

EUREKA TOWNSHIP
Dakota County, State of Minnesota

TOWN BOARD MEETING
AUGUST 23, 2021 – 7:00 P.M.

Call to Order

The Eureka Township Town Board meeting was called to order at 7:08 p.m. by Chair Palmquist and the Pledge of Allegiance was given.

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

Others Present: Ranee Solis, Chad Lemmons, Randy Wood, Mark Henry, Carol Cooper and Deputy Mike Vai.

Zoom Attendance: Julie Larson, Mike Greco, Brian Ahern and Georgie Molitor.

Approval of the Agenda

The following changes were made to the agenda:

1. Add item E. Septic letters under Old Business.
2. Add item C. Verbal complaint under New Business.

Motion: Chair Palmquist moved to approve the agenda as amended, seconded by Supervisor Barfknecht. Roll call vote: Donovan Palmquist – Aye; Ralph Fredlund – Aye; Lu Barfknecht – Aye; Nancy Sauber – Aye; Kathleen Kauffman - Aye. *Motion carried 5-0.*

Sheriff's Department Update – Deputy Mike Vai

Supervisor Sauber asked when a complaint is received for gun fire within 500 feet of a home, under what circumstances would the Sheriff's department decide not to cite or take action? Deputy Vai responded that each case is situational, with several factors that weigh in on the decision. The Sheriff's Department can cite for a violation of state statutes. If it is a violation of a local ordinance, the Board should contact the Township attorney to issue a citation. If a resident would like to know the outcome of any complaint called into the Sheriff's Department, they can request a follow-up at the time of the call. Without that request you will not receive any follow-up information. Deputy Vai informed the Board that he responded to the Petter event and issued a criminal violation, which has been sent to the Dakota County Attorney's Office.

Road Report

Road Superintendent – Mark Henry

- Met with Northland's estimator, Dean Trahan, on August 10th to look at the ditch to be cleaned out on 225th as well as the Eureka Estates drainage issue. Dean Trahan and TJ Grossman have read the resident surveys and TKDA proposal provided by the Clerk and have some questions. They will attend the next meeting for clarification and to answer any questions the Board has.

- Performed a road tour and created a list of roads that could use additional gravel, noting priority should be given to Essex between 220th and 225th, and the north end of Fairgreen. He recommended that the Town upgrade these roads to handle the transient traffic that will come about with the closing of County Road 86 next year.

1. Town Hall parking lot quotes

The Board reviewed the quotes from Seal King and Gopher State.

Motion: Supervisor Barfknecht moved to approve the Gopher State quote as it calls out the use of MNDOT standard products, seconded by Chair Palmquist. Roll call vote: Donovan Palmquist – Aye; Ralph Fredlund – Aye; Lu Barfknecht – Aye; Nancy Sauber – Aye; Kathleen Kauffman - Aye. *Motion carried 5-0.*

2. Additional gravel proposal

Motion: Vice Chair Fredlund moved to authorize the Road Superintendent to proceed with an additional 30,500 ton of road gravel at his discretion, seconded by Chair Palmquist. Roll call vote: Donovan Palmquist – Aye; Ralph Fredlund – Aye; Lu Barfknecht – Aye; Nancy Sauber – Aye; Kathleen Kauffman - Aye. *Motion carried 5-0.*

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 - None

Treasurer's Report

Net Pay and claims

Treasurer Solis presented net pay in the amount of \$2,188.71 and claims in the amount of \$9,978.49.

The Board questioned the claim for the IRS in the amount of \$135.10. The Treasurer explained that the claim is a late fee for an outstanding tax payment that was due December 31, 2020. She viewed all payments on the IRS website and found no payment made for this invoice.

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

Final Levy certification: Resolution 2021-11, Adopting 2022 Budget/Property Tax Levy

Motion: Vice Chair Fredlund moved to approve Resolution 2021-11 adopting the 2022 budget and property tax levy in the amount of \$707,712, seconded by Supervisor Kauffman. Roll call vote: Donovan Palmquist – Aye; Ralph Fredlund – Aye; Lu Barfknecht – Aye; Nancy Sauber – Aye; Kathleen Kauffman - Aye. *Motion carried 5-0.*

Attorney Items

Resolution 2021-14, amending the General Records Retention Schedule

Motion: Supervisor Sauber moved to adopt Resolution 2021-14 amending the General Records Retention Schedule, seconded by Supervisor Barfknecht. Roll call vote: Donovan Palmquist – Aye; Ralph Fredlund – Aye; Lu Barfknecht – Aye; Nancy Sauber – Aye; Kathleen Kauffman – Aye. *Motion carried 5-0.*

Copy of citation issued to Petter

The Board requested a copy of the citation issued to Terri Petter once it is received.

Letter to 8950 Upper 240th – Unleashed dog

The Board reviewed the Ordinance violation letter sent to the resident at 8950 Upper 240th. If the Board receives an additional complaint, the resident will be cited.

Letter to 9390 267th St. W. – Commercial automotive repair shop

The Board reviewed the Ordinance violation letter sent to the resident and agreed to re-inspect the property 30 days from the date of the letter. If they are not in compliance at that time, the resident will be cited.

Letter to 24840 Dodd Blvd. – Excess vehicles parked along driveway

The Board reviewed the Ordinance violation letter sent to the resident and agreed to re-inspect the property 30 days from the date of the letter. If they are not in compliance at that time, the resident will be cited.

Sheriff's Department issuance of citations

Supervisor Kauffman expressed her frustration at the Sheriff's discretionary citation policy and requested for the Board to look into administrative fines at the Township level.

Old Business

Complaint follow-up

1. 24465 Highview Ave – Rooster (Sauber/Kauffman)
Supervisor Sauber reported that the poultry enclosure was re-inspected on August 14th and is now far enough from the complainant's property to be compliant with the Ordinance. She has discussed her findings with both parties. The Board agreed that the complaint has been resolved.
2. 25500 Highview Ave – Excavating business (Fredlund/Sauber)
Supervisor Sauber noted that she left a voice mail requesting to schedule an inspection.

Carol Cooper asked to speak on behalf of Don Oreskovich. She stated that it seems quite clear that he is entitled to store equipment in an accessory structure. Supervisor Sauber pointed out that home occupations must be located in the primary structure. Mr. Oreskovich is storing excavating equipment at his residence and using his home address for his business. Ms. Cooper clarified that they do not have a home occupation and they do not operate their business out of their home. The work of excavating is

performed on their client's property, not on their property, and their home address is the mailing address for their business.

Ms. Cooper asked where the Ordinance states that you cannot store equipment that you own on your property. Chad Lemmons directed her to Ordinance 3, Chapter 2, Section 1(B)(6) Accessory structures to single-family dwellings, such as detached private garages...for the storage of "domestic supplies and equipment". When told that gravel trucks and backhoes are not domestic supplies and equipment, Ms. Cooper replied that the word "domestic" is not defined in the Ordinance and it is unclear if domestic applies to both supplies and equipment, or just supplies. Supervisor Sauber responded that without an ordinance definition you then go by the usual dictionary meaning of the word.

Ms. Cooper pointed out that if you look around the Township, you will see other residents routinely storing commercial vehicles on their property. Chad Lemmons explained that Eureka has a complaint-driven enforcement structure. If a person is storing commercial vehicles, they are violating the Ordinance, but a complaint needs to be filed. The Township does not have the fiscal ability to seek out all these violations of the Ordinance. Carol Cooper stated that Mr. Oreskovich wants to work through these issues, which is why he removed his sign even though the Ordinance states you can have a sign on your accessory structure. He moved his equipment and vehicles inside of the accessory structure so that they are not visible from the road. The Board agreed that the excavating equipment is not domestic equipment, and therefore violates the Ordinance.

Chad Lemmons advised that Ordinance 3, Chapter 2 sets out the permitted uses. Under the Ordinance, it is not a permitted use, it is not a conditional use, it is not an interim use. It just is not allowed. Ms. Cooper responded that her client's position is that he is storing his personal equipment which is allowed under the Ordinance.

Chad Lemmons added that Mr. Oreskovich could move for amending the language of the Ordinance. Ms. Cooper responded that neither she nor her client think this Ordinance needs to be amended because it states you can store equipment in your accessory structure. Mr. Lemmons pointed out that clearly there is a difference of view, and one way to resolve the difference in viewpoints is to amend the Ordinance to clarify the points.

The Board agreed that Supervisors Sauber and Fredlund should schedule a re-inspection of the property and report their findings to the Board

Vermillion River Aggregates expansion – CUP/IUP amendment needed?

Supervisor Sauber recused herself from this discussion. Vice Chair Fredlund requested the status of the research by Chad Lemmons as to whether the purchase of the State pit requires an amendment to the Vermillion River Aggregates IUP.

The Board questioned whether a pit that has not been mined for a continuous period loses its status, and if this applies to a state-run property. If a nonconforming use ceases for more than

one year, it is no longer a nonconforming use. Chad Lemmons advised that land control does not govern government uses, that is a grey area. Vice Chair Fredlund asked if it would be determined that Mr. Ames has an expansion of his existing pit, or if he is simply operating a pit that already exists. Chair Palmquist asked whether Mr. Ames has a one-year window from the date he purchased the pit to get the pit permitted and operational. The Board agreed to table this item to allow time to research the questions posed.

Motion: Supervisor Kauffman moved to table this issue until the next meeting to allow Chad Lemmons and Ralph Fredlund time to review the February 22nd minutes and report their findings to the Board, seconded by Chair Palmquist. Roll call vote: Donovan Palmquist – Aye; Ralph Fredlund – Aye; Lu Barfknecht – Aye; Nancy Sauber – Recused; Kathleen Kauffman – Aye. *Motion carried 4-0.*

ARPA funds allowable uses

Clerk Solis reported that ARPA funds may be used for nonrecurring expenses that identify a need or negative impact due to Covid and how it addresses that need or negative impact. The Board agreed that they should hold off on any further upgrades to technology at this time.

Scott County zoning decision on Mesenbrink development

The Board requested that Chad Lemmons provide information regarding the possibility of vacating 245th St. W., west of Dodd to the Scott County line, at the next meeting.

Septic Letters

The Clerk reported that Deputy Clerk Liberty sent the approved septic letters to the residents on the non-pump list on August 8th.

New Business

Complaint 2021-05, 24465 Highview Ave – Gun firing

The Clerk was asked to inform the complainant to follow up with the Sheriff's Department to learn what action was taken. Should this occur again, the resident should call 911 to report the incident and request a follow up call.

Broadband Infrastructure Program Grant application (Kauffman)

The NTIA application was submitted on time. If funded, the Board will need to negotiate a contract with JTN Communications.

Verbal complaint – Gravel pit noise

Supervisor Sauber recused herself from this discussion. Supervisor Barfknecht reported that a verbal complaint was received regarding truck noise in the Brosseth pit occurring before 8:00 a.m. The Board directed the Clerk to notify the complainant that the pit was operating within the hours allowed under the Ordinance and to provide a copy of the Ordinance as well.

Other Business

Progressive Resources/Friedges sign-off on building right transfer

The Clerk received a request for the signed building right transfer paperwork for filing at the County but was unable to locate the original paperwork. The Interim Clerks believed the original paperwork was previously dispersed to the applicant. The Board discussed that,

according to Ordinance 3, Chapter 3, Section 8(A), failure to record the transfer within 90 days shall nullify the approval. The Board determined that since the transfer was approved by the Board on March 8, 2021, and the request was received on August 17, 2021, the applicants will need to reapply. The Clerk was directed to inform the receiving and sending owners of this determination.

Town Hall annual maintenance quote: A/C, furnace, filters, water heater

The Board reviewed a quote received from Controlled Air to perform annual maintenance on the Town Hall HVAC equipment and requested that the Clerk seek an additional quote.

Adjournment

Motion: Chair Palmquist moved to adjourn the meeting, seconded by Supervisor Barfknecht. Roll call vote: Donovan Palmquist - Aye; Ralph Fredlund - Aye; Lu Barfknecht - Aye; Nancy Sauber - Aye; Kathleen Kauffman - Aye. *Motion carried 5-0.*

Meeting adjourned at 10:07 p.m.

Respectfully submitted,

Ranee Solis
Ranee Solis, Town Clerk

Minutes Officially Approved By:  on: 11/22/21
Town Chair Date