

**EUREKA TOWNSHIP
DAKTOA COUNTY, MINNESOTA**

EUREKA TOWN BOARD MEETING

May 8, 2017

CALL TO ORDER

Chair Barfknecht called the meeting to order at 7:00 p.m. and the Pledge of Allegiance was given. Town Board Supervisors present were Lu Barfknecht, Dan Rogers, Carrie Jennings, Butch Hansen, and Donovan Palmquist. Planning Commission members Nancy Sauber and Ralph Fredlund, Township Attorney Chad Lemmons, Clerk Mira Broyles and Treasurer Marcia Wilson were also present. See attached list for others in attendance.

APPROVAL OF THE AGENDA

Additions to the agenda were made as follows:

Land Use Permits:

Adam Jakes, 25681 Ipava Avenue – Building Permit Application

Paul Carberg, Living Waters Baptist Church, 22222 Dodd Boulevard – Sign Permit Application

Jerome Phillipe, 10113 Jamaica Avenue, - Building Permit Application Fee Refund

New Business:

J. Progressive Rail property update

Old Business:

G. Follow Up on storage on Vermillion Aggregates Site

Motion was made by Supervisor Jennings, seconded by Supervisor Rogers, to approve the agenda as amended. Motion carried 5-0.

TREASURER'S REPORT

The Treasurer's Report was given by Treasurer Marcia Wilson (*see attached report*).

Motion was made by Supervisor Jennings, seconded by Supervisor Rogers, to accept the Treasurer's Report dated May 8, 2017. Motion carried 5-0.

The claims and receipt lists and outstanding invoices were reviewed.

Motion made by Supervisor Jennings, seconded by Supervisor Hansen to approve the claims and receipt lists. Roll call vote was taken. Motion carried 5-0.

Public Comment

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Mark Ceminsky, 7226 235th Street, stated he felt the issue regarding a building right for Gloria and Erland Anderson was being delayed, as the Board of Supervisors unanimously acknowledged that the Andersons have a building right at the March Town Board meeting. He also discussed recent public hearings held regarding ordinance amendments. He expressed concern over the process of the hearings in that there was no explanation of the purpose or intent of the proposed ordinance amendments and that there was no regard for public comment.

Jeff Otto, 25580 Dodd Boulevard, noted that the comments he was making were not directed at any one person. He stated he felt the Town Board and Planning Commission should work as a team, asking why Eureka does not have a culture of trying to help people and noting that personal attacks must stop. He discussed errors made by the Planning Commission in the past year which could have been very costly to residents. He noted that complicated grandfathered rights should be addressed by the Township Attorney. He stated that he has extensive background in dealing with grandfather rights, clustering rights, etc. and would be willing to offer a free training class for staff, Commission and Board members. He concluded his statements by reminding the Board and Commission of the honor they have been given to act on behalf of the Township and the need for a higher standard of professionalism.

Dakota County Deputy Sherriff Smith discussed burglaries in the area, especially trailers that are easily accessible. He also discussed illegal burning.

Contractor Update

Jason and Bryce Otte, Otte Excavating, discussed ongoing road maintenance, garbage pickup, and sign replacement.

Building Inspector Update

Darrel Gilmer, Building Inspector, discussed ongoing inspections. The permitting process for swimming pools was discussed. It was noted that fees should be based on the valuation of the project, in addition to inspection fees, and not just the charge for an over the counter permit.

The on-going clean-up of the Mahoney property was discussed. Supervisor Jennings stated that Dakota County is getting involved with investigating the property.

Motion was made by Chair Barfknecht, seconded by Supervisor Hansen to close the current complaint on the property located at 8150 250th Street. Motion carried 5-0.

The Clerk was directed to send a letter to the complainant explaining that considerable clean-up has been done on the property and that Dakota County is following up on the issue.

Consent Agenda

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Minor typographical errors were noted.

Motion was made by Chair Barfknecht, seconded by Supervisor Jennings, to approve the minutes of the April 10, 2017 Town Board minutes as amended. Motion carried 5-0.

Reorganization Meeting Minutes

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Minor typographical errors were noted.

Motion was made by Supervisor Jennings, seconded by Chair Barfknecht, to approve the minutes of the March 29, 2017 Town Board Reorganization meeting as amended. Motion carried 5-0.

Planning Commission Update

Planning Commission Chair Nancy Sauber provided a summary of the May 2, 2017 Planning Commission meeting. The following applications were recommended for approval:

- Maas - Building Permit for single family home
- Jakes – Building Permit for accessory building subject to escrow for removal of existing barn
- Petter – Ag exempt permit

- An application by Alex Allen, Scotts Miracle Gro for an accessory building was recommended for denial due to terms of the Country Stone settlement agreement.
- An application for a sign permit for Living Waters Church was recommended for denial due to inadequate setbacks from Dodd Boulevard, which is a County road.

- Discussion was held regarding the requirement that certified copies of deeds be submitted with applications.
- The permitting process for swimming pools was reviewed.
- It was noted that landowners should be responsible for recording clustering agreements with Dakota County.

LAND USE PERMITS

Gloria and Erland Anderson – Residential Building Right Transfer

Discussion was held regarding the residential building right transfer requested by the Andersons.

Motion made by Supervisor Jennings, seconded by Chair Barfknecht to direct Planning Commission to schedule a public hearing for a proposed text amendment amending the definition of Lot of Record, and direct the Township Attorney to investigate adverse possession of a lot of record. After discussion, the motion failed 1-4. Supervisor Jennings voted in favor, with Supervisors Hansen, Barfknecht, Palmquist and Rogers opposing.

Motion was made by Supervisor Hansen, seconded by Supervisor Palmquist, to grant a building right to be clustered onto adjoining property and forward the building permit to the Building Inspector. Discussion was held.

Attorney Lemmons noted that findings of fact should be drafted to include the following:

- Property has been treated as a separate parcel by Dakota County
- Other persons have used the property for uses other than an easement
- The parcel was created prior to 1982

Supervisor Hansen withdrew the motion, Supervisor Palmquist concurred.

Motion was made by Supervisor Hansen, seconded by Supervisor Palmquist, to grant a building right to be clustered onto adjoining property based on findings of fact, (attached) drafted by the Township Attorney. Motion carried 4-1 Supervisor Jennings opposed.

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It was noted that the Andersons could pay for a special meeting to be held to review and approve the findings of fact.

David and Lois Peterson, 6010 245th Street - Lot Split Application

It was noted that the application was recommended for approval by the Planning Commission.

Motion was made by Supervisor Hansen, seconded by Chair Barfknecht, to approve a lot split application for David and Lois Peterson, 6010 245th Street West, Property ID 13-01400-50-020. Motion carried 5-0.

Dan Frederickson, 6649 280th Street, Building Right Inquiry

Mr. Fredrickson requested clarification of building rights for his property. It was determined that one building right remains on the twenty acre parcel.

Adam Jakes, 25681 Ipava Avenue – Building Permit Application

It had been noted that the Planning Commission recommended denial of the application due to exceedance of the allowable square footage of accessory buildings.

Motion was made by Supervisor Jennings, seconded by Chair Barfknecht, to deny the application for Adam Jakes based on Planning Commission recommendation. Motion carried 5-0

Living Waters Church, 22222 Dodd Boulevard – Sign Permit Application

It had been noted that the Planning Commission recommended denial of the application due to inadequate setbacks from the County road (Dodd Blvd).

Motion was made by Supervisor Jennings, seconded by Chair Barfknecht to deny a sign permit for Living Waters Church based on the Planning Commission recommendation. Motion carried 5-0

Jerome Phillipe

It had been noted that a building permit application submitted by Jerome Phillipe was not necessary and his application fee should be refunded.

Motion was made by Supervisor Jennings, seconded by Chair Barfknecht to refund the application fee of \$25 for Jerome Phillipe. Motion carried 5-0.

NEW BUSINESS

Proposed Ordinance Amendment – Definition of Lot of Record

Supervisor Hansen withdrew this item from the agenda.

Bob Donnelly, Agricultural Preserve Restrictive Covenant

It was noted that Mr. Donnelly could not be present for the meeting.

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Motion was made by Supervisor Hansen, seconded by Chair Barfknecht, to approve the Metropolitan Agricultural Preserves Restrictive Covenant for PID #130240003011 and 130240001020. Motion carried 5-0

Request by Mark Parranto, Apple Wood Orchard, for Dust Control

Motion was made by Supervisor Jennings, seconded by Supervisor Hansen, to approve a request for dust control along 225th Street adjacent to the Applewood Orchard property, 22702 Hamburg Avenue, from the pipeline westward to Hamburg Avenue and on Hamburg Avenue from 225th South to the northern driveway of the orchard. Motion carried 5-0.

Quotes/Bids

Road Gravel / Limestone

Sealed bids from Dakota Aggregates, M & J Trucking Company, and Anderson Rock & Lime, Inc. were opened and read by the Clerk.

It was noted that testing results had not been submitted with the bids from M & J Trucking Company and Anderson Rock & Lime, Inc.

Motion was made by Supervisor Hansen, seconded by Supervisor Jennings to table consideration of bids for limestone until the June Town Board meeting.

Motion was made by Supervisor Jennings, seconded by Chair Barfknecht, to allow M & J Trucking Company and Anderson Rock & Lime, Inc. to submit test results for limestone and the pricing on bids currently submitted remain the same. Motion carried 5-0.

Motion was made by Supervisor Hansen, seconded by Chair Barfknecht, to accept the bid dated May 5, 2017 from Dakota Aggregates for Class #5 gravel. Motion carried 5-0.

Road Maintenance

One sealed bid was opened from Otte Excavating, Inc. and read by the Clerk.

Motion was made by Supervisor Jennings, seconded by Chair Barfknecht, to accept the bid proposal dated May 8, 2017 for road grading maintenance and snow removal services from Otte Excavating, Inc. Motion carried 5-0

Chip Coating and Striping for Town Hall Parking Lot

One bid from Allied Blacktop Company was opened and read by the Clerk

Motion was made by Supervisor Hansen, seconded by Supervisor Jennings, to accept the bid dated May 5, 2017 from Allied Blacktop Company. Motion carried 5-0.

Dust Control

One sealed bid from Envirotech was opened and read by the Clerk.

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Motion was made by Supervisor Hansen, seconded by Supervisor Jennings to accept the bid from Envirotech dated March 31, 2017. Motion carried 5-0.

Town Hall Grounds Maintenance

It was noted that the current contract for grounds maintenance with Outdoor Innovations was in effect until the end of 2017.

Project Proposal by Outdoor Innovations

A proposal for additional landscaping maintenance was rejected.

Request by ISD 194 for Use of Town Hall for Election

A request by ISD 194 for use of the Town Hall as a precinct for an election on November 7, 2017 was discussed.

Motion was made by Supervisor Jennings, seconded by Supervisor Palmquist, to approve the use of Town Hall by ISD 196 for an election on November 7, 2017 contingent on proper insurance coverage. Motion carried 5-0.

Complaint – 22702 Hamburg Avenue

A complaint against 22702 Hamburg Avenue was reviewed. Supervisors Rogers and Palmquist were assigned to investigate the complaint.

Complaint – 8150 250th St. W.

It was noted that Dakota County was reviewing this issue as discussed earlier in the meeting.

Progressive Rail Annexation Request Update

Chair Barfknecht provided an update on the indication given by the City of Lakeville that they had no interest in the annexation request by Progressive Rail.

OLD BUSINESS

Review of Scotts Miracle Gr, (Country Stone) 22447 Highview Avenue Settlement Agreement

Alex Allen, representing Scotts Miracle Gro was present.

The Settlement Agreement for Scotts Miracle Gro (formerly County Stone), dated September 28, 2010 was reviewed and it was noted that materials must be stored on the property.

Ordinance Amending Ordinance 1, Chapter 4, (Definition of Horticulture)

It was noted that a public hearing had been held by the Planning Commission and approval of the amendment was recommended.

Motion was made by Supervisor Jennings, seconded by Chair Barfknecht, to adopt Ordinance 2017-01, amending Ordinance 1, Chapter 4, 2.01, by amending the definition of horticulture. Motion carried 4-1. Supervisor Hansen opposed.

Supervisor Hansen stated he felt there would be future problems with this ordinance amendment.

Ordinance Adding Ordinance 3, Chapter 5, Section 1 (D) (Commercial Agricultural)

Motion was made by Supervisor Jennings, seconded by Chair Barfknecht, to adopt Ordinance 2017-02 adding Ordinance 3, Chapter 5, Section 1(D), regarding commercial agriculture. Motion carried 4-1. Supervisor Hansen opposed.

Ordinance Adding Ordinance 3, Chapter 4, Section 8.5 (Sump Pumps)

It was agreed to modify the draft ordinance to read:

3.01 A. Area of Discharge

1. Sump Pump system must discharge sump water from the structure directly onto the ground no nearer than twenty (20) feet away from the foundation of the structure.

Motion was made by Supervisor Jennings, seconded by Chair Barfknecht, to adopt Ordinance 2017-03, adding Ordinance 3, Chapter 4, Section 8.5, regarding sump pumps. Motion carried 4-1. Supervisor Hansen opposed

Ordinance Amending Ordinance 3, Chapter 4, Section 7 (c) (Max. area of accessory buildings)

Discussion was held regarding the proposed ordinance amendment.

Motion was made by Chair Barfknecht, seconded by Supervisor Rogers to adopt ordinance 2017-04 amending Ordinance 3, Chapter 4, Section 7(C) as follows.

- 201. C. Area – The maximum total area of all accessory buildings shall not total more than 200% of the primary structure.*

Discussion was held. The motion was withdrawn by Chair Barfknecht and Supervisor Rogers.

Motion was made by Supervisor Hansen, seconded by Chair Barfknecht, to adopt Ordinance No. 2017-04 amending Ordinance 3, Chapter 4, Section 7(C) as follows:

- 2.01 C. Area – The maximum total area of all accessory buildings shall not total more than 5,000 square feet on 2 to 5.999 acres and not more than 10,000 square feet on 6 or more acres. There shall be no maximum limitation to total area for agricultural buildings and agricultural buildings shall not be considered in the total sum of accessory buildings on an individual parcel.*

Further discussion was held.

Motion was made by Supervisor Jennings, seconded by Chair Barfknecht, to call the question. Motion carried 5-0.

Vote was taken on the motion. Motion carried 4-1. Supervisor Jennings opposed.

Follow-up Regarding Storage on the Ames Property

It was noted that all material being stored by Scotts Miracle Gro had been removed from the Vermillion Aggregates mining property.

Follow-up – 24565 Iceland Path Fence Issue

Chair Barfknecht recused herself from this issue.

Attorney Lemmons stated that a letter had been sent to the owner of the property at 24565 Iceland Path stating he must comply with the terms set forth in the December, 2016 Town Board minutes.

Motion was made by Supervisor Jennings, seconded by Supervisor Palmquist to direct the Building Inspector to inspect the property for compliance with letter sent by Attorney Lemmons, and if not in compliance, direct Attorney Lemmons to continue with legal action. Motion carried 3-1 Supervisor Hansen opposed.

Other Business

Town Hall Building Maintenance Issues

Security System / Front Door Lock Replacement

Motion was made by Supervisor Jennings, seconded by Chair Barfknecht to table discussion of a security system until the June Town Board meeting. Motion carried 5-0

Motion was made by Supervisor Jennings, seconded by Chair Barfknecht, to have the lock on the front door of Town Hall rekeyed. Motion carried 5-0.

Request Quote for Pressure Washing Front of Town Hall

Motion was made by Supervisor Jennings, seconded by Chair Barfknecht to table discussion regarding pressure washing the front of Town Hall until the June Town Board meeting. Motion carried 5-0.

Request Quote for Re-caulking Tile in Restrooms

Motion was made by Supervisor Jennings, seconded by Chair Barfknecht, to approve an expenditure up to \$300 for re-caulking the tile in the restrooms of Town Hall. Motion carried 5-0.

Landscaping Around Storage Building

Motion was made by Supervisor Jennings, seconded by Chair Barfknecht, to approve an expenditure up to \$700 for regrading and seeding around the storage building and sidewalk in front of Town Hall. Motion carried 4-0. Supervisor Hansen abstained.

Motion was made by Supervisor Jennings, seconded by Supervisor Palmquist, to adjourn the meeting at 11:20 PM. Motion carried 5-0.

Respectfully submitted:

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