

EUREKA TOWNSHIP

**DAKOTA COUNTY
STATE OF MINNESOTA**

TOWN BOARD MEETING OF APRIL 13, 2020

Due to the Peacetime Emergency declared by Governor Walz under Minnesota Statutes Chapter 12, the Health Pandemic that is COVID-19 as labeled by the Center for Disease Control, and the Stay-at-Home Order as declared by Minnesota Executive Order 20-20, the following meeting shall be conducted entirely through teleconferencing or other electronic means.

Call to Order

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

Members Present: Donovan Palmquist (Chair)
Tim Murphy (Vice Chair)
Lu Barfknecht (Supervisor)
Ralph Fredlund (Supervisor)
Mark Ceminsky (Supervisor)

Others Present: Raneé Solis (Town Clerk), Chad Lemmons (Kelly & Lemmons), Bill Funk (Planning Commission Liaison), Marcia Wilson (Treasurer), Bill Clancy, Ken Malecha, Bryce Otte, Matthew Marschall, Stephanie Marschall, Mark Nelson, Nancy Sauber, Julie Larson, Dave Pinney, Gloria Belzer, Brian Ahern, Jody Arman-Jones, Randy Wood, Jim Sauber, Georgie Molitor.

Approval of the Agenda

The following changes were made to the agenda:

1. Add two new complaints as items I. & J. under New Business.

Motion: Chair Palmquist moved to approve the agenda as amended, seconded by Vice Chair Murphy. A roll call vote was taken: Donovan Palmquist – Aye; Tim Murphy – Aye; Lu Barfknecht – Aye; Mark Ceminsky – Aye; Ralph Fredlund – 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.

Bill Clancy – 25511 Ipava Avenue

Bill Clancy spoke regarding continuing with a web-based attendance option for all meetings. (Comments are attached).

Chair Palmquist asked three times if there were any other attendees who wished to speak. Hearing none, the public comment period was closed.

Citizen Business

Ken Malecha

Ken Malecha offered that he had a pending purchase agreement for the Ag Preserve Wall estate on 265th, which he wants to split into four 10-acre buildable parcels, and requested an authorization letter from the Board. Supervisor Ceminsky stated that the Board cannot guarantee that the lots will be buildable in the future, and that, according to statute, allowing more than one home per 40 acres would deny the eligibility for Ag Preserve status. Mr. Malecha pointed out that there are several parcels in the Township with more than one home per 40 acres in Ag Preserve. Supervisor Ceminsky replied that there might be clustering agreements on those parcels. Attorney Lemmons suggested that official controls should match those of the County, and that further review should take place before rendering a decision. Chair Palmquist suggested that Mr. Malecha reach out to Jeff Otto in the meantime.

Road Contractor Update (Otte Excavating)

Bryce Otte provided the following update on roads:

- Signs were placed at the end of the Scott's driveway indicating that trucks may only go north.
- Replacing stolen signs.
- Estimated cost to repair two culverts on 225th east of Highview would be \$4,400.
- Rough estimate to reclaim the ditch on 240th between Dodd and Iberia would be \$6,000.

*Sheriff's Department (Deputy Tim Gonder)

Chair Palmquist updated the Board regarding the on-going noise from motor cross bikes in the Township. Deputy Gonder explained that the EPA differentiates between motor vehicles and motorcycles for noise standards according to Rule 7030.1050. The motorcycles in question do not violate the noise standards. Supervisor Ceminsky asked if the motor bikes are violating the nuisance ordinance by being on the roads. Attorney Lemmons was asked to review the ordinance to provide clarity and guidance. Deputy Gonder stated he would go to the property to ask them to limit their hours and duration.

Road Contractor Update (resumed)

Motion: Chair Palmquist moved to approve up to \$4,400 to repair the two culverts on 225th, seconded by Supervisor Ceminsky. A roll call vote was taken: Tim Murphy – Aye; Lu Barfknecht – Aye; Ralph Fredlund – Aye; Donovan Palmquist – Aye; Mark Ceminsky – Aye.

Motion carried 5-0.

Motion: Supervisor Ceminsky moved to approve up to \$8,000 for the approximate half-mile ditch reclamation on 240th between Dodd and Iberia, seconded by Supervisor Barfknecht. A roll call vote was taken: Tim Murphy – Aye; Lu Barfknecht – Aye; Ralph Fredlund – Aye; Donovan Palmquist – Aye; Mark Ceminsky – Aye. *Motion carried 5-0.*

Bryce Otte suggested that the ditch on 235th be reclaimed at the same time as 240th to save money. Supervisor Barfknecht expressed concern about other ditch repairs that have been waiting for years and asked to table this discussion until item Ditch cleanup under Old Business later on the agenda.

Chair Palmquist brought up complaints that have been received regarding excessive gravel in the ditches on Ipava and Highview from winter grading. Bryce Otte offered to address the areas of the two complaints.

Planning Commission Update (Bill Funk – Liaison)

Commissioner Bill Funk provided a summary of the April 7, 2020 Planning Commission meeting:

- The meeting was held via WebEx.
- Discussed splitting of Ag Preserve parcel with Ken Malecha.
- Recommended approval of the garage addition for Matthew & Stephanie Marschall.
- Discussed tabling the Solar Energy text amendment until a public hearing could be held.

Permit Requests

Matthew & Stephanie Marschall, 7429 280th St. W. – Garage addition

Supervisor Barfknecht pointed out that the plans show a porch with ten windows and asked for clarification. Matthew Marschall responded that he is adding a fourth stall to the three-stall garage, not a porch. Supervisor Fredlund offered that, ultimately, it is up to the building inspector to determine the use.

Motion: Supervisor Ceminsky moved to approve the garage addition permit for Matthew and Stephanie Marschall on PID 13-13400-53-012, seconded by Chair Palmquist. A roll call vote was taken: Donovan Palmquist – Aye; Tim Murphy – Aye; Ralph Fredlund – Aye; Lu Barfknecht – Aye; Mark Ceminsky – Aye. *Motion carried 5-0.*

Land Use Requests

(None)

Treasurer's Report

Treasurer Wilson presented the Treasurer's Report for April 13, 2020:

Checking account balance: \$5,267.63; Outstanding checks: \$1,631.14; Savings account balance: \$406,022.85; CD accounts balances: \$67,861.06; Total account balances: \$477,520.40.

Motion: Supervisor Ceminsky moved to approve the Treasurer's Report as presented, seconded by Chair Palmquist. A roll call vote was taken: Tim Murphy – Aye; Donovan Palmquist – Aye; Ralph Fredlund – Aye; Lu Barfknecht – Aye; Mark Ceminsky – Aye. *Motion carried 5-0.*

Net Pay and Claims

Motion: Supervisor Ceminsky moved to approve the Net Pay and Claims as presented, and to authorize the Treasurer to move the necessary funds from savings to checking to cover the disbursements, seconded by Chair Palmquist. A roll call vote was taken: Tim Murphy – Aye; Donovan Palmquist – Aye; Ralph Fredlund – Aye; Lu Barfknecht – Aye; Mark Ceminsky – Aye. *Motion carried 5-0.*

Receipts and Disbursements

Motion: Chair Palmquist moved to approve the Receipts and Disbursements as presented, seconded by Vice Chair Murphy. A roll call vote was taken: Tim Murphy – Aye; Donovan Palmquist – Aye; Ralph Fredlund – Aye; Lu Barfknecht – Aye; Mark Ceminsky – Aye. *Motion carried 5-0.*

Remaining Reports: Schedule 1, Current Investments, Cash Control, Outstanding Invoices and Escrows

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

2020 Budget

Treasurer Wilson pointed out that a \$1,400 right-of-way permit fee from February was put in the General Fund on the budget worksheet, and she would move it to the Road & Bridge fund next month. Supervisor Barfknecht asked if the \$1,000 check to Marketing Clarity that had to be re-issued was calculated twice in the budget. Treasurer Wilson responded that there was a credit posted for the first check. Supervisor Ceminsky asked when money was transferred into the escrow accounts, to which Treasurer Wilson responded that it typically occurred in June and December.

Motion: Chair Palmquist moved to approve the 2020 monthly budget as presented, seconded by Vice Chair Murphy. A roll call vote was taken: Tim Murphy – Aye; Donovan Palmquist – Aye; Ralph Fredlund – Aye; Lu Barfknecht – Aye; Mark Ceminsky – Aye. *Motion carried 5-0.*

Review of budget allocations

Treasurer Wilson provided a summary of the budget allocations and asked if there were any questions. Supervisor Fredlund suggested, and the Board agreed, to table discussion until the May meeting to allow each supervisor time to review the information.

2021 Budget and Levy

The residents approved only a 2% increase in the 2021 budget at the Annual Meeting. Supervisor Ceminsky presented a revised 2021 budget.

Motion: Chair Palmquist moved to approve the revised 2021 Budget and Levy as reconfigured, showing a total of \$455,662 for Road & Bridge and \$343,100 for General Fund for a total of \$798,762, and a total Levy of \$707,712, seconded by Vice Chair Murphy. A roll call vote was taken: Tim Murphy – Aye; Donovan Palmquist – Aye; Ralph Fredlund – Aye; Lu Barfknecht – Aye; Mark Ceminsky – Aye. *Motion carried 5-0.*

Treasurer reports in the minutes

Treasurer Wilson expressed her concern about payroll appearing in the attachments to the minutes. Julie Larson asked the Board to fulfill her data request for treasurer's reports and bank statements. Attorney Lemmons offered that he and the Treasurer would have an answer about whether bank statements were public data by the end of the week.

Attendance sheets and signing of checks

Chair Palmquist noted that the Board could authorize allowing only one signature on checks, which would require notification the bank. Treasurer Wilson asked if the Board wanted to make such a change given that the social distancing could be over soon. The Board agreed to maintain the two-signature requirement for the time being.

Motion: Chair Palmquist moved to permit Clerk Solis to sign attendance sheets on behalf of the Town Board and Planning Commission, seconded by Supervisor Barfknecht. A roll call vote was taken: Tim Murphy – Aye; Donovan Palmquist – Aye; Ralph Fredlund – Aye; Lu Barfknecht – Aye; Mark Ceminsky – Aye. *Motion carried 5-0.*

New Business

Annual CUP review for Spirit Ranch I: Chris Hale, 24005 Dodd Blvd

The Board tabled the review and instructed Clerk Solis to send notice requiring attendance at the May meeting.

Annual CUP review for Spirit Ranch II: Terri Petter, 10132 235th St. W.

The Board tabled the review and instructed Clerk Solis to send notice requiring attendance at the May meeting.

Annual CUP review for Airstrip: Butch Hansen.

The Board tabled the review and instructed Clerk Solis to send notice requiring attendance at the May meeting.

Annual CUP review for Airstrip: Mark Nelson

Chair Palmquist asked three times if there were any comments or complaints. Hearing none, the public comment period was closed.

Motion: Chair Palmquist moved to approve the review of Mark Nelson's airstrip, seconded by Supervisor Barfknecht. A roll call vote was taken: Tim Murphy – Aye; Donovan Palmquist – Aye; Ralph Fredlund – Aye; Lu Barfknecht – Aye; Mark Ceminsky – Aye. *Motion carried 5-0.*

Discuss notifications to residents other than electronic notices

Supervisor Ceminsky expressed concern that some residents do not use the internet and are not receiving notices.

Motion: Supervisor Ceminsky moved to approve a one-time mailer notifying the residents that notices are posted outside of Town Hall on the bulletin board or they can contact the Clerk for information, seconded by Chair Palmquist for discussion. Discussion included that such a mailer has been sent out several times, including last year, at the cost of \$600. A roll call vote was taken: Tim Murphy – Nay; Donovan Palmquist – Nay; Ralph Fredlund – Nay, Lu Barfknecht – Nay; Mark Ceminsky – Aye. *Motion failed 1-4,* with Supervisors Murphy, Palmquist, Fredlund and Barfknecht opposed.

Planning Commission letters of interest

The Board received three letters of interest for the three Planning Commission open positions, from Bill Clancy, Nancy Sauber and Julie Larson.

Motion: Supervisor Fredlund moved to appoint Julie Larson and Nancy Sauber to the open three-year terms and Bill Clancy to the open two-year term, seconded by Chair Palmquist. A roll call vote was taken: Tim Murphy – Aye; Donovan Palmquist – Aye; Ralph Fredlund – Aye; Lu Barfknecht – Aye; Mark Ceminsky – Abstain. *Motion carried 4-0*, with Supervisor Ceminsky abstaining.

Approve RFP for Town Hall grounds maintenance

Motion: Vice Chair Murphy moved to authorize the Clerk to send out an RFP for Town Hall grounds maintenance for May-October, 2020, seconded by Chair Palmquist. A roll call vote was taken: Tim Murphy – Aye; Donovan Palmquist – Aye; Ralph Fredlund – Aye; Lu Barfknecht – Aye; Mark Ceminsky – Aye. *Motion carried 5-0*.

Ditch cleanup / road review

Supervisor Barfknecht stated that the Town Board typically performs the spring road review to compile a list of issues to address. Chair Palmquist reminded that with the current social distancing order in place, each member would need to drive separately. Bryce Otte offered to complete a list of issues for the Board while he is performing road maintenance duties.

Greater Minnesota Gas right-of-way permit fees

Dave Pinney of Greater Minnesota Gas expressed his concerns regarding the Township's right-of-way permit fees. The fee amount submitted by the Road Supervisor resulted in a 15% increase in cost to them, as opposed to the 3-5% they typically see. Chair Palmquist asked the Attorney if we have any authority to vary from our fee schedule, to which Attorney Lemmons replied that a variance is not allowed and the Board would have to change the fee schedule. Vice Chair Murphy volunteered to check the right-of-way fees in the surrounding area to present to the Board as soon as possible. Mr. Pinney further stated that the \$3,735 directional boring fee is the biggest concern as it has the largest effect on the pricing. The Board agreed to revisit the fee schedule at the May meeting.

Permits: 24729 Dodd Blvd; Ag parcel surrounding 23755 Fairgreen

Supervisor Ceminsky informed the Board that it appears that there have been additions to a pole shed located at 24729 Dodd Blvd, without permits. He added that the County had inquired about whether the Ag parcel surrounding 23755 Fairgreen was an allowed commercial use, given the number of buildings on the parcel. Supervisor Ceminsky then asked if daycares were classified as home occupations. The Board agreed that if the daycare was inside the home as a secondary use, it was authorized. Vice Chair Murphy volunteered to contact Inspectron this week to check into the issues brought by Supervisor Ceminsky.

Conference room / invoice and mail distribution to the Treasurer

Supervisor Barfknecht withdrew this item and requested for the Clerk to place this on the May agenda.

Complaint #1: Iceland Path – operating a business without a CUP

Supervisors Murphy and Palmquist were assigned to investigate the complaint and report to the Board at the May meeting.

Complaint #2: 250th St. W. – dumping construction waste on farmland

Supervisors Barfknecht and Ceminsky were assigned to investigate the complaint and report to the Board at the May meeting.

Old Business

24005 Dodd Blvd update

The Clerk received an email from Mark Luostari of Inspectron today stating that he met with the owner on April 8th to discuss the deck. The owner agreed to submit a plan for the existing deck and to not perform any other work without a permit. Inspectron also requested the owner submit a written statement to the Board asserting that the property will not be used for events. Attorney Lemmons requested that the Clerk forward this email to him.

Dust control

Supervisor Ceminsky spoke with the County about obtaining dust control and gravel through them and learned that we would not be able to this year because the County did not account for this.

Motion: Supervisor Ceminsky moved to approve the dust control bid from Envirotech, seconded by Supervisor Barfknecht. A roll call vote was taken: Tim Murphy – Aye; Donovan Palmquist – Aye; Ralph Fredlund – Aye; Lu Barfknecht – Aye; Mark Ceminsky – Aye. *Motion carried 5-0.*

Gravel hardness testing

Supervisor Ceminsky stated that, due to the social distancing order, the hardness testing was not able to take place. Chair Palmquist stated that he would sign the previously-approved Anderson Rock bid for gravel.

Progressive Rail update

The Board has received no new information since last month.

Out lots B & C in Eureka Estates update

Supervisor Barfknecht was tasked with researching the out lots at the County. Dakota County staff pulled 5 random property tracts in Eureka Estates to see if they included language specific to out lots A, B, or C, and they did not. The Certificate of Title from March 29, 1979 indicates the owners of out lots B and C are those specifically listed on the back section of the plat map. The County advised that out lots B and C are considered common areas for the property owners identified on the document. The only language identifying the out lots with a property address are for tax assessing purposes.

The plat map for Eureka Estates shows the easements on the back of the properties are for utilities and drainage. The drainage flows to out lot B, which then connects to, or turns into, out lot C. The front of each lot, side street, right-of-way ditches are engineered to drain to the cul-de-sac on Iceland Path into out lot B, which then connects, or turns into, out lot C. Out lot C is the drainage area which extends beyond the intersection of Highview and 240th. Out lot C is where the three large culverts run under Highview, which is for the purpose of water flow and drainage.

Attorney Lemmons asked if we can locate any of the principals of Eureka Estates, Inc., as it would take only one officer to grant an easement. Supervisor Barfknecht responded that, at this point, we cannot.

Motion: Supervisor Ceminsky moved to request an estimate from TKDA to review the drainage issue in Eureka Estates, seconded by Chair Palmquist. A roll call vote was taken: Tim Murphy – Aye; Donovan Palmquist – Aye; Ralph Fredlund – Aye; Lu Barfknecht – Aye; Mark Ceminsky – Aye. *Motion carried 5-0.*

Motion: Supervisor Ceminsky moved to approve up to \$6,000 to reclaim the ditch on 235th at Dodd, seconded by Supervisor Barfknecht. A roll call vote was taken: Tim Murphy – Aye; Donovan Palmquist – Aye; Ralph Fredlund – Aye; Lu Barfknecht – Aye; Mark Ceminsky – Aye. *Motion carried 5-0.*

Solar Energy text amendment

Motion: Supervisor Ceminsky moved to return the text amendment to the Planning Commission for further review, seconded by Supervisor Fredlund. A roll call vote was taken: Lu Barfknecht – Aye; Donovan Palmquist – Aye; Tim Murphy – Aye; Ralph Fredlund – Aye; Mark Ceminsky – Aye. *Motion carried 5-0.*

Other Business

Procedure for handling sealed bids via teleconferencing

Motion: Chair Palmquist moved to authorize Clerk Solis to open the sealed bids for Road Maintenance on behalf of the Board at the May meeting, seconded by Vice Chair Murphy. A roll call vote was taken: Lu Barfknecht – Aye; Donovan Palmquist – Aye; Tim Murphy – Aye; Ralph Fredlund – Aye; Mark Ceminsky – Aye. *Motion carried 5-0.*

Approval of Meeting Minutes

Approve the February 10, 2020, Town Board meeting minutes

Supervisor Ceminsky requested to change the last two motions on page 5, the CUP reviews for Dakota Aggregates and Fridge Landscaping, to reflect that he abstained from voting.

Motion: Supervisor Barfknecht moved to approve the minutes as amended, seconded by Chair Palmquist. A roll call vote was taken: Lu Barfknecht – Aye; Donovan Palmquist – Aye; Tim Murphy – Aye; Mark Ceminsky – Aye; Ralph Fredlund – Abstain. *Motion carried 4-0,* with Supervisor Fredlund abstaining.

Approve the March 5, 2020, Board of Audit minutes

Motion: Chair Palmquist moved to approve the minutes as presented, seconded by Supervisor Barfknecht. A roll call vote was taken: Lu Barfknecht – Aye; Donovan Palmquist – Aye; Tim Murphy – Aye; Mark Ceminsky – Aye; Ralph Fredlund – Abstain. *Motion carried 4-0* with Supervisor Fredlund abstaining.

Approve the March 9, 2020, Town Board meeting minutes

Supervisor Ceminsky requested a change on page 3, Sheriff's department update, that Julie Larson was referring to 250th, not 225th, and that Georgie Molitor was referring to semi traffic from Scotts on 225th; the motion regarding No Through Truck Traffic signs on page 4

was made by Supervisor Hansen; and to place a disclaimer stating that public comments reflect the opinion of citizens, not the Board.

Motion: Chair Palmquist moved to approve the minutes as amended, seconded by Vice Chair Murphy. A roll call vote was taken: Lu Barfknecht – Aye; Donovan Palmquist – Aye; Tim Murphy – Aye; Mark Ceminsky – Aye; Ralph Fredlund – Abstain. *Motion carried 4-0*, with Supervisor Fredlund abstaining.

Motion: Chair Palmquist moved to add a disclaimer to public comments stating that the citizens opinions in no way reflect the opinions of the Town Board members, seconded by Supervisor Ceminsky. A roll call vote was taken: Lu Barfknecht – Aye; Donovan Palmquist – Aye; Tim Murphy – Aye; Ralph Fredlund – Aye; Mark Ceminsky – Aye. *Motion carried 5-0*.

Approve the March 11, 2020, Board of Canvass minutes

Motion: Chair Palmquist moved to approve the minutes as presented, seconded by Supervisor Barfknecht. A roll call vote was taken: Lu Barfknecht – Aye; Donovan Palmquist – Aye; Tim Murphy – Aye; Mark Ceminsky – Aye; Ralph Fredlund – Abstain. *Motion carried 4-0*, with Supervisor Fredlund abstaining.

Adjournment

Motion: Chair Palmquist moved to adjourn the meeting, seconded by Supervisor Ceminsky. A roll call vote was taken: Lu Barfknecht – Aye; Donovan Palmquist – Aye; Tim Murphy – Aye; Ralph Fredlund – Aye; Mark Ceminsky – Aye. *Motion carried 5-0*.

Meeting adjourned at 10:46 p.m.

Respectfully submitted,

Ranee Solis, Town Clerk

Minutes Officially Approved By: _____ on: _____
Town Chair Date