

EUREKA TOWNSHIP

DAKOTA COUNTY

STATE OF MINNESOTA

Eureka Planning Commission Meeting of June 1, 2015

Call to Order

Planning Commission Chair Sauber called the meeting to order at 7:00 PM. Planning Commission members present: Chair Sauber, Vice Chair Lu Barfknecht, Commissioner Phil Cleminson, and Commissioner Fritz Frana. Supervisor Carrie Jennings attended as Town Board liaison. See attached sheet for additional persons in attendance. Deputy Clerk Cheryl Murphy recorded the minutes.

Approval of the Agenda

The following items were added to the Agenda under New Business:

- Check Transfers
- Solar Energy
- Comp Plan Timeline
- Ag Building Review and Inspection
- Transfer of Building Rights – Training or Possible Special Meeting
- Watershed Ordinance – Possible Special Meeting
- Minutes - Separate Categories on the Website
- Upcoming Training

Vice Chair Barfknecht made a motion to approve the agenda as amended. Chair Sauber seconded. Motion carried unanimously.

Land Use and Zoning

Darrin Giles Cluster Agreement – 23545 Cedar Avenue South; Butch Hansen – 26120 Highview Avenue; Terri Petters – 10132 235th Street – Preliminary review of Building Transfer of Rights. Discussion took place with the Planning Commission regarding additional items Mr. Giles will need. Mr. Giles to complete the Certification of Intent to Acquire a Residential Building Right. It was also suggested that Mr. Giles become familiar with the Eureka Township Residential Building Right Transfer (Cluster) Procedure and to either download a copy of Eureka Township Ordinance 2013-2014 or request a copy from the Deputy Clerk (for a copying fee). In addition, the bottom half of the Application needs to be completed verifying the quarter-quarter Mr. Giles wants to transfer the right into, and that by doing so it will not break the density cap of four. Mr. Giles to obtain a map of the

entire quarter-quarter section, which contains the parcel proposed to receive the building right of transfer. This may be printed out for free from the Dakota County website in the Property Section. Mr. Giles to request a free Wetland Determination from the Dakota County Soil and Water Conservation District, and will need a copy of the Torrens or a deed. When all the documents are complete, Mr. Giles can come in 10 days before the next meeting and request to have a final review and be put on the Planning Commission agenda.

Living Waters Church – Review Process - Scott Peterson, 22222 Dodd Boulevard;
Dave Tiebrak, Miller Architects and Builders, 3335 West Germain Street, St. Cloud, MN

Chair Sauber talked with Travis Thiel of the Vermillion River Watershed Joint Powers Organization and provided a link referring to Common Plan of Development and its applicability to Living Waters Church. Most of the work is being done inside, so it is not considered an impervious surface. The addition of the parking lot is less than one acre of impervious surface and is not part of a common plan of development. It was stated that all work on the original permit for the house has been completed and approved with the exception of a ramp, and the Church has been given an extension until July 1, 2015, because of bad weather. Conditions were highlighted in the original Conditional Use Permit-the one condition that was not highlighted but was on the Conditional Use Permit, and it *should not* be applied, is Item G on Page 4. The Planning Commission believes this is on the Conditional Use Permit in error. The Planning Commission made a recommendation to come before the Town Board and make a request to have Condition G removed. Additionally, Mr. Peterson will need to apply for the Building Permit for the Worship Building and Fellowship Hall, along with the plans. He can request to be put on the Agenda for the Town Board and also the Agenda for the July Planning Commission Meeting.

Jeffrey and Rose Bucheger – 27250 Hamburg Avenue and James and Shirley Niemeyer – 27125 Hamburg Avenue – Lot Split Approval Recommendation

Two triangular wedges of property are to be swapped because of a driveway. The lot split is pretty straightforward; however some items were missing from the application and will be filled in during the meeting:

- Property ID numbers need to be filled in
- Acreage for each parcel
- Parcels need to be labeled

Vice Chair Barfknecht made a motion to recommend approval to the Town Board of the Lot Split Application of property owners Jeffrey and Rose Bucheger, 27250 Hamburg Avenue, PID 130330001125. Commissioner Frana seconded the motion. Motion carried unanimously.

Vice Chair Barfknecht made a motion to recommend approval to the Board the Lot Split Application of property owners, James and Shirley Niemeyer, 27125 Hamburg Avenue, PID 130330001225. Commissioner Frana seconded the motion.

Motion carried unanimously.

Kelly Aggregate – IUP Amendment – Kelly Brosseth-9235 235th Street West

Chair Sauber recused herself for this portion of the meeting and Vice Chair Barfknecht presided.

Vice Chair Barfknecht stated that the document from the engineer indicates that an EAW was drafted, but there is no copy of that. The engineer stated that the “Production Plant will likely be dry batch.” Vice Chair Barfknecht stated that there is no other option and that we need specifics to update an Interim Use Permit. Mr. Brosseth stated that there are no current plans.

Commissioner Frana stated that after looking at the Town Board minutes that address Windmill LLC and Kelly Aggregate LLC there was a motion made that says, “*the addition of a ready-mix concrete accessory use as proposed is not specifically permitted by the current Interim Use Permit, and shall require a new Interim Use Permit and all procedures shall apply.*” He stated that he wanted to know what paragraph in the Ordinance it applies to.

Vice Chair Barfknecht advised the Planning Commission that the Town Board minutes are draft minutes. Supervisor Jennings stated that Vice Chair Behrendt’s motion and that the addition of a ready-mix accessory use cannot be amended and shall require a new permit. She also stated she was confused by the motion. Vice Chair Barfknecht stated that is not what was clarified to her in the conversation with Chair Budenski. Mr. Brosseth stated that was not what he was directed to do in the last two meetings.

The Planning Commission questioned why the motion was made-in paragraph 2. Supervisor Jennings stated this was a motion by Vice Chair Behrendt and was not motivated by a conversation, but just “came out of the blue” as she recalls. Vice Chair Barfknecht stated we need clarification of the motion and what part of the Amendment it falls under.

Commissioner Frana stated clarification is needed for both Windmill LLC and Kelly Aggregate and which paragraph applies. Mr. Frana read from Ordinance 6 Section 1 Chapter 6. Supervisor Jennings stated that the motions made by Supervisor Behrendt for both Windmill LLC and Kelly Aggregate are exactly the same. She believes Mr. Miller misinterpreted it. Vice Chair Barfknecht stated again that we need to remember these are draft minutes and not approved. Supervisor Jennings stated she did not understand Supervisor Behrendt’s motion. Commissioner Cleminson suggested that in fairness to Mr. Brosseth, the Planning Commission would move this to the Board to clarify the motion.

Commissioner Cleminson made a motion, that the package in front of us for amending the existing Interim Use Permit for Kelly Aggregate and represented by Kelly Brosseth, be moved on to the Board for determination without our recommendation. Vice Chair Barfknecht seconded the motion.

Charlie Liane -- 9020 w 235th Street asked to comment and stated that he appreciates what the Planning Commission is doing and supports Mr. Brosseth. He would like to go on record that he would personally pay for the next six months of mailing out the newsletter by USPS each month so that the residents of Eureka Township are aware of what the Planning Commission and Board are attempting to do. Whatever the costs, Mr. Liane is willing to pay to allow the people of the Township to be informed.

There was no further discussion of the motion on the floor. Motion carried unanimously.

Chair Sauber took back the Chair position at this time.

Town Board Update

Town Board Supervisor Jennings discussed the Fee Schedule for the Watershed Management Ordinance which was reviewed at the May Town Board Meeting.

Approval of Minutes

May 4, 2015 Planning Commission Meeting.

- Page 1, **Election of Chair and Vice Chair** – first sentence, remove the word “*Vice*”
- Page 2, **Land Use and Zoning** – sentence two remove the words “regarding land variance; 4th sentence from bottom of first paragraph, remove “*comma*” after *as well as*
- Page 2 **Town Board Update** – third bullet point, change spelling to Budenski; fourth bullet point, first sentence, add after ahead of time and will “be” considered to be approved; fifth bullet point add after TKDA – Buds and Bytes – “*are stipulated as the engineering planning firm and the IT company for the Township*”; Last bullet point, remove the words “ship” and “City”
- Page 2, **Approval of Minutes** – add comma after *April 6, 2015*, to bold heading, as well as in the first sentence of paragraph 2
- Page 2, **Water Resources Management Fee** – second sentence, remove “*Brian Watson*”
- Page 3, **Old Business, Policies and Procedures**, add the wording, “*All page numbers refer to the pre-existing version of the Manual*”; Bullet point for Page 13, Chapter 3, **Chair Responsibilities**, Change Item A to Item “C”
- Page 4, third bullet point from bottom, Page 31, Creating Agenda, second sentence, change Item 5 to read “*Item 6*”
- Page 5, **Sump Pump Discharge**, second sentence, change verbiage to “*wording*”; **Fences/Setbacks – Items Discussed** – third bullet point, change the word townships to “*communities*”

Chair Sauber made a motion to approve the May 4, 2015, meeting minutes as amended. Commissioner Barfknecht seconded the motion. Motion carried unanimously.

May 14, 2015 Town Board and Planning Commission Round Table Meeting Minutes

- Page 1 - Round Table Protocol, second sentence remove the word “*be*”
- Page 1 – Attorney Contact-Chair Sauber would like the Clerk to go back and listen to the audio recording of that whole paragraph. Chair Sauber feels something was left out that she mentioned and Kenny clarified, and that was the whole point of her comment. Chair Sauber directed that she wanted it clearly stated on the record that anyone who has a question for the attorney and gives it to the attorney contact, the attorney contact is to pass it along to the attorney and the attorney contact is the conduit for billing purposes only. He does not determine whether or not the question should be asked. If anyone has a question for the attorney, they can give it to Chair Sauber or the Clerk and they will pass it on. Need Clerk to capture that.
- Page 2 – Monthly Summary from Planning Commission Chair/Liaison, Sentence 3 “*straightforward*” should be one word.
- Planning Commission Questions and Concerns-Bullet point 7, the Public Comment item was not something Chair Sauber initiated. I believe Supervisor Miller brought that point up referring to what other communities have done in the past. Last bullet point remove the word “*only*”
- Page 3, Bullet point 5 – “*60-day*” should be hyphenated

It was noted that the Commission would not approve these items until the corrections have been made and the minutes will also go before the Town Board.

Old Business

Sump Pump Draft Ordinance

Commissioner Barfknecht put the following Sump Pump Draft Ordinance together and thought it should go at the end of Ordinance 2, Chapter 4 Section 6 – Housing. She incorporated some of the things Building Inspector Gilmer mentioned.

Section 9 – SUMP PUMP

This section is intended to regulate the discharge(s) from sump pump and/or any other sources.

Sump pump systems are designed to capture surface or ground water that enters basements or crawl spaces and pump it away. The basic sump pump system includes drain tile, a sump pit (which extends below the slab and collects surface water that enters the basement/crawl space or groundwater that rises to the slab), a sump pump, a float or switch, and a drain/discharge line. The drain/discharge line should direct sump pump water out of the dwelling, building or structure.

1. Sump pump must discharge water from the dwelling, building or structure directly onto the ground at least 50 feet away from the dwelling, building or structure. It shall not be plumbed in such a manner as to drain through any septic system. The discharge line shall not be nearer than 20 feet from any septic drain field.
2. The discharge line shall be setback no nearer than 30 feet from adjacent/neighboring properties. At no time shall such drainage reach any adjacent/neighboring property. Or,
3. Sump pump must discharge water from the dwelling, building or structure to the nearest storm drainage system or public right-of-way.

If #3 is not considered:

At the time of this ordinance, any permanent discharge lines currently installed to the nearest storm drainage system or public right-of-way shall be registered with the Township (grandfathered).

Commissioner Frana suggested that Building Inspector Gilmer review the draft language and make any other recommendations. Commissioner Barfknecht to forward an email with questions for Deputy Clerk to forward to Building Inspector Gilmer.

Motion made by Chair Sauber for Commissioner Barfknecht to work with the Deputy Clerk in adding questions to the draft ordinance language and forward to Building Inspector Gilmer who has been trained by the JPO and is our septic inspector. Commissioner Frana seconded the motion. Motion carried unanimously.

Fence Research

Commissioner Cleminson was assigned to do research on fences. He passed out some information that was forwarded to him from Commissioner Frana. Commissioner Cleminson to talk with Building Inspector Gilmer to find out what his experience is in other communities with fences along rivers and wetlands. Also what are accepted practices? Is Ag land exempt? What about high-density areas? What are standard practices and acceptable easements for placing a fence? He was open to taking any comments or questions.

Water Resources Management Ordinance Fees

Chair Sauber researched the following:

The following eight townships are those in the Vermillion Watershed in addition to Eureka. The other townships in Dakota County are NCRWMO only.

Four townships, Eureka, Castle Rock, Hampton and Douglas, have both watersheds within their boundaries.

Castle Rock-Looked at Ordinances, could not find information. Called Castle Rock Clerk and Clerk said no fees or escrows

Empire- Ordinance 350, p. 37, referring to SWPPPs

Vermillion- Oddly rudimentary. No mention.

Hampton-nothing noted on building permit site except "site inspection fee" which could encompass the watershed? Within the ordinance, p.32, refers to letter of credit/cash, but references the *SWCD* as "higher authority" to review plans. Can get schedule of fees from Town Clerk upon request. (Have requested.)

Nininger- couldn't find a website

Marshan- References Water Resource Management Ordinance, but not accessible via website. Requested fee schedule from clerk.

Under Subdivision--Financial Assurance. The Township may require cash, cash escrow, or letter of credit from a subdivider to guarantee performance of any improvements related to the subdivision. The form and amount of security shall be determined by the Township.

Ravenna- No mention of a website

Douglas-No mention of a website

The VRWJPO website has a checklist for activities and corresponding Ordinance sections to assist in enforcing the Ordinance. (Also has sample resolution of adoption.) In addition, level of planning effort required.

Building Inspector Gilmer suggested \$180 for three inspections-Chair Sauber suggested that could be an amount in escrow and up to \$1,000 in escrow amount to get an engineer involved or to send something to the JPO. Chair Sauber will finalize something and bring back to the July 2015 meeting.

Discussion on the Water Resources Ordinance. Chair Sauber said the Planning Commission does not know the status of the Water Resources Ordinance and she would like the Board to give direction. Supervisor Jennings will put that on her task list.

Dry Ready Mix Clarification/Public Hearing – Chair Sauber recused herself from this portion of the meeting.

Commissioners Frana and Cleminson questioned the ordinance and discussion was held. It was noted again that clarification would be requested from the Town Board regarding the motion made.

The Planning Commission members and Supervisor Jennings also discussed from Paragraph 2 of subsection B, Section I, Chapter 7 of the Ordinance, the off-site minerals and the percentages of minerals extracted on a yearly basis.

Acting Chair Barfknecht to contact the Attorney to address the following:

- Define structural alterations and examples
- When does paragraph one apply and when does paragraph two apply?
- Have a separate Findings of Fact meeting and ask the Attorney to draw up the Findings of Fact
- Request the Attorney to attend the Public Hearing on June 10, 2015

Chair Sauber resumed her position as Chair for the remainder of the meeting

Old Business

Policies and Procedures Manual –

- Table of Contents – Section I Planning Commission –Change Page 5 to 4
- Page 5 Section 4 – Officers, Rules, Employees, Salaries and Expenses-first line remove extra d in the word “and”
- Page 12, Chapter 5 Open Meeting Law-remove bracketed comments completely
- Page 13, Information Packets, second line after the word packets insert the word “by”
- Page 14, Chapter 5 Zoning Administrator/Deputy Clerk Responsibilities, add new Item B to read, “*Send out an email to the Planning Commissioners as to what Permits and Land Use items have been requested, so if Planning Commissioners want to see the original documents, they can come in to examine them.*”
- Page 14, Chapter 5 Zoning Administrator/Deputy Clerk Responsibilities, Change Item B, Compile and distribute information packets to Item “C”
- Page 15, C – Create meeting agendas in consultation with Planning Commission Chair-Agenda order to read:
 - a. Permit Requests
 - b. Other Land Use and Zoning Items
 - c. Town Board Liaison
 - d. *Minutes Approval*
 - e. *Old Business*
 - f. *New Business*

g. Deputy Clerk Issues

- Page 16, Item A – Remodeling and repair projects, Number 1, second line, insert comma after Generally
- Page 17, top of page, change 3 to “2”
- Page 18, Chapter 2 Procedures for Regular and Special Planning Commission Meetings, Item B Agenda, add at the end of the paragraph, “*Agenda items may be added or deleted during agenda approval section at regular meetings only.*” Italicize the word only.
- Page 19, Chapter 3 Procedures, Number 3 Voting – Deputy Clerk to find the resolution for language that the Town Board adopted for voting and replace Number 3 so we are consistent
- Page 19, Number 5 Italicize the first three words, “*at the request*”
- Page 19, Number 7, add the following after the last sentence, “*The audio recording is to be destroyed after the approval of the minutes from that meeting. Any Data Practices request for an audio recording copy must be made between the meeting in question that you want the recording of, and the destruction of the audio recording after approval of minutes, which usually takes place at the next meeting.*”
- Page 20, Taking Public Testimony, Item B, line 2 – speaker’s list needs to be indented
- Page 21, Minutes, Number 1, strike Town Clerk and insert “*Deputy Clerk*”; second line from bottom, again strike Town Clerk and insert, “*Deputy Clerk*”
- Page 22, Chapter 4 – Public Participation, eliminate first paragraph and also eliminate Item A-changing rest of item numbers appropriately.
- Page 22, Chapter 4 Public Participation-Public conduct (which is now A), 2nd line, change themselves to “*himself*”
- Page 22, Chapter 5 – Procedure for Requesting Attorney Representation at a Meeting, add, “*Any Commissioner may request that the chair ask for attorney attendance at a regular or special Planning Commission meeting. The Chair will email the request to the Board primary Attorney contact person, with the secondary attorney contact person being cc’d on the email. The Planning Commission shall request Attorney presence at all Public Hearings.*”
- Page 28 Appendix D, strike number 2-regarding Vermillion Watershed, changing rest of numbers appropriately. New Item 5, underline “*must be paid at the time of application*”; New number 6, strike Vermillion River Watershed Joint Powers Organization; add “*(CUP)*” after Conditional Use Permit, add “*Interim Use Permit (IUP)*”; last item on list, strike Vermillion River and/or and just leave “*Cannon River Watershed*”. Deputy Clerk to alphabetize the list as well.
- Page 30, Creating Packets, second paragraph, strike Tuesday, one week and insert after 2:00 PM “*on the Thursday*”
- Page 31, Public Hearings, delete item 2 and change numbers accordingly

Ordinance Review

Planning Commissioners reviewed the first three Ordinances and will do the next 100 pages for the July 2015 meeting (through Ordinance 6).

New Business

Check Transfers – Deputy Clerk to check on Building Transfer for Ulman-need to follow up that they have brought in proof that it was recorded.

Solar Energy

Town Clerk received email from Sasha Josephs, Ecoplexus, Inc., regarding permitting for a community solar garden in Eureka Township. They are interested in a property and the permitting process for a 75-acre solar farm. PID is 130020027015. Suggestion to forward the email to the Board and ask for input. Request to add to the Board Agenda.

Comp Plan Review and Timeline

- Planning Commission set draft timeline and submit to Board – June 2015
- Planning Commission to attend Government Training Services session in October 2015
- Receive Board direction in make-up of Special Committee and seek citizen involvement per Board direction – October 2015
- Engage planner to begin comp plan update: November 2015; continue with meetings over next year or so
- Draft plan for public comment - November 2016
- Revised version to surrounding communities for comment (surrounding local government units, Dakota County, school districts, WMO's – February 2017
- Public Hearing – May 2017
- Planning Commission and Town Board approval – June 2017
- Submit to Met Council – July 2017
- Town Board Adoption – October 2017
- Ordinance updates to implement comp plan – 2018

Revise timeline as needed during process

Ag buildings

Chair Sauber discussed talking with the Board at the Roundtable meeting about Ag Buildings not being over-the-counter. The Commission was asked to come up with a statement and send to the Board.

- It is a zoning issue—we need to check the status of the applicant and the acreage. There have been instances where someone only had 10 acres and it was not all in production, so they could not build an Ag building
- Need to check setbacks
- If requesting a building not subject to the Minnesota Building Code, it is not too much to ask them to come before the Planning Commission and the Town Board

- Over-the-counter is not good for this because it is a primary structure. It is not an accessory, such as a deck, nor a maintenance issue, such as a roof.
- We have already had Ag Building exemptions granted to properties that have no Ag going on and we have for Ag buildings that are not being used for Ag.
- It is an opinion held by some that an Ag building has been a means to avoid permitting fees, use oversight or avoiding inspections
- We need to revert from over-the-counter back to the Planning Commission/Town Board approval, which has always been the case.

Chair Sauber made a motion to forward to the Board the rationale presented and advise that they do revert to the Town Board Planning Commission approval. Vice Chair Barfknecht seconded the motion. Motion carried unanimously

Chair Sauber made a motion to adjourn meeting. Commissioner Cleminson seconded the motion. Meeting was adjourned at 9:36 PM.

Cheryl Murphy
Deputy Clerk

Minutes approved by the Planning Commission on July 6, 2015.