

**EUREKA TOWNSHIP
DAKTOA COUNTY, MINNESOTA**

EUREKA TOWN BOARD MEETING

July 10, 2017

Chair Lu Barfknecht called the meeting to order at 7:00 p.m. and the Pledge of Allegiance was given. Town Board Supervisors present were Lu Barfknecht, Dan Rogers, Butch Hansen, and Donovan Palmquist. Supervisor Carrie Jennings was absent. Planning Commission members Nancy Sauber and Ralph Fredlund, Township Attorney Martin Norder, Clerk Mira Broyles and Treasurer Marcia Wilson were also present. See attached list for others in attendance.

APPROVAL OF THE AGENDA

Additions to the agenda were made as follows:

Other Business

- A. Jody Arman Jones – Draft Newsletter
- B. Special Meetings

Motion was made by Supervisor Hansen, seconded by Supervisor Rogers, to approve the agenda as amended. Motion carried 4-0.

TREASURER'S REPORT

The Treasurer's Report was given by Treasurer Marcia Wilson (*see attached report*).

Motion was made by Supervisor Hansen, seconded by Supervisor Rogers, to accept the Treasurer's Report dated July 10, 2017. Motion carried 4-0.

The claims and receipt lists and outstanding invoices were reviewed.

Motion made by Chair Barfknecht, seconded by Supervisor Hansen to approve the claims and receipt lists. Roll call vote was taken. Motion carried 4-0.

Motion was made by Supervisor Hansen, seconded by Supervisor Rogers, to approve the outstanding invoices. Motion carried 4-0.

The budget and escrow accounts were reviewed.

It was noted that a Certificate of Deposit had expired. Current CD rates were reviewed.

Motion was made by Supervisor Hansen, seconded by Chair Barfknecht to authorize the Treasurer to roll the CD over for 5 years at 2.1%. Motion carried 4-0.

Deputy Sherriff Matt Lohman provided a brief update on activity in the area.

Public Comment

None

Citizen Business

Nancy Sauber, 9445 225th Street W., read a statement, *attached as Attachment A*.

Contractor Update

Jason and Bryce Otte, Otte Excavating, discussed ongoing road maintenance and ditch mowing.

Motion was made by Supervisor Hansen, seconded by Supervisor Rogers to pay up to \$4,500 to have trees cleared from the right of way at 235th Street, west of Dodd Road to the Township border. Motion carried 4-0.

Building Inspector Update

Darrel Gilmer, Building Inspector, was unable to be present. Supervisor Hansen provided a brief update regarding ongoing inspections. It was noted that a house owned by Connie Anderson, 25779 Highview Avenue, had been demolished without a permit.

Motion was made by Supervisor Hansen, seconded by Supervisor Rogers to direct the Clerk to send a letter to Connie Anderson regarding the requirement for a demolition permit and septic system abandonment document. Motion carried 4-0.

Discussion was held regarding the State Building Code in conjunction with Township ordinances pertaining to sump pumps.

Consent Agenda

Town Board Minutes

May 8, 2017 Town Board Meeting

Additional information was added to the Building Inspector update on page two in regard to the swimming pool permit process. Additional language was added on page four pertaining to the setbacks from Dodd Boulevard for signage for Living Waters Church. A correction was made on page seven, changing reference to Ordinance 3, Chapter 4, Section 9 to Section 8.5.

Motion was made by Supervisor Barfknecht, seconded by Supervisor Hansen, to approve the minutes of the May 8, 2017 Town Board minutes as amended. Motion carried 4-0.

June 12, 2017 Town Board Meeting

Motion was made by Chair Barfknecht, seconded by Supervisor Palmquist, to approve the minutes of the June 12, 2017 Town Board meeting as presented. Motion carried 4-0.

Planning Commission Update

Planning Commissioner Ralph Fredlund provided a summary of the July 3, 2017 Planning Commission meeting. See *summary attached as Attachment B.*

LAND USE PERMITS

Greg and Suzanne Everson, 9725 280th Street W. – Building Permit Application

Al Maas was present representing the applicant. He provided the required information regarding the distance of the well and septic system from the house. It was noted that the Planning Commission had recommended approval.

Motion was made by Supervisor Hansen, seconded by Chair Barfknecht, to approve a building permit for a single family home for Greg and Suzanne Everson, 9725 280th Street West, PID 13-03100-77-015 subject to review by Brian Watson, Dakota County Soil and Water Conservation District. Motion carried 4-0.

Deb McNab, 26125 Dodd Boulevard – Exempt Agriculture Building Permit Application

Deb McNab was present. It was noted that the Planning Commission had recommended approval of the application.

Motion was made by Chair Barfknecht, seconded by Supervisor Hansen, to approve a building permit for an exempt agriculture building permit for Deb McNab, 26125 Dodd Boulevard, PID 13-03000-27-010. Motion carried 4-0.

Dan Budensiek, 8880 235th St. W. – Building Permit Application

Dan Budensiek was present. It was noted that the Planning Commission had recommended approval of the application.

Motion was made by Supervisor Hansen, seconded by Chair Barfknecht, to approve a building permit for Dan Budensiek to construct a pole shed at 8880 235th St W., PID 130080075110. Motion carried 4-0.

NEW BUSINESS

Scotts Miracle-Gro, 22447 Highview Avenue – Reconsideration of Building Permit Application for Accessory Building

Alex Allen, Scotts Miracle Gro was present requesting that reconsideration be given to his application for an accessory building dated May 23, 2017, which was denied by the Town Board at their meeting on June 12, 2017. The request for reconsideration was outlined in a letter from Scotts Miracle-Gro dated June 29, 2017.

Township Attorney Martin Norder stated their request could be considered an appeal to be handled by the Board of Adjustments and Appeals. Mr. Allen stated the intent of the letter is to serve as an appeal of the denial of the application.

A response to the letter from Scotts Miracle Gro, drafted by the Township Attorney, was reviewed.

Motion was made by Chair Barfknecht, seconded by Supervisor Palmquist, to accept the draft letter dated July 6, 2017 as response to the Scotts Miracle Gro letter dated June 29, 2017. Motion failed 2-2. Aye: Barfknecht, Palmquist. Nay: Hansen, Rogers.

The Settlement Agreement dated September 28, 2010 was discussed.

Motion was made by Supervisor Hansen to approve the building permit submitted on May 23, 2017. Attorney Norder noted that a motion for reconsideration must be made by a member that had originally voted to deny the permit. Supervisor Hansen had voted to approve the original permit. Motion was withdrawn.

Motion was made by Supervisor Rogers, seconded by Supervisor Hansen, for reconsideration the Scotts Miracle Gro application for an accessory building, PID 130050005010. Motion failed 2-2. Aye: Rogers, Hansen. Nay: Palmquist, Barfknecht.

Attorney Norder stated it was not appropriate for Supervisor Hansen to second the motion.

Supervisor Hansen requested that Attorney Lemmons provide a letter to the Town Board within the next 48 hours providing documentation of why Supervisor Hansen would not be allowed to second the motion.

Georgie Molitor, 8875 225th Street, stated that when the settlement agreement was signed she was assured there would be no changes to the property now owned by Scotts Miracle Gro.

Supervisor Palmquist stated he sees a conflict between the Township Attorney's draft letter and the language of the Settlement Agreement. He requested clarification.

Motion was made by Chair Barfknecht, seconded by Supervisor Palmquist to table the issue until the August meeting. Motion was withdrawn.

It was agreed that the clarification of the Settlement Agreement and appeal of the application be on the August 7, 2017 Town Board meeting.

Request by Metropolitan Airports Commission to Use Town Hall for a Public Meeting

It was noted that the Metropolitan Airports Commission has requested use of Town Hall for a public meeting to be held on August 10, 2017 for a public meeting regarding the long term Comprehensive Plan for Airlake Airport.

Motion was made by Chair Barfknecht, seconded by Supervisor Rogers, to allow the Metropolitan Airports Commission to use Town Hall to hold a public meeting on August 10, 2017 provided proper insurance documentation is provided. Motion carried 4-0.

OLD BUSINESS

Follow-up on Dodd Road Project in Regard to Dust Control

It was noted that minutes from the January 14, 2013 Town Board meeting minutes had not indicated discussion regarding responsibility of Dakota County for dust control in conjunction with the Dodd Road project.

Mark Ceminsky, former Town Board Supervisor, stated that he had attended the meeting with Dakota County and they had indicated they would pay for dust control. The Clerk indicated she would review minutes from later in 2013.

Motion was made by Supervisor Hansen, seconded by Supervisor Rogers to write off \$6700 for dust control and extra maintenance in regard to the Dodd Road project. Motion carried 3-0. Nay: Supervisor Barfknecht

Reconciliation – Swimming Pool Ordinance and Ordinance 7

Planning Commission Chair Nancy Sauber noted that permit fees for swimming pools should be based on valuation of the pool, not just an application and inspection fees. The valuation fee schedule that Building Inspector Gilmer uses was requested for the next meeting.

Mark Ceminsky questioned why this ordinance was not reconciled at the time of the Code recodification. He expressed concern over the cost of having new code books reprinted. He also stated he felt a public hearing should be held due to a change being made in the ordinance. Chair Barfknecht noted that a public hearing is not required if the ordinance is not part of the zoning ordinance. Attorney Norder concurred.

Clarification of Requirement for Certified Copies of Deeds for Applications

Planning Commission Chair Nancy Sauber discussed the need for a certified copy of deeds for permit applications, rather than using the information from the Dakota County GIS website.

Mark Ceminsky stated he felt that requirement would be an unjust expense for residents. He noted that other municipalities do not require a certified deed.

Discussion was held regarding the requirement for a certified copy of a deed for only transfer of building rights and other land sale issues.

Motion was made by Supervisor Hansen, seconded by Supervisor Barfknecht to require a certified copy of proof of ownership for transfer of building rights and land sale issues. Motion withdrawn.

Motion was made by Supervisor Hansen, seconded by Chair Barfknecht to accept online property records for building permits unless there is a conflict and then a certified copy of the deed will be required. Motion carried 4-0.

Escrow for Accessory Buildings

Discussion was held regarding the need for an escrow account for accessory building applications. Planning Commission Chair Sauber noted that an escrow policy would not require public hearing. It was agreed that the Town Board will draft language for the policy and each Supervisor is to submit suggestions at the August meeting at which time the Attorney will be asked to draft the policy.

Lift Station L79 Maintenance Update

An update, via an email dated June 29, 2017, was provided regarding Lift Station L79 maintenance of vegetation.

Drainage Issues (Storlie and Jenko Property Update)

Information was provided via an email dated June 30, 2017. A fall meeting with Mr. Storlie and Brian Watson, DCSWCD, is recommended.

Mt. Olivet Retreat Center Dust Control Issue Update

An update was provided regarding correspondence with Mt. Olivet Retreat Center concerning dust control and traffic issues.

Airake Airport Update

Supervisor Hansen stated the Board had not received correspondence from the Township Attorney regarding information provided by the City of Lakeville regarding joint powers agreements. He further requested an update on any meetings that had been held with the City of Lakeville.

Supervisor Palmquist provided an update, stating that a meeting with the Metropolitan Airports Commission (MAC), Eureka Township and the City of Lakeville is to be scheduled.

Mark Ceminsky stated he had provided the Town Board with draft resolutions regarding the annexation issue at the June 12, Town Board meeting. He stated he felt the Township needs to take action and be more aggressive in scheduling a Board meeting with MAC.

The Clerk was directed to provide copies of the documents provided by Mr. Ceminsky and place the Airake Airport Update on the August agenda.

Other Business

Jody Arman Jones reviewed the draft third quarter newsletter.

Chair Barfknecht stated that a special closed meeting for discussion of the ongoing fence issue needs to be scheduled. The Clerk was directed to conduct a Doodle Poll and post the meeting notice.

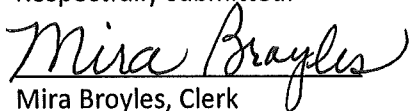
A special closed meeting was scheduled for August 7, 2017 at 6:30 pm for discussion of the annual review of the Deputy Clerk.

Supervisor Rogers requested he be paid for two 8 hour days that he accompanied the dust control truck.

Motion was made by Supervisor Hansen, seconded by Chair Barfknecht, to approve payment of \$200 for Supervisor Rogers' time accompanying the dust control truck. Motion carried 4-0.

Motion was made by Chair Barfknecht, seconded by Supervisor Palmquist, to adjourn the meeting at 10:10 PM. Motion carried 4-0.

Respectfully submitted:


Mira Broyles, Clerk

ATTACHMENT A

Good evening, and thank you for this opportunity to address you as a body, since this is the only place I can do that.

I debated some time about whether to come before the Board with this. I do not like spending my time as a Planning Commissioner or as that body's Chair in this way. However, I would not be saying this here and now if the draft minutes of the May Board meeting and the Roundtable meeting had not (as it appears to me at least) been written selectively, resulting in an unjust circumstance.

At the May Board meeting, there were two citizens who spoke during the public comment period. I felt that their comments were incorrect and misleading. **Since I was giving the PC Liaison report that night, I did not respond during the public comment period, but instead gave a very full and responsive report and explanation of the Commission's stance on the matters raised at the comment time.**

In reading the draft minutes, the two citizens' remarks were there in what I consider misleading detail. My full report? It was reduced to one **non**-informative line: "Planning Commission Chair Nancy Sauber provided a summary of the May 2, 2017, Planning Commission meeting." **What I had stated during my report was important and specific and shed light on the various matters. Yet NO details at all were given!**

Again, the draft minutes of the Roundtable Meeting held **no report** of the various Commission comments and discussion. Those comments and discussion were pertinent to the agenda and were brought up for good reason. The minutes say only "Nancy Sauber initiated discussion on the following" with just a list of the Commission's requested agenda items for that meeting. So the minutes held no more information than the agenda.

Why are some voices virtually silenced in effect, while others' opinions based *at best* on incorrect information are reported? Is this giving citizens a fair and correct understanding of what happened at a meeting? The Township should not be editorializing by omission!

The Planning Commission has a say in the Roundtable meeting minutes as it is a joint meeting. The Board deals with its own minutes, but surely including detail from the Commission report, details that show reasoning for decisions and/or responses to unfounded allegations concerning those decisions is the honest and proper thing to do! I believe the Board recognizes the value of the Commission's report. It ought to be included in the accounting of the meeting.

Here are some details I would like to see included in tonight's minutes:

1) At the May Board meeting, a citizen stated he felt the issue regarding a building right was "being delayed" as the Board of Supervisors unanimously acknowledged the applicants had a building right at the March Town Board meeting.

What he failed to note was that that acknowledgement was, *by Board motion*, subject to documentation being provided. The attorney also made this important point during the May meeting, but *that did not appear* in the minutes either. The Commission was working *with the attorney* on this documentation so that correct procedure would be followed per the Board's own motion. At no time was the intent to be obstructionist!

2) This same citizen claimed the intent or purpose of the ordinances at a public hearing was unclear and "there was no regard for public comment." This is not true. The intent of protecting property rights and welfare is obvious. The reason for the agricultural and horticultural language *was* explained. **There was plenty of regard for public comment.** The Commission listened respectfully to each speaker and the points made. Some adjustments to the ordinance language were made where deemed appropriate based on that input.

This citizen stated "we had someone from _____ (a well-known Eureka business) there."

Yes, that person was present at the hearing *and* the ensuing Commission meeting when discussion of the hearing took place. She did not make any comment or ask even one question. Apparently the proposed ordinance language was clear to her and she had no objection to it.

There was a person who spoke at the public hearing who said he had no problem with the language and that he believed it provided a benefit. How did our public commentator "regard" that individual's input? He said the individual "must have been confused."

When it was questioned and the attorney advised four instead of three opportunities for ordinance language comment, the Commission did exactly that and made every effort to follow protocol and to assure that all in attendance had **every opportunity and all the time they needed to be heard.**

3) The second individual giving public comment at the May Board meeting asked why "Eureka didn't have a culture of helping people" and noted that "personal attacks" must stop.

The Commission bent over backward trying to help the applicants I believe he referred to, giving up meeting preparation time and personal time. As noted at the Roundtable, the Commission's and the Board's job is not to "problem solve" but to explain and clarify the ordinance and procedures. That is what was done.

When directed first to the Clerks, the applicants indicated that the Clerks did not have the information necessary.

Two Commissioners subsequently met with the applicants when the Clerk asked for their help at Town Hall, and explained what can be a confusing procedure to them. When the applicants said they were confused, the answer was, well, it can be confusing; let me go through it again for you. The procedure was explained patiently and multiple times. For example, it was explained how an undeveloped building right would exist and how applicants would have to ask the involved landowner if such a

particular right were for sale. The applicants asked for a list of building rights for sale in the Township. I told them that such a list does not exist, that this is a private transaction, and invited them to stay and check the Township map for undeveloped quarter-quarters and building right possibilities

Actually this transfer procedure was outlined expressly to keep the Township out of personal details. Neither I nor any other Commissioner should be filling out applicants' forms for them. That is not appropriate.

When I was asked a question by the applicant that required a substantive response, I said we would have to deal with that at a meeting as a body. This apparently made the applicant unhappy as she challenged this reply. I then explained the history and the Township policy on not speaking for the body as just one person. At all times, the Commission tries to follow policy. Applicants need to understand that.

4) Regarding the public comment about "personal attacks," I can only imagine what might have been represented to this individual. I do know that I did not receive the courtesy of a call to hear my explanation of the *full background* before he made his public comments.

5) This second citizen stated that the Commission should work with the attorney on building rights. That is **exactly** what we did. Again, he did not call me for clarification although the landowner referenced did and *he and I* had a productive conversation.

6) When an applicant stated a procedure took 8 months, please note that they appeared at a meeting, maybe two, several phone calls were exchanged, ending in a building right sale falling through. Then the Commission heard *nothing* from them for the next 4 or 5 months-their choice. Then they came in again in the spring and it was finalized. To say it took 8 months is wrong.

Citizen applications continue to be submitted to the Planning Commission with mistakes or void of site plans or other information necessary to process the application. This is not just occasionally, but on a regular basis, unfortunately. The Clerks need to be very familiar with the ordinances and policies. I am looking for solutions. If it is a matter of not having enough time to review the applications, perhaps the Board might consider authorizing more hours.

It is not beneficial to citizens to allow them to come before the Commission only to hear that they have not submitted the required information to recommend approval of those applications. When a citizen submits an application and it is accepted, he would have no reason to think it is incomplete if he is not told that right away so he *can* complete it. The applicant most likely believes he is "all set" for the Commission meeting. I would. Too often applicants are not "all set." This cannot continue; it is not good procedure.

Are too many people giving information to the Clerks? Information that is not correct? Perhaps the Clerks should consult with the Chairs of the two bodies or the Vice Chairs if the Chairs are not available.

The accuracy and completeness of the minutes is absolutely necessary. The citizens who are unable to attend the meetings count on accurate and detailed minutes as a resource for information of issues of concern in the Township. **The minutes are the official records of the meetings for the Township. They**

can and have been referred to in court proceedings, for example. This is no light matter.

Last, if I may offer my opinion, I think that government ought to be wary if its different components and bodies are pitted against each other for another's purpose and should react accordingly and be supportive of each other, which I will continue to try to do.

Planning Commission Notes/Annotated Agenda for July 3, 2017 Meeting

Call to Order:

The Planning Commission meeting was called to order at 7:02 PM by Chair Sauber. In attendance were Chair Sauber and Commissioners Funk and Fredlund.

Approval of the Agenda:

No changes were made to the agenda. Motion was made by Commissioner Fredlund, seconded by Commissioner Funk, to approve the agenda. Motion carried 3-0.

Liaison Responsibilities:

In the Deputy Clerk's absence, Commissioner Fredlund will record notes, as well as prepare an Annotated Agenda for the July 10, 2017, Town Board meeting.

Permit Requests:

Greg and Suzanne Everson – Building Permit Application for New Single-Family Dwelling at 9725 280th St. West. The Eversons were represented by their contractor, Al Maas. The PIN was verified as 13-03100-77-015 for this 5-acre parcel. The original application, locked in the Clerk's Office, is said to have a survey with site plan information; no dwellings are located within 250 feet of the proposed house. Motion by Chair Sauber, seconded by Commissioner Fredlund, to forward the application to the Board for their approval. Motion carried 3-0. The Board should note that there is a landlocked 15-acre parcel (PIN 13-03100-77-016) to the north of the Everson's parcel; the Board should contact owners Jeffrey & Jerome Phillipe to resolve the lack of driveway access.

Deb McNab – Ag Exempt Building Permit Application at 26125 Dodd Blvd., PIN 13-03000-27-010, for a 36' x 60' pole shed. It was noted that the application was stamped as received by the Township July 22, 2017, but should read June 22, 2017. The primary use of the property is Ag Green Acres; the application was amended at question #5 to show a primary purpose of "raising or cultivation of agricultural products". The application included the Vermillion River Watershed JPO permit from Engineer Mark Ryan. A site plan was completed by applicant during the course of the meeting. Motion by Commissioner Fredlund, seconded by Chair Sauber, to forward the application to the Town Board for their approval; motion passed 3-0.

Dan Budensiek – Building Permit Application for Accessory Building at 8880 235th St. West. Proposed structure is a 36'x 48' pole shed. Note that application was received by the Township June 22, 2017, not July 22, 2017, as stamped. A VRWJPO permit was not included with the Planning Commission's packet but applicant stated it had been submitted. Motion by Commissioner Fredlund, seconded by

Commissioner Funk, to forward application to the Town Board for their approval subject to finding the VRWJPO permit. Motion carried 3-0. Applicant was reminded that accessory buildings can be used for personal storage only.

Resident Inquiries:

There were none.

Town Board Liaison Report:

Board Chair Lu Barfknecht reported for the Town Board in the absence of Supervisor Hansen. She addressed the Draft Minutes of the May 10 Roundtable Meeting between the Town Board and the Planning Commission; it was acknowledged that the draft minutes needed additional information details especially concerning Planning Commission items. The draft minutes of the June 12 Town Board meeting were briefly reviewed.

Old Business:

Continued Review of TBR Form and Documents with Attorney -

Residential Building Right Transfer (Cluster) Application Form, and the corresponding Procedure – A number of modifications were reviewed; Attorney Lemmons will review further and return to next PC meeting. The need for a stub abstract was explained. A stub abstract will identify if restrictions have been placed on the property. The stub abstract should go back 40 years for forty-acre parcels, and prior to April 1982 for grandfathered parcels. **Town Board Item: the Board should determine if there is a need to establish a procedure to track property restrictions.**

Remodeling or Addition Building Permit Application – Form should be changed to use for remodeling only, with processing by Building Official with all attendant fees.. Remodeling does not require PC or Board approval as long as the footprint is not changed. Additions should be processed on the standard Building Permit Application.

Building Permit Application – Suggested changes include removing the following Types of Work or Types of Structures because they are all covered by other or their own application forms: 1. Alteration/Remodel; 2. Moving a building; 3. Single Family Residential Remodel; 4. Farm Building; 5. Decks; 6. Pools; 7. Signs; and 8. Fences. Changes to various instruction sheets were also noted, including the Site Plan Instructions (back side needs updating by Clerk).

Fence Permit – Wood and cyclone/chain link are the only pre-approved fence materials; other fence materials need review and approval by Town Board.

Application form work continues.

New Business:

Ag Uses and Schedule F – discussion postponed to next meeting.

Chapter 16 of MAT Manual – Brief discussion of Chapter 16, Planning and Zoning. A goal of planning and zoning is to separate different uses. Frequently, municipalities phase from most intensive to least. Comp plan comes first, then ordinances.

Building Inspector Darrel Gilmer – Ordinance Conflicts with MN State Building Codes – Since local building codes cannot be more restrictive than the State Building Code, Inspector Gilmer was asked what problem areas he saw. He stated that fences seven feet high or less are exempt from building codes and building permits, thus he has no authority to inspect them. The permit the ordinance asks for is an administrative permit, not a building permit. He also mentioned sump pumps but needs to review our ordinance to discuss at the next meeting.

Hearing on Town Board Policy regarding Escrows for Accessory Buildings – Attorney Lemmons recommends a hearing but it is not required. **The Town Board should develop draft language for its policy and decide if a public hearing should be held.**

Minutes Approval:

May 2017 and June 2017 Planning Commission Meeting Minutes – Draft minutes are not available yet for approval, but a question arose whether any PC draft minutes are on the Town website.

April 25, 2017, Public Hearing Minutes – reviewed with changes noted on the recording of the meeting.

Liaison Clarifications:

Continue discussion with the Board of need for certified copies of deeds, and reconciliation between pool ordinance and Ordinance 7.

Deputy Clerk Issues:

None

Adjournment:

Meeting adjourned at 9:15 PM

Meeting Notes prepared by Ralph Fredlund