

*EUREKA TOWNSHIP
DAKOTA COUNTY, STATE OF MINNESOTA*

TOWN BOARD MEETING OF FEBRUARY 22, 2021

Due to the Peacetime Emergency and social distancing guidelines, the Town Board Chair has determined it is not practical or prudent to conduct an in-person meeting. Accordingly, under Minnesota Statute section 13D.021, the following meeting shall be conducted entirely through teleconferencing or other electronic means.

I. Call to Order and Pledge of Allegiance

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

Supervisors Present: Donovan Palmquist, Tim Murphy, Lu Barfknecht, Ralph Fredlund and Mark Ceminsky.

Others Present: Chad Lemmons (Town Attorney), Nancy Sauber, Julie Larson, Randy Wood, Brian Ahern, Mike Callahan, Lee Hanson (attorney), Lindsay Van Woert, Dan Ames, Andrew Gieseke, Clint Allen.

II. Approval of the Agenda

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

III. Public Comment -none

IV. Citizen Business - none

V. Road Report

There is not much new. There are a few slippery spots. With the warming trend now, the shoulders can be cleared even more.

Supervisor Barfknecht commented again that the speed limit signs on 240th are still not in place.

VI. Commission Update -none

VII. Permit Requests -none

VIII. Treasurer's Report

A. Net Pay and Claims

It was noted that the Lawrence Tree and Stump Services payment be held until their certificate of insurance is on file. The check to Almen Keys should be voided as it was already paid.

Supervisor Fredlund moved to approve the Net Pay and Claims as submitted. Supervisor Palmquist seconded. **Roll call vote:** Donovan Palmquist, *Aye*; Ralph Fredlund, *Aye*; Lu Barfknecht, *Aye*; Tim Murphy, *Aye*; Mark Ceminsky, *Aye*. **Motion passed 5-0.**

IX. New Business

A. Lakeville Comprehensive Plan review- two signatures

Supervisor Tim Murphy moved to approve signing without feedback. Supervisor Fredlund seconded. **Roll call vote:** Donovan Palmquist, *Aye*; Lu Barfknecht, *Aye*; Mark Ceminsky, *Aye*; Tim Murphy, *Aye*. Ralph Fredlund, *Aye*. **Motion passed 5-0.**

B. Amend Retention Policy (Lemmons recommendation)

Township Attorney Chad Lemmons explained to the Board about this topic. The Township is required to keep the recordings of meetings for only 60 days after the minutes have been formally approved. Only the minutes reflect the formal actions of the Board or Commission. Retaining tapes only creates confusion.

Supervisor Ceminsky questioned whether the written minutes should contain only the motions and votes. Mr. Lemmons replied that it is helpful to include some background so that, if there is a challenge, there is some rationale for the decisions made. He added that the minutes he has reviewed over the years have been well done in this respect.

Commission Chair Sauber commented that MAT has always recommended that the tapes be destroyed and that what is *required* are the motions and votes. Outside of that, it is up to the body whose minutes they are to decide the amount of other detail it desires. Mr. Lemmons confirmed this, adding that in his opinion, it is always a good idea to provide some background if there is ever a challenge.

The retention policy should be updated and then the Board can approve that, after which it will be filed with the State.

C. Waste Abatement Grant info from Exner

The Board asked the Planning Commission to look into this further.

D. Newsletter

This is in process.

E. Trespass Determination – Sheriff’s questions

Interim Deputy Clerks Nancy Sauber and Julie Larson explained what happened with Butch Hansen and why the Sheriff was called. The Deputy personally gave Mr. Hansen another signed copy of his trespass notice. He claimed he had never received it back in June of 2020. The trespass notice delineates the three ways he can submit paperwork for any applications. He did not follow them, but was physically present, and even came back again and was remaining out in the parking lot. Attorney Lemmons explained that parameters of such a trespass action. Mr. Hansen is not barred from attending public meetings, but he is otherwise barred from the Town Hall and must follow the notice for non-meeting interactions with staff. The Board requested the Deputy Clerk to again send the trespass notice to Mr. Hansen, by both certified and regular mail, at the attorney’s recommendation.

F. Kegley email on permit

This item was informational for the Board and Road Supervisor Ralph Fredlund will process it.

X. Old Business

Before Chair Palmquist could move to “A” under “Old Business” Lee Hanson, attorney for MPM, asked about their review of the pit that he had understood was to be finished in February. Chad Lemmons then commented that he had met with Lee Hanson and Mike Callahan and suggested that Donovan Palmquist and Tim Murphy meet with Mike Callahan and go through the points Chad had outlined on his email from last week. MPM is not going to expand to the west, nor do any dry Ready-Mix activity. They simply want to complete the mining that they have a permit for. They are not clear as to what they do in the meantime since their permit review has not been approved.

Commissioner Julie Larson stated that she and Commissioner Bill Clancy have worked on this. There are still complaints that have not been resolved, and she wonders why the Board would be moving ahead on this.

Lee Hanson asked Lindsay Van Woert to comment on a way that MPM can receive complaints without having to go to a “formal level” whereby the Board must act. They would like to address any violation complaints as quickly as possible before they are “formalized.”

Lindsay Van Woert acknowledged that the Board has its own policy for handling complaints, but MPM would like to be informed of any complaints right away. They feel they could address and correct the problem before the time it would take for the Board to investigate it. Ms. Van Woert also asked that if MPM is on an agenda, that they be notified so that they can have a representative at the meeting.

Julie Larson will compile all the complaints and send them to the Board, Lee Hanson, and Lindsay Van Woert.

Supervisor Murphy commented that MPM has an IUP in force. The big issue for the last year was the cement plant which is now gone. Commissioner Larson pointed out that they still could bring it back. It was discussed and confirmed that if the cement plant were to return, the import restrictions would still exist, and the ordinance would have to be complied with. This is what MPM was not able to meet before. To remove that accessory use, MPM would have to request an amendment to their IUP.

There was further discussion of the history of complaints and violations, curing the violations, and the Ordinance procedure for revoking the IUP. It was also clarified that Mike Callahan, Donovan Palmquist, and Tim Murphy will meet without Lee Hanson as attorney for MPM. If MPM's attorney is there, the Township attorney would have to be there, too.

Supervisor Barfknecht asked what, exactly, is the purpose of the meeting between Town supervisors and MPM representatives? If all that is on the table right now is the annual review, why the meeting? Supervisor Murphy assured that there were no decisions that were going to be made at this meeting. It is a chance to "understand better and to find out where we're all at."

G. New Business continued – addition of record room topic to the agenda

Supervisor Ceminsky alleged that there is fraud being perpetrated concerning himself and the State with information he believes came from the Township during what he termed "the break-in." His identity was being stolen and he wants the Township to pay for his credit monitoring and the like.

The point was made by Supervisors Barfknecht and Palmquist that there was not a "break-in," but keys had been used. Palmquist stated he is going to follow up to see if a master key was made at any time by anyone and that he believes this was an "inside job."

Attorney Chad Lemmons advised that the Township is not responsible for the intentional acts of a third party. It is responsible to provide adequate security for its records, but if a third party breaches that security, the Town is not responsible.

X. Return to Old Business

A. Vermillion River Aggregates – complete review – Lemmons review of history of pit recently purchased by Dan Ames

Chad Lemmons reported that the pit in question was created by the State as a borrow pit for materials for roads back on October 6, 1952. Therefore, this was

before the adoption of Ordinances by the Town of Eureka. One of the requirements for a non-conforming use is that it continues. What is the history of the activity at this pit? Did it continue? Supervisor Fredlund, who lives near the pit, volunteered that he believes the pit was unused by the State for many, many years. He further stated that in the mid-80s the Township denied a contractor the ability to remove gravel from the pit.

Dan Ames, current owner of the property, said the State advertised it as a gravel pit. Borings were done in 2003, the pit was not reclaimed, so it appears it would still be used as a gravel pit.

Mr. Lemmons said that, during the time it was owned by the State, the use by the State could continue. However, when selling the pit, the State cannot confer the ability to actively mine the pit. Under statutes, the Township has that authority. It must meet the Township ordinances.

Lemmons agreed that it was a pre-existing pit, but Mr. Ames would have to show that the pit was in continued use at the time the ordinances were adopted. If the Board accepts what he provides to prove that the pit was in continuous use, it would be an NCU (Non-Conforming Use).

Supervisor Barfknecht moved to table this topic until all the information is obtained so the Board can move forward with a decision. Supervisor Fredlund seconded the motion. **Roll call vote:** Donovan Palmquist, *Aye*; Lu Barfknecht, *Aye*; Ralph Fredlund, *Aye*; Tim Murphy, *Aye*; Mark Ceminsky, *Aye*. **Motion passed 5-0.**

Supervisor Barfknecht moved to approve the review of the first (Ames) pit. Supervisor Murphy seconded the motion. **Roll call vote:** Tim Murphy, *Aye*; Lu Barfknecht, *Aye*; Ralph Fredlund, *Aye*; Donovan Palmquist, *Aye*; Mark Ceminsky, *Aye*. **Motion passed 5-0.**

B. Approval of TBR forms and documents

Supervisor Ceminsky moved to table this item until the red line versions are obtained. Supervisor Palmquist seconded the motion. **Roll call vote:** Donovan Palmquist, *Aye*; Lu Barfknecht, *Aye*; Ralph Fredlund, *Nay*; Tim Murphy, *Aye*; Mark Ceminsky, *Aye*. **Motion passed 4-1.**

C. Eureka Estates Drainage Project/State Grant – Palmquist – LRIP email from Todd Howard

Supervisor Palmquist reported that the County Commissioners approved the grant money. He stated that because the Township had spent money on engineering already, that helped. Mark Henry also helped with Todd Howard. The engineering costs already spent will not be recouped, but that aspect was a plus for the Township.

D. Swimming pool fence complaint revisited – email from S. Pietz, Inspectron

Ms. Pietz had responded to a question about any change in the Building Code concerning fences for pools with hard, locking covers. From what she said, it would appear that the Code did not change. Supervisor Murphy stated that Inspectron’s inspector has stated otherwise. Ms. Pietz will be sent an email asking for clarification.

E. Grounds Maintenance RFP content

The RFP was discussed.

Supervisor Ceminsky moved that weed control and fertilizing be hired out, separate from the rest of the grounds maintenance. Supervisor Palmquist seconded. **Roll call vote:** Donovan Palmquist, *Aye*; Ralph Fredlund, *Aye*; Lu Barfknecht, *Aye*; Mark Ceminsky, *Aye*; Tim Murphy, *Aye*. **Motion passed 5-0.**

Supervisor Ceminsky moved that the lawn maintenance RFP include mowing the grass, trash pickup, trimming and pruning all trees and shrubs, and spring and fall clean-up. The items submitted by Ceminsky, such as the stump grinding, would be on a one-year basis only. Supervisor Fredlund seconded the motion. **Roll call vote:** Donovan Palmquist, *Aye*; Lu Barfknecht, *Aye*; Tim Murphy, *Aye*; Mark Ceminsky, *Aye*; Ralph Fredlund, *Aye*. **Motion carried 5-0.**

F. Castle Rock Signature Cards

Chair Palmquist will sign at the bank in Castle Rock.

G. Website per Otto email

The Board asked the Planning Commission to start the look at the website including outdated documents, Jeff’s recommendations.

H. JPA with Empire Township re PERA for D. Williamson

There was a question from the persons helping with the financials. The JPA was never entered into. Ms. Williamson’s PERA will be paid to Empire Township.

XI. Other Business -none

XII. Minutes Approval -TB December 14, 2020

Supervisor Ceminsky pointed out that his name was incorrect in a few places. This was an autocorrect problem. Chair Palmquist moved to approve the Town Board minutes from December 14, 2020, as amended. Supervisor Murphy seconded. **Roll call vote:** Donovan Palmquist, *Aye*; Lu Barfknecht, *Aye*; Ralph Fredlund, *Aye*; Mark Ceminsky, *Aye*; Tim Murphy, *Aye*. **Motion passed 5-0.**

XIII. Adjournment

Chair Palmquist moved to adjourn the meeting; Mark Ceminsky seconded. **Roll call vote:** Supervisor Palmquist, *Aye*; Supervisor Barfknecht, *Aye*; Supervisor Fredlund, *Aye*; Supervisor Murphy, *Aye*; Supervisor Ceminsky, *Aye*. **Motion passed 5-0.**

The Meeting adjourned at 9:31 p.m.

Respectfully submitted by Nancy Sauber, Interim Deputy Clerk.

Approved _____, 2021.

Town Board Chair

Interim Deputy Clerk
