

EUREKA TOWNSHIP

Dakota County, State of Minnesota

TOWN BOARD MEETING DECEMBER 27, 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: Ranee Solis, Chad Lemmons, Mike Megan, Stacy Shaw, Nathan Shaw, Bill Clancy, Randy Wood.

Zoom Attendance: Mark Luostari, Simon Tyler, Brian Ahern, Deb Burkhardt, Julie Larson, Theresa Larson.

Approval of the Agenda

The following changes were made to the agenda:

1. Add under Old Business item C. Roads – Pflaum public comment
2. Add under New Business item A. Citizen input policy standards

Motion: Chair Palmquist moved to approve the agenda as amended. Vice Chair Fredlund seconded. *Motion carried 5-0.*

Sheriff's Department

Deputy Vai had no news to report.

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

Michael Meyer, 27345 Highview Ave – Lot split/housing rights transfer

Mr. Meyer stated that he met with the Planning Commission earlier this month because he is considering the purchase of the entire NE quarter of section 32 owned by the Jim Benson Trust. The 160-acre parcel currently has one PID number with two residences on it. He wants to ensure that there would be two building eligibilities remaining. The Board agreed that with two houses on 160 acres, the parcel has two remaining housing rights.

Mr. Meyer was advised to complete a lot split application and transfer of housing rights application stating the quarter-quarter sections of the sending and receiving parcels.

CUP annual review

Prairie Creek School – Simon Tyler

Simon Tyler, Director of Prairie Creek Community School, was in attendance for the annual review. Supervisor Sauber asked if Mr. Tyler has turned in documents to demonstrate compliance with the CUP conditions. To continue to qualify as a school under Township Ordinances, any school must demonstrate compliance with all applicable requirements for the previous school year. Mr. Tyler responded that when questions have arrived in the past he directed the Board to the website where all of the annual reports and public-school compliance documents are held. Supervisor Barfknecht assisted the Clerk in displaying the PrairieCreek.org website. The Board verified that the necessary information is located on the webpage.

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.

Motion: Chair Palmquist moved to approve the CUP review for Prairie Creek School. Vice Chair Fredlund seconded. *Motion carried 5-0.*

Old Business

Stacy and Nathan Shaw, 8802 250th St. W. – Accessory building compliance

Supervisor Sauber asked Mark Luostari of Inspectron if he sees any problem between the Building Code of Minnesota and the Township definition of building which reads “Any structure having a roof which may provide shelter or enclosure of person, animals, chattel, or property of any kind and when said structures are divided by part walls without openings, each portion of such building so separated shall be deemed a separate building”.

Mark Luostari responded that he did to some extent. There are three definitions we can work with on this: 1) Floor area, which measures the inside of the walls, but not including the walls. 2) Building area, which is the floor area but also includes an area that has a roof over it. 3) Then you have to look at the purpose of the lean. The Building Code is not specific on what part of a roof is considered building area or floor area.

Supervisor Sauber asked how Mark Luostari determined that the purpose of the lean was to shield the dirt and why he arrived at this position. Mark Luostari responded that every building is going to be different. Every project is going to be different. This is his position because it can be considered by the MN State Building Code as an awning, which means it is just protecting the ground. This is exactly what the lean is doing. It does not appear that the open lean is ever going to be enclosed for another purpose. If it was on a different building where the activity there would more than likely enclose that part, and it would be storing equipment and machinery that hold gasoline, then it would be completely different.

Supervisor Sauber noted that a pickup truck has been parked under the open lean for a number of days, providing shelter, and asked if that would make a difference.

Mark Luostari responded that there is no enclosure, the truck is just being protected from the weather. Technically, a lean on a building is not going to be considered as square footage of a building.

Supervisor Sauber noted that at one point the Board was given information that it would be up to the Board to determine whether the open lean would be included in the total building square footage or not and asked if that was correct. Supervisor Kauffman clarified that she had a conversation with Mark Luostari where he said there was some ambiguity in the Building Code and, therefore, the Board might be able to choose how they were going to pick between two ambiguous interpretations.

Mark Luostari offered to reach out to Tim Manns and Scott Wheeler from the Department of Labor and Industry and ask them to state their opinion on whether an open lean counts as square footage. He was also asked to present them with whether or not the Board can determine whether the open lean would be included in the square footage given that this may be an area of ambiguity in the Building Code.

General questions for Inspectron

Supervisor Sauber asked why Mr. Luostari determined that the Shaw's playhouse was not an accessory building when the Mn Administrative Rules refer to playhouses as accessory structures, and they fit the definition of a building in our Ordinances. Mark Luostari responded that the building in question does not follow the International Building Code (IRC), it follows the Commercial Code and there is no such reference in the Commercial Code.

Supervisor Kauffman clarified that the Board is bound by the Minnesota Building Code on how we do measurements. It is only in this unique situation of an open lean that something is up to the Board. Mark Luostari agreed that it is only applicable to open leans that there might be ambiguity.

The Board agreed to table the Shaw item until they receive a response from the Department of Labor and Industry.

Stacy Shaw asked Chair Palmquist to clarify that she received permission from him to park the pickup in the open lean as security after her horses were let loose from the barn. Chair Palmquist concurred that he gave the Shaws permission to park there.

Supervisor Barfknecht noted that the Building Code defines how to measure square footage and asked Mark Luostari to also clarify how that would play into the definition of building in our Ordinances.

Supervisor Sauber asked that Inspectron submit final paperwork to the Clerks for closing out the open permit files. Mark Luostari explained that Inspectron will go through the open permits in January and forward a report to the Clerk mid-February listing the open permits.

Supervisor Sauber questioned whether the building official could verify setbacks during their site visit, or if it would need to be someone with zoning authority. Chad Lemmons advised that

Inspectron's contract is for building compliance only. Inspectron could perform this service if they and the Board agreed to amend their contract to include it.

Roads – Pflaum public comment regarding overhanging trees

Chair Palmquist offered to talk to Mark Henry about trimming the overhanging trees on Highview and on Hamburg.

Treasurer's Report

Vice Chair Fredlund requested verification of which special meetings are paid and which are not. The Supervisors who attended the Lakeville annexation hearing were not paid for their attendance. However, the liaisons for the Airlake Airport Advisory Committee and Watershed were paid for their attendance at meetings. The determination was made that Supervisors could be paid for representing the Township at the Lakeville hearing.

Net Pay and claims

Clerk/Treasurer Solis presented net pay in the amount of \$7,865.54 and claims in the amount of \$15,124.31.

Motion: Vice Chair Fredlund moved to approve the net pay and claims as presented.

Supervisor Kauffman seconded. Roll call vote: Donovan Palmquist – Aye; Ralph Fredlund – Aye; Lu Barfknecht – Aye; Nancy Sauber – Aye; Kathleen Kauffman - Aye. *Motion carried 5-0.*

Motion: Supervisor Kauffman moved to approve for the Supervisors who attended the Lakeville annexation meeting to receive payment on their 1st quarter payments next year. Supervisor Sauber seconded. *Motion carried 4-1*, with Supervisor Barfknecht opposed because she believes the attendees were in attendance as citizens.

Attorney Items

Administrative Hearing system model ordinance and letter

The Board reviewed the draft model ordinance and made a few minor grammatical revisions.

Motion: Supervisor Kauffman moved for the Town Attorney to transmit the draft ordinance as revised to the Attorney General for a decision on whether we have the authority to enact this ordinance. Supervisor Sauber seconded. *Motion carried 5-0.*

Status of General Code Ordinance draft

Chad Lemmons reported that General Code is awaiting responses to the questions posed. His review found that the Board had already responded to the questions. The Board reminded that the draft showed language stricken that should not have been. The Clerk compared the draft to the 2017 Ordinances and found it clear that they were operating from the wrong script. Chad Lemmons will speak with them again.

Status of County Ordinance on septic pumping vs. inspection

The County stated that the Ordinance does obligate the Town to enforce the septic Ordinance. However, they do not expect the Town to do much more than write letters. This is a low priority issue in terms of criminal enforcement. If a septic inspector determines that pumping is not required, then it is not required.

Supervisor Sauber questioned whether the Administrative Hearing process could apply to this issue and Chad Lemmons advised that it could.

Supervisor Kauffman questioned whether the Board could add conditions to the accessory building permits to allow for an inspection after completion to ensure compliance in terms of domestic use. Chad Lemmons advised that the courts are clear that you cannot go onto a property to determine Code compliance without an administrative search warrant.

Status of outstanding Ordinance violations

Chad Lemmons requested the Board determine the next steps he should take on the outstanding violations.

Motion: Supervisor Sauber moved to table further action on the outstanding Ordinance violation complaints until the Board hears from the Attorney General on the Administrative Hearing system. Chair Palmquist seconded. *Motion carried 5-0.*

New Business

Citizen input policy standards

Supervisor Sauber requested that the Town Board Policies on the website be placed on a push button tab on the home page for easier access.

Clerk Matters

- An American flag was ordered several weeks ago but has not yet been received due to delays in shipping.
- New desks and chairs for the Board are being researched.
- Seeking Inspectron's assistance on ordering Building Code books.

Adjournment

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

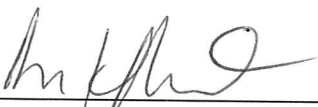
Meeting adjourned at 8:55 p.m.

Respectfully submitted,

Ranee Solis

Ranee Solis, Town Clerk

Minutes Officially Approved By:


Town Chair

on:

2/14/22
Date