

EUREKA TOWNSHIP
Dakota County, State of Minnesota

TOWN BOARD MEETING
OCTOBER 25, 2021 – 7:00 P.M.

Call to Order

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

Supervisors Present: Donovan Palmquist, Ralph Fredlund, Lu Barfknecht, Nancy Sauber and Kathleen Kauffman.

Others Present: Rane Solis, Chad Lemmons, Tim Murphy, Randy Wood, Steve Kimmel, Pam Cappetto and Deputy Mike Vai.

Zoom Attendance: Julie Larson, Brian Ahern, Georgie Molitor, Gloria Belzer, Deb Burkhardt, Carol Cooper.

Approval of the Agenda

The following changes were made to the agenda:

1. Add item 1. Comments under Attorney Items A.
2. Add item E. Update on fascia repairs under Old Business.

Motion: Supervisor Sauber moved to approve the agenda as amended. Seconded by Vice Chair Fredlund. *Motion carried 5-0.*

Sheriff's Department Update – Deputy Mike Vai

Deputy Vai stated he had no items to report and asked if the Board had any questions. Chair Palmquist asked if there were any recent reports of bad road conditions in the Township. Deputy Vai noted that at roll call those items are usually passed on but there have been no reports. When asked if there were any updates on the Petter case, he advised the Board to reach out to the County Attorney.

Road Report – Ralph Fredlund

Eureka Estates drainage issue – 2nd quote

The Board agreed to publish an RFP for two weeks to obtain a second quote for the ditch work in Eureka Estates.

Supervisor Sauber requested the Treasurer invoice Scotts Miracle Gro for dust control as part of the settlement agreement.

Crack sealing – 2nd quote

The Board agreed to wait until spring to obtain quotes for crack sealing in Eureka Estates and Jersey Court.

Complaint regarding missing yield signs on 265th west of Fairgreen

Vice Chair Fredlund reported that the yield signs on 265th to yield to traffic on Fairgreen are missing. Mark Henry recommended placing stop signs on Fairgreen instead.

Motion: Vice Chair Fredlund moved to place stop signs on Fairgreen at 265th Street. Seconded by Supervisor Sauber. *Motion carried 5-0.*

Complaint regarding dust control on 225th and Highview

Semis, in general, kick up a lot of dust. If it prohibits visibility, drivers need to slow down.

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 and asked three times if there were any attendees who would like to make comment. Hearing none, the floor was closed.

Citizen Inquiry

Trees not trimmed, hanging over property line – remedies available

The Clerk received an inquiry requesting available remedies for trees hanging over a property line. The Board agreed that Eureka's Ordinances do not address this, but state statutes allow for trimming of trees that overhang a property. Advise the resident to consult his/her attorney on how to proceed.

Planning Commission Update

Summary of the October 19, 2021, Special Planning Commission meeting

The Planning Commission recommended approval of the revised application for Parker Properties increasing the size of the garage, subject to additional permit fees.

Permit Requests

Parker Properties, 27511 Denmark Ave, PID 13-03600-75-012 – Revised application

Motion: Chair Palmquist moved to approve the revised application for Parker Properties at 27511 Denmark Ave with PID 13-03600-75-012. Seconded by Supervisor Barfknecht with a friendly amendment by Supervisor Kauffman that it is subject to an additional permit fee as assessed by Inspectron. *Motion carried 5-0.*

Treasurer's Report

Net Pay and claims

Treasurer Solis presented net pay in the amount of \$2,087.84 and claims in the amount of \$858.98.

Motion: Supervisor Sauber moved to approve the net pay and claims as presented. Seconded by Vice Chair Fredlund. Roll call vote: Donovan Palmquist – Aye; Ralph Fredlund – Aye; Lu Barfknecht – Aye; Nancy Sauber – Aye; Kathleen Kauffman - Aye. *Motion carried 5-0.*

Attorney Items

TC Construction permit – variance memo

Chad Lemmons advised that at the October 12, 2021, Town Board meeting, there was discussion concerning the need for a conditional use permit pursuant to Ordinance 3, Chapter 2, Section 1(C)(8), or in the alternative, if a variance should be granted. The basis for considering either a CUP or a variance was the requirement set forth in Ordinance 3, Chapter 3, Section 4, which states that lot width shall be at least 250 feet at the dwelling setback. However, the Ordinance does not identify which setback (front, side or rear).

The Ordinance in question is clearly ambiguous. Because the Town created and adopted the language of Ordinance 3, interpretation of the Ordinance will be strictly construed against the Town and in favor of the property owner. Furthermore, the interpretation would be one that is least restrictive to the rights of the property owner. See *Franks Nursery Sales Inc. v. City of Roseville*, 295 N.W. 2d 604 (Minn. 1980). The Town must apply the least restrictive interpretation, which would be measuring the setback along Galaxie Avenue. By relying on 265th St. to determine the setback, the property owner would be required to either obtain a conditional use permit or a variance. However, if you treat Galaxie Avenue as being the “front” of the lot, neither a conditional use permit nor a variance would be required.

Motion: Vice Chair Fredlund moved to correct the language of the motions made at the October 12, 2021, Town Board meeting regarding the TC Construction application by removing language regarding a CUP or variance, as they are not needed. Seconded by Chair Palmquist. *Motion carried 5-0.*

Supervisor Sauber requested that her rebuttal email be attached to the minutes.

Administrative Hearing system

Motion: Supervisor Kauffman moved for Chad Lemmons to draft an Ordinance allowing for an administrative hearing system for review at the next Town Board meeting, to then be submitted to the Attorney General for approval. Seconded by Supervisor Sauber. *Motion carried 5-0.*

The Board discussed drafting a model letter that will ensure communication between the Board and the subject of complaints.

Complaint follow-up: 25500 Highview Avenue

Chad Lemmons advised that he received a letter from the residents’ attorney stating they are keeping a backhoe on the property for personal use. He does not have a date when the use will end. If the backhoe is there for personal use, we would have a tough time enforcing.

Complaint follow-up: 24230 Holyoke Path

Steve Kimmel explained that he had a temporary fence in place during pool construction. He was then told by the building inspector that he could take the fence down because the pool cover satisfied the safety requirement. Supervisor Kauffman advised that he has the right to request a text amendment to allow for pool covers in lieu of a fence. However, there is a cost and no guarantee of it passing. Chair Palmquist noted the Board was looking into the timing of when the state law changed. Mr. Kimmel responded that the Building Code was amended

to allow for pool covers in 2017. Chad Lemmons advised that the question is whether the Building Code covered pools at the time of application, and if so, what did the Code require? If the Code covers it, it supersedes the Ordinance. If the Code is silent, local Ordinance applies. At one time, the Code provided for either a cover or a fence, but now it is not addressed at all. At the time of construction Mr. Kimmel complied with the State Building Code. If the Code was subsequently altered to remove pools from it, the Board cannot retroactively apply the Code and now require a fence. Chair Palmquist noted the ASTM standards for a pool cover must be met. The Board requested that Mr. Kimmel provide the specs for his pool cover to the Clerk.

Motion: Supervisor Sauber moved for Steve Kimmel to turn in the specs for his pool cover and he should be allowed to continue based on the timing of the Building Code alteration. Seconded by Supervisor Kauffman. *Motion carried 5-0.*

The Board asked the attorney for an update on the outstanding complaints. Chad Lemmons offered to draft model letters for the Board to review at the next meeting; one letter for the initial contact and one for the second contact.

Old Business

Dakota Electric – Energy Wise Rebate/Quote to replace lights to LED

The Clerk was advised to go through Dakota Electric for replacing the lights in order to obtain the rebate, but to get two quotes from electricians.

General Code ordinance draft

At the February 13, 2017, Town Board meeting, the Board adopted Resolution 2017-01 Recodification of the Eureka Township Ordinance. The Board requested Chad Lemmons contact General Code to reach an understanding regarding updating the Ordinances from 2017 forward.

Septic pumper list / notice

Chad Lemmons advised that the Township would have to obtain administrative search warrants and have separate hearings for each delinquent resident in order for the Township to pump noncompliant septic tanks. The Board requested Chad Lemmons speak with the County regarding enforcement.

Bachman's watershed

The Clerk was directed to place a copy of the watershed approval in the property file.

Soffit repairs

Vice Chair Fredlund completed the soffit repair on the south side of Town Hall and noted fascia issues around the rest of building. The wood is rotting behind the fascia on the east side which will need to be replaced when the roof is replaced.

New Business

9125 250th – Shoreland disturbance

Supervisor Barfknecht reported that a large manure pile was moved away from the Vermillion River as directed by the Minnesota Pollution Control Agency. The residents have one year to remove it from the property. There are questions regarding whether it is 1,000 feet from

abutting properties and if they have a feedlot designation. Supervisor Barfknecht volunteered to look into this.

Clerk Matters

- Castle Rock Bank accounts have been closed and the balance has been moved to the New Market checking account.
- Researching options for reinvesting the CDs.
- For social distancing measures, the Board requested the Clerk check into ordering two additional desks for the meeting room using ARPA funds.
- The Board requested the Clerk obtain pricing for six new chairs.

Adjournment

Motion: Chair Palmquist moved to adjourn the meeting. Seconded by Vice Chair Fredlund.
Motion carried 5-0.

Meeting adjourned at 9:52 p.m.

Respectfully submitted,

Ranee Solis
Ranee Solis, Town Clerk

Minutes Officially Approved By:  on: 12/13/21
Town Chair Date