Ward	0	0.00	9	190.90	190.90
Eagle Valley	0	0.00	58	1762.67	1762.67
Wykeham	7	151.83	52	2075.27	2227.10
Bertha	0	0.00	69	2629.71	2629.71
Villard	119	3012.78	37	1287.99	4300.77
Staples	115	2023.99	30	735.91	2759.90
Stowe Prairie	0	0.00	78	2982.91	2982.91

Totals 518 11511.43 709 24423.69 35935.12

Why Consider Rezoning R10 lands to AF-2?

- 1) Three cases in the past year have come forward to the Planning Commission requiring the applicant to rezone their land from R10 to AF-2 to allow their proposed commercial activity. Rezoning will create more land for commercial activity.
- 2) R10 is harder to split – requires a survey and plat process which is more expensive and time consuming for the landowner. In AF2 a survey and plat are not required.
- 3) In R10 the minimum lot size that can be created is 10 acres – many landowners wish to split off their homestead or slightly more (minimum lot size in AF1 and AF2 is 2 acres). The types of splits normally completed such as splitting off a small home site of 2 – 5 acres will be easier to complete.
- 4) Several activities allowed in AF2 with a CUP are not allowed in R2 and R10 zoned land. These include establishment of an auction yard, a feedlot over 10 AU, an auto repair business, a sawmill, storage buildings, outdoor recreation businesses, and campgrounds.
- 5) Changing the zoning does not impact the taxes. If businesses are developed on the land the tax base of the county would increase as improvements are made on the land and the value of these improvements show up on the assessed value of the land. But the zoning change alone would not result in a tax rate change.
- 6) No ordinance change required – R10 in other townships remains intact so all existing ordinances apply.

Steps to Process

1. Completed: Receive input from Townships

2. Completed: Develop a proposal

Propose to change all R10 zoned land in Grey Eagle, Burnhamville, Round prairie, and Villard Townships from R10 to Af-2 zoning effective January 1, 2015.

3. Hold Planning Commission Hearing

Complete mailing to 125 landowners. File and track all comments on issue.

Once Planning Commission is satisfied they could vote to recommend the proposal at a Planning Commission meeting and thereby trigger forwarding the issue to a county commissioner meeting.

4. Bring proposal to a County Commissioner meeting.

Drafted as a resolution and provide an additional opportunity for public comment and input.

If above steps result in a vote to change zoning in the five townships as specified:

1. Request a work order with MIS – GIS staff to make changes in Arcview and GeoMoose maps.
2. Mail notice out to affected landowners.
3. Maps would change by January 1, 2015