

EUREKA TOWNSHIP
DAKOTA COUNTY, STATE OF MINNESOTA

TOWN BOARD MEETING OF OCTOBER 26, 2020

Due to the Peacetime Emergency and social distancing guidelines, the Town Board Chair has determined it is neither practical nor prudent to conduct an in-person meeting. Accordingly, under Minnesota Statute section 13D.021, the following meeting shall be conducted entirely through teleconferencing or other electronic means.

Call to Order

The Eureka Township Town Board meeting was called to order, via Zoom Meetings, at 7:00 p.m. by Chair Donovan Palmquist and the Pledge of Allegiance was given.

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

Others Present: Raneë Solis, Chad Lemmons, Wendy Wulff, Patrick Boylan, Kyle Colvin, Cheryl Ackermann, Lucas Carpenter, Mark Henry, Bryce Otte, Nancy Sauber, Randy Wood, Julie Larson, Bill Clancy, Jody Arman-Jones, Kathleen Kauffman, Mike Greco, Brian Ahern, Jim Sauber and Georgie Molitor.

Approval of the Agenda

A. Add item C. CARES Act funding under Old Business.

Motion: Chair Palmquist moved to approve the agenda as amended, seconded by Supervisor Fredlund. A roll call vote was taken: Donovan Palmquist – Aye; Tim Murphy – Aye; Lu Barfknecht – Aye; Ralph Fredlund – Aye; Mark Ceminsky - Aye. *Motion carried 5-0.*

Metropolitan Council – Township density (Wendy Wulff, Patrick Boylan, Kyle Colvin)

Discussion began with introductions of the Met Council members: Patrick Boylan, sector representative who works with local communities with Comp Plan amendments and environmental uses; Wendy Wulff, Met Council member; and Kyle Colvin, manager of waste water planning community programs, responsible for long-term system planning and service to communities that are connected to the waste water system.

Vice Chair Murphy indicated that, in his opinion, the need for this discussion came about due to interest in the Township, not in housing developments or hooking up to the sanitation system, but existing property owners needing the ability to be able to add residences to their parcels. It appears that the Township wants to remain large-acreage residential. It does not want housing development or heavily populated areas. The Township currently allows up to 4 homes per quarter-quarter and allows them to be clustered, but the only way that is possible is by the transfer of building rights. That has become very complicated for the Township to monitor and control. Our goal here is to attempt to obtain a means to increase density without having to transfer building rights. There are many building rights available, but they are not marketable or acquirable by our

residents. Our property values are being drastically constrained. People who want to build on a forty-acre parcel are acquiring the parcel extremely cheap, which is jeopardizing land values for all residents. There are many residents who own large acres, but someone else has obtained the building right and used it, which renders the rest of the quarter-quarter useless, particularly if it is wooded and not farmable. Our goal is not to jeopardize our agricultural zoning. The goal is to be able to come up with a means to slowly transition to some point in 2040 or beyond when the Township will be forced to rezone. It has become more difficult to track building rights, transfer housing rights and determine our grandfathered Pre-1982 building rights. The goal is to get something reasonable other than the one-per-forty.

Supervisor Ceminsky added that we have been told that we cannot change our Comp Plan, but we can if we provide the proper paperwork to the Met Council. And it would depend on if we are hooking up to the MUSA line or creating sanitary or storm sewer. We would not be asking to hook up to sanitary or storm sewer; we would be asking to increase density to one-in-five or one-in-ten. We are asking for direction on changing the Comp Plan, what paperwork must be submitted, etc., to properly apply.

Commissioner Sauber clarified that no one has ever said that we can't amend our Comp Plan. We can. Whether it gets accepted under the regional systems is something else. In addition, when the Board asked the Planning Commission to look into increasing density, the statement was made that neighboring townships could increase their density. So, the Planning Commission looked at the zoning maps for Castle Rock, Empire and Greenvale and came back to the Board with yes, it has residential zones, but it would be like Eureka is drawing a line around Eureka Estates and calling it a residential zone. It does not change anything on the ground, or anything going forward. Those three townships are, in large part, zoned ag. She asked the Board to refer to page 40 of the Thrive MSP 2040 Plan, specifically noting Table 3, which talks about housing density. She noted that we should be cautious in saying that there is a lot of interest in this without any real data to support it, that may not be necessarily accurate across the Township.

Wendy Wulff responded that Eureka can request a change to its community designation for either a portion of the Township or for all the Township, but she cannot say whether it would get approved or not. Some communities changed their designation during their normal Comp Plan update process, but we have not had anybody lately come through to change outside of the normal ten-year updates. She believes that requesting a portion of the Township would be an easier sell than requesting all of the Township. She does not think the Met Council requires the transfer of development rights. That is a local process that, as far as she knows, the Council does not monitor.

Patrick Boylan agreed with Council member Wulff that the transfer of development rights is a local control. The Council does not by statute, by philosophy, nor by policy weigh in on that. The Township is guided as agricultural with the future land use as one-per-forty. So, it is possible that someone who owns more than forty acres could have more than one homestead. Approximately 9-10 years ago there was discussion about hooking up to the regional sanitary sewer, and the Met Council had cautioned that there would not be a

technical way to support that. Maybe that is where the misconception is coming from that “we cannot change our Comp Plan.” Eureka is certainly able to apply for an amendment. Patrick could walk someone on our staff or a consultant through that process on a later date. Generally speaking, the Council is going to look at it from a technical review analysis perspective. The Met Council will ask questions such as “what is the land use demand?” A lot of thought and research went into the Thrive MSP 2040, which calls for ag. The geographic context is that in terms of development pressure, there is definitely development pressure to the north in Lakeville, to the south in Elko, and to the east in Farmington. That being said, the process would be for Eureka to amend its Comp Plan. Again, as a cautionary point, the Township has recently been through a visioning process and has submitted a Comp Plan, which was reviewed and adopted about two and a half years ago. You are now talking about something very different, a different vision, a sort of allowable residential development pattern.

Supervisor Ceminsky commented that Castle Rock had no issue with amending their Comp Plan to allow commercial in their ag areas. Eureka lost land that was annexed to its neighbors in the north because of our Comp Plan. Why is it that other communities that annex us can make that change but we are told that you’re not sure you would consider it?

Patrick Boylan responded that annexation is a completely different issue. Your fight with annexations is tilted toward a city; for example, Castle Rock toward Farmington. The way annexation works is that the township has less power. There are townships that have incorporated precisely around this issue. Credit River Township is considering this at this time, and other townships have pursued this, precisely for this issue.

Supervisor Ceminsky noted that Castle Rock changed their Comp Plan in 2009 to allow commercial. We tried that but had a lot of resistance. If we are not hooking up to the MUSA system, how much authority does the Met Council have to restrict or say we can or cannot change our comp plan?

Wendy Wulff responded that Met Council is not saying Eureka cannot change its Comp Plan. Eureka can request the rural residential of one-per-ten, but I do not think you are requesting to allow existing lots to be grandfathered in from one acre to two and a half acres. It sounded like what you were requesting was more of a diversified rural, which is one-per-ten. It would be difficult to make the case that you want to take the entire Township to one-in-ten. Doing a portion of the Township is a possibility to ask for, but currently the size of your lots is more controlled by getting a septic permit from the County. It is my understanding that there is nothing right now preventing Eureka from allowing some people to do ten-acre lots as long as the overall density of the Township does not turn into going below one-in-forty. It does not require the transfer of development rights, it just requires some management method by the Township to make sure the Township, as a whole, does not all develop up at one-per-ten, but the preponderance of Township stays agricultural. Eureka could do some now without any change to its Comp Plan as long as Dakota County is okay with giving you a septic permit for ten-acre lots. That is a local issue that the Met Council does not get involved in. If you want the entire Township to be able to go one-in-ten, you have to ask for a change to your Comp Plan. Or if, for example, you want

a large swath of the Township to go to one-in-ten, you would have to submit the paperwork to ask for a redesignation of a portion of your community under the Comp Plan. In this scenario, you would need to think ahead as to where the collector roads would go, so that after 2040, you could still be at a suburban density and maximize the land value.

Commissioner Sauber noted that, back before the Township hired TKDA for its planning and engineering firm, there was big citizens inquiry meeting which discussed the possibility of making part of the Township rural residential and leaving the other part rural agricultural. There was huge backlash from people that would have been in the ag part because they felt that the people in the rural residential were getting an undue benefit for the development of their land. If we are potentially doing what Wendy has just put forward as a possibility, where in the Township are we talking about having this increased development?

Chair Palmquist responded that it would have to be identified. Asking the questions is a good thing. When you do the one-in-ten, you also have to deal with the infrastructure and all of the costs that go along with that. He'd like to know what the demand for it is and what the problem is to be solved.

Patrick Boylan stated that part of the process of amending Eureka's Comp Plan is to have a public hearing where you will find out if there is or is not support. Given that your Comp Plan was just done, I would strongly encourage you to do some envisioning process to understand how much demand there is, if there are existing local controls right now that would allow a few land owners to do what they want to do, or if this is a wide-spread issue within the Township.

Commissioner Sauber offered that Jeff Otto is currently engaged in the tracking of the transfer of building rights. According to his count, we do have 200 native building rights that are undeveloped, and we have approximately the same number of Pre-1982 buildable lots that are also undeveloped.

Supervisor Ceminsky responded that we are always having issues with trying to find building rights. People are not selling them or their lots. If you cannot get ahold of these building rights, there is no growth. The only way to get a real number is to have a public hearing, but we need facts that we can present to them.

Vice Chair Murphy commented that the Met Council has given us something to work on and consider. He does not believe there is anyone in the Township that wants to see us get into any type of significant development. We just want to make the process of being able to have large-acreage residential easier and feasible for existing residents. There is a lot of the land that is not used for ag currently that nothing can be done with without the transfer of a building right. We are just fighting this building right issue and, to Supervisor Ceminsky's point, they are not readily available and it is constraining property values and prohibiting any type of development. We have been flat for ten years in terms of population. We do want to remain predominantly ag but, population-wise, most of our

residences are large-acre, single residential homes. Even if our density was increased by 2040, we're not going to have a significant amount of residential development.

Wendy Wulff reiterated that the transfer of development rights is a local process that the Met Council does not require. If Eureka wants to figure out a different process, that is certainly within its wheelhouse to do. You would deal with Dakota County as far as the number of septic systems. If you have ways to allow a one-per-ten but preserve the woods, the Met Council is not going to oppose that. The Council supports preserving existing woodlands because they are an asset to the region. The only time Met Council would get involved is if you go big with those lots. You can work within your existing authority and potentially work with the County to have smaller lots in selected places without ever coming to the Met Council. But once it becomes more wide-spread, you need the Comp Plan change to allow a bigger part of the Township to go to one-in-ten.

Chair Palmquist noted that, as Commissioner Sauber mentioned, there are currently 400 building rights, and he would wager that a percentage of those will never be used in our lifetime based on the fact that they are ag land. To approach this in a sensible way, you would identify areas in the Township that could handle this. It is up to us how we change the building rights. If we are going to do any of this at all, he sees it happening on a small scale, and only after we have had a lot of public meetings to assess the demand

Commissioner Sauber responded that those building rights can be purchased, as some have. Before, when we had the clustering with 80 contiguous acres, a person who owned that amount could transfer or cluster onto his own property only. The transfer of building rights was put in place to give more flexibility, and still we have only had a few. There again, I wonder about the demand for it. Regarding Wendy's comment about woods, when you tell the person who owns the woods you will not be able to develop this ever, that we are going to preserve that for posterity, you are likely going to get a negative reaction from people. When this was brought up in the past, people were very upset, and it was dropped like a hot potato, because it was deemed unfair that some people should get the added benefit of increased land values and other people should not. A public hearing to determine interest and demand should take place before planning a change to the Comp Plan.

Chair Palmquist commented that we are right on the precipice of stepping off into something that is inevitable but needs to be approached with caution. Having a public hearing, charging the Planning Commission with fact finding before we get into this, and finding out from the meeting what the demand really is are all important. If we have demand for a few hundred people that would be one thing, but only two or three people who are interested in this and I would question the value.

Commissioner Sauber stated that up until now she is unaware of any property owner that has desired to build a house that was told that they did not have soil-boring percolation areas to support a primary and secondary site. When Wendy talks about further development of "neighborhoods", I believe she is talking about three houses per acre that will be able to be fitted economically and feasibly with sewer and water at some point in

the future. That would also constrain, if we were to go ahead with this, who and what and where and how many of these developments could be extra housing units. But, to some degree, you are also telling that land owner that we are going to do it here, but we cannot do it there, because you have this other stuff next to you that will not easily allow sewer and water in the future. So, if you want to do this, you are going to have to do it over on that side of your property. That is going to be quite a hornet's nest to find our way through.

Wendy Wulff responded that she was talking about eventually when Eureka goes to three units per acre and above with sewer. Typically, we have found we would need at least ten-acre lots to make it feasible to subdivide later into urban density of three units per acre or more. It is certainly easier to redevelop large parcels into neighborhoods than it is to do ten acres, but if you have some ten-acre parcels, you can make it work. In Lakeville, we had a couple of property owners next to some lots that were just to the west of Lakeville North High School that had been developed a long time ago, and were anywhere from one-acre to four-acre lots. The Lakeville planning commission spent more than ten years trying to find a financially feasible way to redevelop those lots. Because all their septic tanks were failing, they wanted city water and sewer. If Eureka goes smaller than ten acres with a house on it, it is really hard to do. Lakeville had water and sewer. It was very hard to find a way to make it work, and the only reason it could work, is because Lakeville had so much other growth that they could buy down the cost in the short run and those parcels would pay more later when they subdivided. For a small community to try to retrofit urban sewers into one or two-acre lot development is really hard and expensive to do.

Citizen Inquiry

Cheryl Ackermann – Dog kennel

Cheryl Ackermann inquired about her dog kennel at 26535 Galaxie Ave on Chub Lake. She purchased the property in 2007 with an existing dog kennel. At the time, she was under the impression that the owner had a commercial kennel license. She sold the property to Nassif on a contract for deed in 2009, and in 2011 she got the property back. She has been paying for a kennel license for the past 9 years under the assumption that it was for commercial use. She has since found out that it is for private use and is wondering if she can change to a commercial use and, if so, what the steps are.

Commissioner Sauber noted that at the time the license was granted, the commercial boarding of dogs had been eliminated from our uses. At the time that it was allowed, you would have to have a CUP for a commercial dog boarding kennel. If you look at the minutes, what Cheryl Ackermann has is a private kennel license. Once you have six dogs that are six months or older, owned by the owner, you need to have a kennel license. All dogs must be owned by the holder of the license.

Cheryl Ackermann asked if, since this kennel has 16 runs, she could have 16 dogs. Commissioner Sauber responded that there was no limit placed on it, but she cannot board other people's animals at her facility. We no longer allow public boarding in the Township.

Attorney Lemmons reiterated that she is only allowed a private kennel for 6 or more dogs owned by the property owner. There is no provision in the ordinance for a commercial

kennel. If she wanted a commercial kennel, she would have to apply for a zoning ordinance amendment. Commissioner Sauber added that this entails a public hearing and it is up to the Board, because it is legislative, if they want to change the ordinance. The Township has zoning authority.

Public Comment

**The opinions expressed in public comments are those of the authors and may not represent the official positions of the Town Board. The Town Board does not control or guarantee the accuracy of information contained in the comments, nor does it endorse the views expressed.*

Chair Palmquist opened the floor for public comment. Chair Palmquist asked three times if there were any attendees who would like to make comment and, hearing none, the floor was closed.

Phillipe broadcast tower update – (Luke Carpenter)

Mr. Carpenter provided that the FAA approved the tower from an obstruction stand point, and they are still waiting on the interference study from the FCC. It was finally assigned in mid-September to an FAA engineer to perform the study.

Supervisor Fredlund asked if there was an issue with a building permit extension. Attorney Lemmons responded that, under the CUP permit, the Board can grant up to two 6-month extensions by adopting a Resolution agreeing to the extension.

Supervisor Barfknecht noted that the minutes reflect a previous extension by the Board because we did not want them to have to reapply for the permit and start all over again. Attorney Lemmons commented that, according to the ordinance, they must show substantial progress within 6 months of the original grant of the CUP. Substantial progress is defined in the ordinance as being visible improvements. But the Board has the right to grant two extensions.

Supervisor Ceminsky asked if visual progress is only deemed to be dirt moved on the ground? Attorney Lemmons responded that, according to the ordinance, visible improvements to the property would be moving dirt or building a structure.

Chair Palmquist added that this is a unique situation, the rules were written for other types of development. Since we have granted them a permit to build the tower and we have granted them a CUP, we should just keep extending it until they get it built. Attorney Lemmons restated that the Board has the right to extend it for good cause, and the Board has good cause here.

Motion: Chair Palmquist moved to extend the CUP for an additional six months for good cause, being that they have applied for and are waiting for reports from the federal government which have yet to come, with a report due to the Board at the end of the extension as to the progress of this project, seconded by Supervisor Ceminsky. A roll call vote was taken: Donovan Palmquist – Aye; Tim Murphy – Aye; Lu Barfknecht – Aye; Ralph Fredlund – Aye; Mark Ceminsky - Aye. *Motion carried 5-0.*

Road Report

Road Superintendent – Mark Henry

We had a large snow event with melting throughout the day and instructed the Ottes to plow the developments and hold off until the next morning for the gravel roads. I contacted the Sheriff's Department to let them know we were not going to plow. We have a lot of pot hole issues and the roads will need to be reshaped and re-bladed. We need to keep touching up the roads until they freeze.

Old Business

TKDA – Eureka Estates Project

Chair Palmquist commented that the Board asked TKDA to break down the project into phases. Breaking it up will not only defer the cost over a few years, but will also allow us to get a handle on what fixing one part will do to the other parts.

Supervisor Fredlund stated that the Iceland and Iberia draining issue is the one issue that we are taking care of independently before we have TKDA do anything. He would still like to see a list from TKDA that lists each project that they are proposing. It could possibly be done for a lot less than what they are asking, and be spread over a larger period of time.

Vice Chair Murphy commented that the key here is the funding of it. Their recommendation is a combination of assessment and Township contributions. It would be only fair to all concerned if done as a prioritized package over a period of time. It would be difficult to tackle assessments and Township contributions multiple times.

Supervisor Ceminsky commented that the Board said it would get together with the residents once we got the breakdown from TKDA. He would still like to do that before we make any commitment to TKDA, speak to those residents and get their input. Part of their major project is drainage of the out lots, which are not owned by the Township. If we do not clear those out, if we only work within our right-of-way and easements, how does that affect this project?

Supervisor Barfknecht responded that out lots B & C were initially designated as drainage easements on the plat map. She agrees that the Board needs to get the residents' input on the project, how we are proposing to move forward and how that will affect the residents.

Motion: Supervisor Ceminsky moved to schedule a neighborhood open house on January 13, 2021 at 7:00 pm via Zoom, seconded by Chair Palmquist. A roll call vote was taken: Donovan Palmquist – Aye; Tim Murphy – Aye; Lu Barfknecht – Aye; Ralph Fredlund – Aye; Mark Ceminsky - Aye. *Motion carried 5-0.*

Road Report

Bryce Otte/ Road Committee

Chair Palmquist announced that the Road Committee toured the roads last week and created a list of projects to be done, such as tree trimming and ditch mowing. He now wants the Road Committee to get together with Bryce Otte to prioritize projects for spring.

Chair Palmquist will be reaching out to Dakota Electric to see what they will do with tree trimming in hopes of sharing the cost. Commissioner Sauber noted that many roads have been on the list for tree trimming year after year.

Supervisor Ceminsky asked if they have had the opportunity yet this year to address prepping roads before winter? Chair Palmquist responded that Mark Henry and Bryce Otte have discussed doing this before it freezes.

Treasurer's Report

Net Pay & Claims

Motion: Vice Chair Murphy moved to approve the net pay and claims as submitted, seconded by Chair Palmquist. A roll call vote was taken: Donovan Palmquist – Aye; Tim Murphy – Aye; Lu Barfknecht – Aye; Ralph Fredlund – Aye; Mark Ceminsky - Nay. *Motion carried 4-1.*

New Business

Resolution appointing November 3, 2020 election judges

Motion: Chair Palmquist moved to approve Resolution 2020-12 appointing Julie Larson, Jody Arman-Jones, Susan Rogers, Mary Dawson, Richard Fott, Mary Ann Michels, William Pekarna, Ralph Fredlund, Kris Todd and Laurie Campbell as election judges for the November 3, 2020 General Election, seconded by Supervisor Fredlund. A roll call vote was taken: Donovan Palmquist – Aye; Tim Murphy – Aye; Lu Barfknecht – Aye; Ralph Fredlund – Aye; Mark Ceminsky - Aye. *Motion carried 5-0.*

Old Business

Follow up on complaint at Upper 240th – Incineration business

Although there has been no formal complaint to the Township, Chair Palmquist has talked to the Sheriff's Department and the MPCA. He was advised to contact the fire dept when it is actively burning. He believes that a letter from the Township attorney should be sent to the resident, citing the ordinance on open burning. Supervisor Ceminsky questioned whether we should send a letter without proof, and asked if there has been a police report. Chair Palmquist responded that the resident has been ticketed, and there is drone video of him burning and bringing in junk.

Motion: Chair Palmquist moved to direct the Township attorney to draft a cease-and-desist letter to the resident at 9235 Upper 240th citing the ordinance on open burning, seconded by Fredlund. A roll call vote was taken: Donovan Palmquist – Aye; Tim Murphy – Aye; Lu Barfknecht – Aye; Ralph Fredlund – Aye; Mark Ceminsky - Aye. *Motion carried 5-0.*

Follow up on complaint at MPM – Operating on Saturday

The Clerk forwarded pictures and video provided by Randy Wood and Brian Ahern to the Board and to Mike Callahan. Vice Chair Murphy reminded that, at the previous meeting, MPM stated they did not have special permission, nor were they seeking it, and had requested proof of Saturday operations to address with the trucking contractor. Vice Chair Murphy offered to speak with Mr. Callahan for input.

General Code legal analysis

Attorney Lemmons provided the following recommendations for the legal analysis:

Question 1-007. I have reviewed Minnesota law and can find no definition of family which would apply. Of the three I believe Sample 3 is the best definition. It is broad enough to cover what present society considers to be a “family”. However, it does protect against a landowner claiming on unrelated person renting a room as being a member of the “family” occupying the property.

If you prefer to leave the definition alone, my only recommendation would be to change the initial wording as follows “related by blood, marriage, adoption, or foster relationships.”

Question 5-001. I agree the word “zoning” should be deleted and the Board should simply be identified as “Board of Adjustment and Appeals”. This is consistent with Minn. Stat. § 462.354.

Question 5-002. I recommend adoption of the first option which changes “these Ordinances” to “Chapter 240, Zoning”. This assumes Chapter 240 is the present Ordinance 3.

Question 5-004. I believe the language should be changed. While I understand what is meant by “identified for public purposes”, I can understand why the average person may be confused. I recommend the following: “due to that part of the property being set aside for public purposes the entire property cannot yield a reasonable return to the owner, unless such a permit is granted.” The language “set aside for public purposes” means land set aside for future road easements, parks or other public purposes.

Question 14-001. I see no need to revise this language.

Question 22- 001. The Town Board does have the statutory power to contract for both fire services and police services. Therefore, I would not revise the language.

Question 53-001. I recommend the following language “the offices of Clerk and Treasurer have been combined and the person holding that office shall be identified as Clerk/Treasurer. Said person shall exercise those powers and duties set forth in Minn. Stat. § 367.11 and Minn. Stat. § 367.16 as amended from time to time.”

We had this discussion earlier when the Board decided to appoint Ranee as both Clerk and Treasurer. I point out Option D as set forth in Minn. Stat. § 367.36 does allow for such combination. However, that combination must be approved by the electors pursuant to provisions of Minn. Stat. § 367.31. If possible, we should verify electors have consented to the combination.

Question 132-001. I agree Minn. Stat. § 471.633 has to great extent preempted municipal legislation regarding firearms. I recommend present Chapter 4 Ordinance 4 be changed to read as follows:

“No shooting of firearms shall be permitted within the territorial limits of the Township of Eureka by any person under any circumstances whenever;

- a. A landowner or his guest by express invitation upon lands owned by him may shoot a firearm, provided that no shot, bullet, ammunition, component used shall pass beyond the boundaries of their property, nor shall any discharge of a firearm occur within 500 feet of any building on a joining property or occupied residence nor in any event create a nuisance or a danger to other persons.
- b. By law enforcement or military personal while in the course of their duties. All other shooting of firearms in the Township of Eureka are prohibited.

Sections 2, 3 and 4 shall be deleted as they are in conflict with Minnesota Law. Section 5 can be retained as it is consistent with Minnesota Law. As to Section 6, I believe the Board last year adopted a resolution changing all misdemeanors to petty misdemeanors. The language as updated should indicate a petty misdemeanor and the penalty is a fine not to exceed \$300.00 which is the statutory limit.

Question 132-002. See response to 132-001.

Question 132-003. See response to 132-001.

Question 136-001. I understand the language “a fire burning in matter” is unclear. I suggest replacing it with the following language “a fire means a fire set for the burning of matter”. I believe everyone understands what matter means.

Question 198-003. The language being referred to is Para. D of Section 15, Chapter 2, Ordinance 4. Para. D sets the penalties for violation of any provision of Chapter 2. Not all provisions of Chapter 2 involve violation of traffic laws governed by Minn. Stat. Chapter 169. Note under Minn. Stat. § 169.04 the Town is allowed to regulate the parking of vehicles, traffic control signs and other matters. However, while the Town is allowed to regulate those matters Minn. Stat. § 169.022 does require all penalties be uniform. Therefore, I recommend changing Para. D to read as follows:

“With the exception of those violations governed by provisions of Minn. Stat. Chapter 169, any person who violates this Chapter shall be guilty of a petty misdemeanor and subject to the penalties for such provided in state law. Each day of existence of such violations shall constitute as a separate offense. If convicted the person may be assessed costs of prosecution as allowed by Minn. Stat. § 366.01 Subd. 10.”

Question 198-004. I recommend Para. A of Section 17, Chapter 2, Ordinance 4 be amended to read as follows:

“Is the intent of this Section to supplement the laws of the State of Minnesota, Minnesota Statute Chapters 84 and 168-171 as they may be amended from time to time...”

Chapter 84 of Minnesota statutes does regulate off-road vehicles and is intended to deal with actions that occur off-road Minn. Stat. Chapters 168 deals with vehicle registration; 169 deals

with traffic regulations; and 171 deals with drivers' license. I recommend the first two lines of Para. A of Section 17, Chapter 2, Ordinance 4 read as follows:

"It is the intent of this Section to supplement the laws of the State of Minnesota, Minnesota Statute Chapters 84, 168-171".

Question 240-009. Minn. Stat. Chapter 216F does control wind energy conversion systems. It breaks the system down into categories. The first are small wind energy conversion systems (SWECS) which consist of systems less than 5,000 kilowatts. Second are large wind energy conversion systems (LWECS) which consist of systems more than 5,000 kilowatts. Minn. Stat. § 216F.02(c) states nothing in Chapter 216F precludes local government units from establishing regulations for the siting and construction of SWECS. In the case of LWECS, Minn. Stat. § 216F.04(a) grants the public utilities commission exclusive control over those systems. Permits issued by the Public Utilities Commission preclude and preempt all zoning building and land use of local government agencies. I recommend changing language of Clause 4 Para. C Section 1, Chapter 2, Ordinance 3 to read as follows:

"Wind Energy Conversion Systems (WECS) with a combined name plate capacity of less than 5,000 kilowatts and alternative energy systems, except for wind energy conversion systems with combined name plate capacity of 5,000 kilowatts or more provided that they otherwise satisfy the requirements of Ordinance 3, Chapter 4, Section 14B."

I also recommend changing Clause 1 of Para. B, Section 13, Chapter 4, Ordinance 3 to read as follows:

"WECS shall be considered as a conditional use permit in all zoning districts. All appropriate ordinances within each zoning district must be complied with in addition to regulations outlined below. The Town hereby recognizes and acknowledges pursuant to provisions of Minn. Stat. § 216F.07 all wind energy conversion systems with the combined name plate capacity of 5,000 kilowatts or more come under the sole jurisdiction of the Minnesota Public Utilities Commission, and no provisions of Ordinance 3 shall apply to such systems. This language will apply until such time as provisions of Minn. Stat. § 216F.07 are amended".

I am recommending you add this language for the sole purpose of avoiding any confusion that if a LWCES is proposed to be constructed in Eureka, the developer must apply for a conditional use permit.

The Board agreed to all of the recommendations as listed above.

Holyoke pool fencing complaint update

Attorney Lemmons sent a letter to the resident explaining that a pool cover is not enough; they must also build a fence. Vice Chair Murphy talked to Inspectron and was told that state code no longer requires a fence, and that most municipalities are switching over to allow commercially-installed covers to cover both safety and energy requirements. Vice Chair Murphy concluded that the Board might want to consider this change in our ordinance.

Motion: Chair Palmquist moved to direct the Township attorney to send a letter to the resident stating that the Township is going to take a change in the pool fencing requirement into consideration based on new state statutes, seconded by Supervisor Fredlund. A roll call vote was taken: Donovan Palmquist – Aye; Tim Murphy – Aye; Lu Barfknecht – Aye; Ralph Fredlund – Aye; Mark Ceminsky - Aye. *Motion carried 5-0.*

CARES Act funding

Supervisor Ceminsky requested to use the remaining CARES Act funds to upgrade the Town Hall meeting room with equipment for teleconferencing.

Motion: Chair Palmquist moved to authorize spending up to \$25,000 on upgrading the electronic technology for the Town Hall meeting room as needed by covid 19 issues, seconded by Fredlund. A roll call vote was taken: Donovan Palmquist – Aye; Tim Murphy – Aye; Lu Barfknecht – Aye; Ralph Fredlund – Aye; Mark Ceminsky - Aye. *Motion carried 5-0.*

Adjournment

Motion: Supervisor Ceminsky moved to adjourn the meeting, seconded by Chair Palmquist. A roll call vote was taken: Donovan Palmquist – Aye; Tim Murphy – Aye; Lu Barfknecht – Aye; Ralph Fredlund – Aye; Mark Ceminsky - Aye. *Motion carried 5-0.*

Meeting adjourned 9:10 p.m.

Ranee Solis, Town Clerk

Minutes Officially Approved By: _____ on:

Town Chair

Date