

EUREKA TOWNSHIP

**DAKOTA COUNTY
STATE OF MINNESOTA**

SPECIAL TOWN BOARD MEETING OF JUNE 2, 2020

Due to the Peacetime Emergency and social distancing guidelines, the Town Board Chair has determined it is not practical or prudent to conduct an in-person meeting. Accordingly, under Minnesota Statute section 13D.021, the following meetings shall be conducted entirely through teleconferencing or other electronic means.

Call to Order

The Eureka Township Special Town Board meeting was called to order, via Zoom Meetings, at 6:04 p.m. by Chair Donovan Palmquist.

Supervisors Present: Donovan Palmquist, Tim Murphy, Lu Barfknecht, Ralph Fredlund and Mark Ceminsky.

Others Present: Rane Solis (Town Clerk), Chad Lemmons (Town Attorney), Jeanie Fredlund, Nancy Sauber, Gloria Belzer, Carol Cooper, Georgie Molitor, Colleen Riley and Julie Larson.

Discuss safety issues

Attorney Lemmons announced the purpose is to discuss an incident that occurred at Town Hall after the May 26th meeting. The Town Hall should be a safe, non-threatening environment for all employees, officials and citizens. Supervisor Ceminsky interjected that he requested that this be discussed in a closed meeting as the Board has only heard one side.

Motion: Chair Palmquist moved to schedule a closed meeting for 6:00 pm on June 8, 2020, seconded by Supervisor Barfknecht for discussion.

Supervisor Barfknecht stated that, according to the Minnesota Association of Townships (MAT), the Board cannot have a closed meeting unless it involves litigation, and that an elected official does not fall under the category of personnel. Attorney Lemmons responded that if a complaint is filed against personnel of a governmental agency, discussion of the issue should initially take place in a closed meeting, as has been the town's common practice. If further action is taken, it is up to the subject of the complaint whether an open or closed meeting will take place. The town has relied on a state administrative opinion which decided that a personnel issue involving a councilman was considered to be an employee for personnel purposes. Since councilmen and town supervisors are both elected positions, the same ruling applies.

Supervisor Barfknecht asked if that would prevent the Board from speaking about the other individual that was involved. Attorney Lemmons responded that as long as we're not going to discuss an individual, or actions against an individual, the Board can still discuss what occurred last week. Supervisor Ceminsky added that under state statute, he is considered an employee because he receives a paycheck, pays taxes and receives a W-2. Chair Palmquist agreed to hold off on discussion of the incident until the special closed meeting.

A roll call vote was taken: Donovan Palmquist – Aye; Ralph Fredlund – Aye; Lu Barfknecht – Aye; Mark Ceminsky – Aye; Tim Murphy – Aye. *Motion carried 5-0.*

Adopt Resolution 2020-05 Regular Planning Commission Dates

Motion: Chair Palmquist moved to adopt Resolution 2020-05 setting regular Planning Commission meeting dates, seconded by Supervisor Ceminsky. A roll call vote was taken: Donovan Palmquist – Aye; Tim Murphy – Aye; Ralph Fredlund – Aye; Lu Barfknecht – Aye; Mark Ceminsky – Aye. *Motion carried 5-0.*

Adopt Resolution 2020-06 for Financials at Castle Rock Bank

Motion: Chair Palmquist moved to adopt Resolution 2020-06 authorizing the Clerk/Treasurer to sign checks, transfer funds between accounts and use online payments for designated claims, seconded by Supervisor Ceminsky.

Attorney Lemmons advised that Eureka does not have a Clerk/Treasurer because the positions were previously separated. The Board can only authorize the clerk to deposit funds. The town electors did adopt Option B, which separated the position of clerk and treasurer. Until the town electors agree to combine the two positions, at a special meeting or the next annual meeting, you have two separate positions. In the mean-time the Board can authorize the clerk to collect and deposit funds.

Vice Chair Murphy asked if the town was operating illegally, then, prior to 2014. The town must have adopted Option D at some point, and has never abandoned Option D. Attorney Lemmons explained that the language on the 2014 ballot measure was the exact language mandated by the state to adopt Option B, which is the separation of the position of clerk and treasurer, and was adopted by a majority of the voters.

Vice Chair Murphy offered that it is his understanding that option B is simply appointing, versus electing, a clerk and/or treasurer, it does not separate them. Supervisor Barfknecht agreed that the ballot did not include language from the statute regarding abandoning an option. Vice Chair Murphy further stated that, in speaking with the MAT attorney, option B is not to separate the clerk/treasurer, it is the ability to appoint a clerk and/or treasurer and eliminate elections. The 2014 ballot question for adopting option B, although it might have been the intent, did not separate the positions and has not been reflected in the ordinances ever since.

Attorney Lemmons reiterated that the ballot language was to adopt option B, which is to separate the positions, and was adopted by a majority of the voters. At that time, the purpose of adopting it was to separate the positions, and that has been the basis for the town ever since. Supervisor Ceminsky offered that, in his research prior to the 2014 vote, he discovered that in the early 2000's the Board voted to eliminate the elected positions and change to appointed positions.

Chair Palmquist asked if the 2014 ballot vote resulted in a binding or nonbinding Resolution, as he has not seen any evidence that the Board passed any Resolution to do that. Ordinance 2, Chapter 6, Section 1 of the current Eureka Township Ordinances reads “The offices of clerk

and treasurer have been combined and one person shall be appointed by the Town Board to serve as both the clerk and treasurer”. Attorney Lemmons explained that when the codification occurred, all that was added were the ordinance changes. It must not have occurred to anyone to check to see if there were any elector votes that should also be changed in the code. Although the code never reflected the vote that occurred in 2014, the electors adopted Option B, separating the Clerk and Treasurer.

Supervisor Barfknecht questioned whether option D should have been abandoned as well. Attorney Lemmons indicated that, at that time, the Board took the language from the statute and followed it word for word. The language on the ballot was to adopt option B and, if the electors had not voted in favor of that, the town would have retained option D, which is a combined clerk/treasurer position. Supervisor Ceminsky added that the minutes reflect that separating the positions was always the intent.

Vice Chair Murphy stated that the MAT attorney is advocating exactly the opposite. That we are within our rights to combine the positions because we never abandoned option D.

Chair Palmquist stated that he respects Attorney Lemmon’s opinion but would like to get one more opinion, and directed Attorney Lemmons to speak with MAT attorney, Steve Fenske to get clarification on these two opposing opinions. Supervisor Fredlund reminded that this needs to be resolved in order for the clerk to pay bills next week, recommending that the Board should approve the Resolution without the treasurer language for now.

A roll call vote was taken: Donovan Palmquist – Aye; Tim Murphy – Aye; Ralph Fredlund – Aye; Lu Barfknecht – Aye; Mark Ceminsky – Abstain. *Motion carried 4-0.*

Adjournment

Motion: Chair Palmquist moved to adjourn the meeting, seconded by Supervisor Fredlund. *Motion carried 5-0.*

Meeting adjourned at 6:36 pm

Respectfully submitted,

Ranee Solis, Town Clerk

Minutes Officially Approved By: _____ on: _____
Town Chair Date