

*EUREKA TOWNSHIP
DAKOTA COUNTY, STATE OF MINNESOTA*

TOWN BOARD MEETING OF February 8, 2021

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 meeting shall be conducted entirely through teleconferencing or other electronic means.

I. Call to Order and Pledge of Allegiance

The Eureka Township Town Board meeting was called to order, via Zoom, at 7:05 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: Chad Lemmons (Town Attorney), Nancy Sauber, Julie Larson, Randy Wood, Bill Clancy, Brian Ahern, Mike Callahan, Lindsay Van Woert, Andrew Gieseke, Pat Mason, Justin Friedges, Dan Ames, Lee Slavicek, Sandra Slavicek, Cindy Trevis, Anthony Trevis, Robert McNearney, Dan Petersen, LeAnn Peterson, Mike Greco, Jim Sauber, Virginia Windschitl, Wayne Windschitl, Gary Smith, Don Holz, Glenda Holz, Jody Arman-Jones, David Frame, and "Jpechacek".

II. Approval of the Agenda

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

III. Public Comment -none

IV. Citizen Business -none

V. Road Report

Road Superintendent, Mark Henry, has been out checking roads. There have been some drifting issues. Denmark from 250th to 280th had an issue, but that has been resolved. The Ottes are spreading chips to reduce slipperiness of the roads.

VI. Commission Update (Sauber)

Commission Chair Nancy Sauber reported that there were two permits addressed: Dan and LeAnn Petersen for an ag building loafing shed and Dan Ames for a new single-family residence. The Ames application requires a condition on the approval

for the \$5,000 escrow to ensure the removal of the existing house that Ames plans to live in until the new house is completed, and the Certificate of Occupancy is issued.

Supervisor Barfknecht gave the Board liaison report.

There were two motions made by Commissioner Clancy concerning amending the Mining Ordinance. Both failed for lack of a second.

The Commission reviewed the Transfer of Building Rights forms and documents. It was requested that Jeff Otto be asked if he would be willing to give a training concerning this topic.

VII. Permit Requests

A. Dan and LeAnn Petersen, PIN 13-02900-58-013, Ag building, loafing shed

Motion by Supervisor Ceminsky to approve the 32'x 64' ag loafing shed for PIN 13-02900-58-013. Seconded by Supervisor Fredlund. Julie Larson stated that she has inspected the setbacks and they are appropriate. **Roll call vote:** Donovan Palmquist, *Aye*; Ralph Fredlund, *Aye*; Lu Barfknecht, *Aye*; Tim Murphy, *Aye*; Mark Ceminsky, *Aye*. **Motion carried 5-0.**

B. Dan and Andrea Ames, 10265 235th St. W., PIN 13-00700-29-020, New single-family residence, escrow

Motion by Supervisor Barfknecht to approve the single-family residence for 13-00700-29-020 with an escrow of \$5,000 to ensure removal of the existing house when new house is completed. Seconded by Supervisor Murphy. **Roll call vote:** Donovan Palmquist, *Aye*; Ralph Fredlund, *Aye*; Lu Barfknecht, *Aye*; Tim Murphy, *Aye*; Mark Ceminsky, *Aye*. **Motion passed 5-0.**

VIII. Treasurer's Report

A. Net Pay and Claims

David Frame, Interim Deputy Treasurer, reported that all PERA, IRS, and State of Minnesota payments have been made. David has talked with Raneé Solis and has been able to reconcile the bank statements and the checks, but not with CTAS yet. David started back at January 2020 and will go month by month to reconcile for the year. Frame also recommended that the change of Township bank wait until Raneé returns.

Mark Ceminsky suggested that David Frame just start at April or May as the earlier months were done. Frame stated that the CTAS reconciliation was an issue for the entire year. He will proceed month by month.

Tim Murphy commented that he had talked with Raneer who is thrilled that David Frame is so well-versed in CTAS as he can mentor her when she returns.

Supervisor Ceminsky asked when the amount being paid to Dale Kuchinka had been approved. Supervisors Palmquist and Fredlund stated that that was in the already-approved budget.

Supervisor Fredlund moved to approve the Net Pay and Claims as submitted. Supervisor Palmquist seconded. **Roll call vote:** Donovan Palmquist, *Aye*; Ralph Fredlund, *Aye*; Lu Barfknecht, *Aye*; Tim Murphy, *Aye*; Mark Ceminsky, *Aye*. **Motion passed 5-0.**

Supervisor Ceminsky asked whether the Township had a copy of the Certificate of Insurance and the W-9 for Dale Kuchinka and Lawrence Tree Service. Supervisor Palmquist said he would check on it.

B. Receipts and Disbursements

Supervisor Fredlund moved to approve the Receipts and Disbursements as submitted. Supervisor Palmquist seconded. **Roll call vote:** Donovan Palmquist, *Aye*; Ralph Fredlund, *Aye*; Lu Barfknecht, *Aye*; Tim Murphy, *Aye*; Mark Ceminsky, *Aye*. **Motion passed 5-0.**

IX. New Business

A. Gravel Pit Reviews

1. Ames/Kelly pit -Pat Mason

There was a discussion of Supervisor Murphy's question as to who checks on materials submitted by gravel pits generally that all that is required is there and accurate.

Pat Mason mentioned that the quarterly cubic yards reports from the County matches for their report. Regarding the water monitoring report, Ames has a licensed engineer do that work. He also stated that it would be in their own best interests to come before the Town Board if there would be a problem. Supervisor Barfknecht stated that the Ames/Kelly pit reports have always been impeccable.

Chair Palmquist said that the gravel pit reviews are approved over the years based on the information submitted. The Board always asks if there are complaints. There are for some pits, but not for others. Some pits have a high impact and others no one talks about.

Supervisor Barfknecht added that if the reports are not complete, the pit must return at the next meeting with completed information.

Supervisor Murphy responded that these comments answered his questions and that the Supervisors are not those responsible for the accuracy of the reports.

Motion by Chair Palmquist to approve the Ames/Kelly pit review aas submitted. Supervisor Ceminsky seconded the motion. **Roll call vote:** Donovan Palmquist, *Aye*; Ralph Fredlund, *Aye*; Mark Ceminsky, *Aye*; Tim Murphy, *Aye*; Lu Barfknecht, *Aye*. **Motion passed 5-0.**

2. **John Storlie/Ames pit** -Pat Mason

Supervisor Ceminsky moved to approve the review. Chair Palmquist seconded the motion. **Roll call vote:** Donovan Palmquist, *Aye*; Mark Ceminsky, *Aye*; Lu Barfknecht, *Aye*; Ralph Fredlund, *Aye*; Tim Murphy, *Aye*. **Motion passed 5-0.**

3. **Vermillion River Aggregates-Dan Ames**

Supervisor Fredlund commented that on a matter that had been brought up last year, Dan Ames bought more land. He has not submitted an IUP application for this land. This is contrary to the Ordinance.

Supervisor Ceminsky stated that he believes this former State of Minnesota pit is a grandfathered gravel pit. Fredlund replied that this pit is not on the list of grandfathered pits.

Dan Ames said that when he purchased the pit, it had been advertised as a gravel pit. It was sold at a public auction. The former number was 2678; the new number is 90-040.

Chad Lemmons commented that some State of MN pits were condemned as borrow pits, and he would have to check its history at the Dakota County Recorder's Office.

Chair Palmquist asked the Township attorney to do so. This will be moved to the second February meeting for follow-up.

4. **Friedges Pit**

There were no complaints. Chair Palmquist moved to approve the review. Supervisor Ceminsky seconded the motion. **Roll call vote:** Donovan Palmquist, *Aye*; Ralph Fredlund, *Aye*; Lu Barfknecht, *Aye*; Tim Murphy, *Aye*; Mark Ceminsky, *Aye*. **Motion passed 5-0.**

5. **MPM (Minnesota Paving and Materials)**

Randy Wood, 23775 Essex Avenue, Farmington, asked the Board not to accept the review. He stated that MPM is not following the Ordinances. He mentioned storage of rubble and cement slabs, concrete crushing, and stockpiles above the berm. He stated that a "selling point" in the presentation by Kenny Miller and LeRoy Chard for the Dry Ready Mix accessory use was that "nothing will hit the ground."

Andrew Gieseke of MPM stated that all concrete was crushed by 2018.

Randy Wood continued that the phasing plan must be followed. There should not be more than 10 acres exposed to extraction at any one time. October satellite pictures show a large, deeply excavated area next to the berm within 100' of a home. Pictures presented by Mr. Wood were on the Zoom screen. He had also submitted a letter with citizen signatures. (See attachments.)

Brian Ahern, 6215 235th St. W., Farmington, read a letter and had submitted a citizen-signed petition as well. (See attachments.) Mr. Ahern stated that at every review of this pit, citizens were told that it would get better. MPM can move the cement plant back at any time. He mentioned the complaint filed about Saturday activity. This covered the time from July, August, and the first half of September. This was evidently done by a subcontractor. MPM is responsible for its subcontractors. Reclamation has not been done by phases. There was no request for weekend work made in 2018. The Township was assured what that there would be no work on weekends ever again. It happened again in 2020. Citizens have endured a history of violations of the Ordinances.

Gary Smith, 4628 235th St. W., Farmington, commented on the situation with what he sees as the lack of weed control on the berms. He had called Andrew Gieseke about this and was assured that it would be taken care of. Through three crops of hay, Mr. Smith stated that there was no weed control done. He stated that every time there has been a review for this pit, he has attended the Board meetings and complained about the weeds. Smith commented that he has been hearing a lot of jake braking, that a nearby residence had the driveway paved in exchange for allowing mining activity within the 1,000' setback, and the scale is not working at the pit. He said that the MPM people do not live in the Township and are here just to make money. (See attachments.)

Mike Callahan of MPM rebutted the remarks. He stated that MPM signed the lease for the pit in 2017. At that time, it was noted that there had been *no* weed control done. MPM contracted with an outside company concerning the spraying of the weeds. Spraying was done twice, with the company stating that a third spraying was not needed.

Regarding the activity within the 1000' setback, Callahan stated that it is in the IUP and the Development Agreement that this can be done with the okay of the concerned landowner. This stands today, Callahan commented.

Regarding the hours of operation, MPM had a contractor on Saturdays. The contract stated that there would be no hauling on Saturdays. Had they found out earlier, Callahan stated, they would have taken care of it earlier.

Regarding reclamation, Callahan commented that the history of this pit goes back to 2007. He stated that MPM has been reclaiming what they have excavated, and they do plan on more reclamation in 2021.

Callahan stated that any mining equipment can be stored on the site. Randy Wood commented that the material he is complaining about is inoperable and has been sitting there for five years. Callahan replied that LeRoy Chard, the owner of the property, had talked to Chad Lemmons about these materials. Mr. Lemmons stated that he had told Mr. Chard that he needed to attend a Board meeting about this topic. Callahan commented that the concrete was not a violation, the iron was cleaned up, and the septic tanks were taken care of.

Andrew Gieseke reiterated the information about the weed spraying. He stated that Callahan and he had sprayed and that they got a professional's opinion as well. They plan to spray again in 2021. They will do any spot spraying themselves. North of 235th St. W., there are thistles in the ditch, and he believes it is on the Township to spray these weeds. Seeds from those plants can spread in all directions. Gieseke stated that they were working with LeRoy Chard about what was his property on the site and that these things take time. He stated that some of the pictures presented were from 2016 and 2017. MPM took over the operation of the pit in 2017. The site has been cleaned up.

Supervisor Barfknecht had looked back over the review of the pit from 2019 and the minutes related to the pit. She recapped the salient points of this matter. In February, there had been comments from Randy Wood and Brian Ahern. In March, Clint Allen and Mike Callahan were in, and there were additional comments from Wood and Ahern.

There were no weigh tickets as materials were not sold. The use fell short of 49% for the primary status. The Ready-Mix plant was an accessory use only. In April, there was Saturday activity, and the Township was assured it would not happen again. The pit was still out of compliance, Barfknecht stated. On July 8th the attorney was tasked with sending a letter to MPM stating that they were out of compliance. At a July Special Meeting, Barfknecht stated, they were still out of compliance. MPM agreed to submit monthly reports. The Township received two. A report was received in October of that year. In January of 2020, there was a request from MPM for a moratorium. They were advised that they needed either a new or an expanded IUP. There were Saturday activities in August and September. Without an approved review, Barfknecht stated that it does not make sense to request an expanded IUP.

Supervisor Palmquist said that Supervisor Barfknecht's review was helpful. Forty-four residents signed the petitions.

Chad Lemmons went through the proper procedure in the Ordinances concerning revoking an IUP. He stated that the Board had not determined that any of the alleged violations were “critical” in nature. He stated that he would collect the related letters and send them to the Clerk. He recommended that the Board table the topic until its next meeting.

Supervisor Barfknecht said that she would send the minutes list that she reviewed to the Clerk who can then forward to Chad.

Supervisor Barfknecht moved to table the review for MPM to the second meeting in February. Supervisor Ceminsky seconded the motion. **Roll call vote:** Donovan Palmquist, *Aye*; Tim Murphy, *Aye*; Lu Barfknecht, *Aye*; Mark Ceminsky, *Aye*; Ralph Fredlund, *Aye*. **Motion passed 5-0.**

B. RFPs

Supervisor Fredlund advised that the RFPs for gravel, road maintenances, street sweeping, and dust control were to be sent to the Road Superintendent for his input, Supervisor Ceminsky moved to table those RFPs to the next meeting to allow for the Road Superintendent’s input. Seconded by Supervisor Barfknecht. Because the discussion moved right into the grounds maintenance RFP, *a vote was not taken on this motion.*

Supervisor Ceminsky requested changes regarding the landscape beds, edging, and rock on the grounds maintenance RFP. He asked for a separate section on “Landscaping Beds,” and the inclusion of a few items he had suggested for the upcoming year’s RFP, such as stump grinding. He then moved to modify the RFP as he had specified, to be looked at again at the next meeting. Supervisor Barfknecht seconded the motion. **Roll call vote:** Donovan Palmquist, *Aye*; Lu Barfknecht, *Aye*; Mark Ceminsky, *Aye*; Tim Murphy, *Aye*; Ralph Fredlund, *Aye*. **Motion passed 5-0.**

C. Transfer of Building Rights - forms and summaries

Supervisor Ceminsky raised the question as to what were the changes that had been made. Commission Chair Sauber gave information about the changes and the history of these documents and their review. Supervisor Barfknecht noted that the Ordinance reference on the summary that was discussed at the previous Planning Commission meeting was not added.

Supervisor Ceminsky moved to table the review until the next meeting so the changes can be highlighted. Supervisor Barfknecht seconded the motion. **Roll call vote:** Donovan Palmquist, *Aye*; Ralph Fredlund, *Aye*; Mark Ceminsky, *Aye*; Tim Murphy, *Aye*; Lu Barfknecht, *Aye*. **Motion passed 5-0.**

In the meanwhile, the Attorney will update the clustering agreement form with the firm’s new address and send to the Clerk.

Supervisor Ceminsky questioned the timing of the Jeff Otto presentation on building rights and housing density. He suggested that this be put off until after the elections. Commissioner Sauber replied that the Township currently has two inquiries for these transfers. If the applications come in in early March, then what? She favored scheduling the seminar now. Commissioner Wood reminded those at the meeting that, since this will be done via Zoom, the recordings of Jeff's presentation can just be saved for any new members of the Commission or the Board. Sauber asked that those who had not gotten back to her yet concerning date availability to please do so, so the meeting can be scheduled and properly posted.

X. Old Business

A. Annual Meeting

The advice from the MAT attorneys and the Township attorney is that the levy and other votes cannot be taken via Zoom. The Clerk can open the meeting, and citizens actually present can elect a moderator. The Board can recommend that the meeting be recessed to a later date, time, and place. The citizens present can make that motion and vote on it.

The Board of Canvass must still be held as usual.

An explanation about how the Annual Meeting will work this year will be posted on the website.

B. State Grant for Roads

Chair Palmquist reported that since the Township has a project and engineering (Eureka Estates), it has "a foot in the door" for the grant. This topic will be on the agenda for the next Town Board meeting. Palmquist will be talking to Todd Howard at the County about where this stands.

C. Newsletter

The following items were discussed as needed in the newsletter: the election, Transfer of Building Rights, Annual Meeting, reminder about not plowing snow across roads, clean up by mailboxes.

D. Water Entities and bringing in fill (Palmquist)

Donovan Palmquist reported that once a property owner brings in more than 100 cubic yards (approximately 10 dump truck loads), the appropriate agency should be contacted to see if a permit is necessary. This information will be posted on the website. It was suggested that this information be put in the newsletter as well.

E. Eureka Estates

This goes back to "B." After Chair Palmquist talks with Todd Howard, he will be in contact with Kevin Pittelko at TKDA to let him know where this project is at.

XI. Other Business

The Dakota County Association of Township Officers Meeting will be held on Saturday, March 20, with the option of in-person or Zoom.

XII. Deputy Clerk

Items covered were election judges for two upcoming elections, the need for a new shredder and an ad for the Deputy Clerk position.

XIII. Minutes Approval – January 25, 2021

Supervisor Barfknecht noted a comma that should be a period. Supervisor Ceminsky moved to approve the Town Board minutes for January 25, 2021, as amended. Supervisor Murphy seconded the motion. **Roll call vote:** Donovan Palmquist, *Aye*; Ralph Fredlund, *Aye*; Tim Murphy, *Aye*; Lu Barfknecht, *Aye*; Mark Ceminsky, *Aye*. **Motion passed 5-0.**

XIV. Recap of assignments from the meeting

The attorney and Supervisors detailed what they are to follow up on for the next meeting.

XV. Adjournment

Supervisor Ceminsky moved to adjourn. Chair Palmquist seconded the motion. **Roll call vote:** Lu barfknecht, *Aye*; Tim Murphy, *Aye*; Mark Ceminsky, *Aye*, Ralph Fredlund, *Aye*; Donovan Palmquist, *Aye*. **Motion passed 5-0.**

Meeting adjourned at 9:48 p.m.

Respectfully Submitted by Nancy Sauber, Interim Deputy Clerk.

Deputy Clerk

Board Chair

Approved on _____, 2021.