

EUREKA TOWNSHIP
DAKOTA COUNTY, STATE OF MINNESOTA

TOWN BOARD MEETING OF MAY 10, 2021

Due to the Peacetime Emergency and social distancing guidelines, the Town Board Chair has determined it is neither practical nor 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.

Call to Order

The Eureka Township Town Board meeting was called to order, via Zoom Meetings, at 7:10 p.m. by Chair Donovan Palmquist and the Pledge of Allegiance was given.

Supervisors Present: Donovan Palmquist, Lu Barfknecht, Ralph Fredlund, Nancy Sauber.

Supervisors Absent: Tim Murphy.

Others Present: Raneé Solis, Chad Lemmons, Amy Liberty, Debbie Burkhardt, Julie Larson, Brian Ahern, Jody Arman-Jones, Mark Henry, Randy Wood, Bryce Otte, Jeff Otto, Terri Petter, John Rees.

Approval of the Agenda

The following changes were made to the agenda:

1. Add item H. Highview address sign-off under New Business.
2. Add item I. Railroad creating more than one native right in a quarter-quarter under New Business.
3. Add item J. Lawn contract vis-à-vis RFP under New Business.
4. Add item K. CUP holder in attendance for annual review under New Business.
5. Add item L. Amended retention schedule under New Business.
6. Add item M. Town Board prohibiting contracting to officials through reorg meeting.
7. Move items A. & B. from Old Business to follow Land Use Requests.

Motion: Chair Palmquist moved to approve the agenda as amended, seconded by Vice Chair Fredlund. Roll Call vote: Donovan Palmquist – Aye; Ralph Fredlund – Aye; Lu Barfknecht – Aye; Nancy Sauber – Aye. *Motion carried 4-0.*

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. Chair Palmquist asked three times if there were any attendees who would like to make comment, and hearing none, closed the floor.

Citizen Business – None

Road Report

Road Superintendent – Mark Henry

- Requested the Ottes to touch up some specific roads. In general, roads are looking better.
- Getting the Road Committee involved in preparing a list of signage issues to send to Bryce Otte.
- We need to get going on gravel, would like to start with 240th and get it dust proofed.

Road Contractor – Otte Excavating

- Completed a day of grading after the rain.
- Will begin work on signs once they are received.
- Asked whether the use of a water truck is approved if the roads are dry. Mark Henry responded that he is not opposed to using a water truck, and anticipated some use, but not all day.

Road Maintenance Invitation to Quote

Supervisor Barfknecht questioned whether a longer contract could be approved to eliminate annual quotes. It was noted that a longer contract could possibly exceed the \$175,000 limit. Minor changes were discussed and agreed upon.

Motion: Supervisor Sauber moved for the attorney to make the requested changes to the contract with a release date of May 11, 2021, and response deadline of June 10, 2021, seconded by Chair Palmquist. Roll Call vote: Donovan Palmquist – Aye; Ralph Fredlund – Aye; Lu Barfknecht – Aye; Nancy Sauber – Aye. *Motion carried 4-0.*

Planning Commission Update

Commissioner Larson provided a copy of the May Planning Commission meeting minutes. Vice Chair Fredlund received confirmation that the Schuhwerck Trust lot split survey had been revised to reflect Flagstaff instead of Hamburg Ave.

Permit Requests

John Rees, 23755 Fairgreen Ave, PID 13-01100-51-020 – Accessory building

Motion: Chair Palmquist moved to approve the 30x54 sq. ft. pole barn for John Rees at 23755 Fairgreen Ave. with PID 13-01100-51-020 for personal use only, seconded by Vice Chair Fredlund. Roll Call vote: Donovan Palmquist – Aye; Ralph Fredlund – Aye; Lu Barfknecht – Aye; Nancy Sauber – Aye. *Motion carried 4-0.*

Land Use Requests

Alex Schuhwerck Trust, 6595 225th St. W., PID 13-00300-02-010- Lot Split

Supervisor Sauber asked for clarification that the 3.1-acre parcel setbacks would be maintained, as a non-compliant lot cannot be created. Either the lot line would need to be moved north or the building would need to be moved south to meet the setback

requirement. The Board agreed to table the lot split request until the next Town Board meeting.

Annual review for Spirit Ranch II – Terri Petter

The 2003 minutes and resolution reflect that the CUP for Spirit Ranch I was approved for a dog kennel and horse boarding, and Spirit Ranch II was approved for the boarding, breeding and sale of cattle. Ms. Petter disagreed, stating that the CUP allowed for a dog kennel on Spirit Ranch II as well, and she has been paying kennel license fees for both CUPs. The Board noted that if she was charged for a dog kennel for Spirit Ranch II, that would have been done in error as the CUP does not allow for dogs. Attorney Lemmons advised that, due to the inconsistent information being provided by Ms. Petter, he and the Board review the entire CUP file. The Board agreed to table the review until the next meeting in order to review the receipts, minutes and previous CUP reviews.

Annual review for Mark Nelson – Airstrip

Motion: Chair Palmquist moved to table the annual review until the next meeting in order to look into who is using the airstrip. If it is not Mr. Nelson, he will need a license to operate the airstrip, seconded by Supervisor Barfknecht with a friendly amendment that a license is needed for other than personal use. Roll Call vote: Donovan Palmquist – Aye; Ralph Fredlund – Aye; Lu Barfknecht – Aye; Nancy Sauber – Aye. *Motion carried 4-0.*

Treasurer's Report

Net pay and claims

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. *Motion carried 4-0.*

Receipts and disbursements

Motion: Vice Chair Fredlund moved to approve the receipts and disbursements as presented, seconded by Chair Palmquist. Roll Call vote: Donovan Palmquist – Aye; Ralph Fredlund – Aye; Lu Barfknecht – Aye; Nancy Sauber – Aye. *Motion carried 4-0.*

Remaining reports

The Board reviewed the Cash Control statements and Schedule 1.

Recommended 2021 budget allocations

Motion: Vice Chair Fredlund moved to approve the recommended budget allocations as presented, seconded by Chair Palmquist. Roll Call vote: Donovan Palmquist – Aye; Ralph Fredlund – Aye; Lu Barfknecht – Aye; Nancy Sauber – Aye. *Motion carried 4-0.*

New Business

Lakeville annexation public hearing summary

Supervisors Fredlund, Palmquist and Sauber attended the public hearing and went on record as opposing the annexation. Due to annexation by ordinance, the Township had no legal right to object. Chair Palmquist offered to draft a letter requesting a green zone buffer for the annexed parcels.

Schedule Board of Audit / 2022 Budget meeting

The Board agreed to hold the Special Board of Audit/2022 Budget meeting on June 7, 2021, at 7:00 p.m.

Resolution 2021-05 adopting regular Planning Commission meeting dates and times

Motion: Supervisor Sauber moved to adopt Resolution 2021-05 adopting regular Planning Commission meeting dates and times, seconded by Chair Palmquist. Roll Call vote: Donovan Palmquist – Aye; Ralph Fredlund – Aye; Lu Barfknecht – Aye; Nancy Sauber – Aye. *Motion carried 4-0.*

Ordinance 2021-01 amending Ordinance 7, Chapter 1

Supervisor Sauber requested that line five be changed to read certified “by” the Town Clerk and line ten end with a period, removing “and”.

Motion: Supervisor Sauber moved for the attorney to make the requested changes to Ordinance 2021-01, seconded by Chair Palmquist. Roll Call vote: Donovan Palmquist – Aye; Ralph Fredlund – Aye; Lu Barfknecht – Aye; Nancy Sauber – Aye. *Motion carried 4-0.*

Discussion: Driveway access vis-à-vis public road access and buildable lots

Attorney Lemmons clarified that an applicant may transfer a building right to a buildable lot that does not currently have road access. The road access issue can be dealt with at the building permit stage.

Discussion: If initiation of a housing right transfer is enough without a lot split PID

Supervisor Sauber requested clarification of the language presented by Jeff Otto which states that a person has 90 days to complete a transfer once initiated. Ordinance 3, Chapter 3, Section 8(A) states that the transfer agreement must be executed, not initiated. Initiating the transfer does not protect the housing right, it must be approved by the Board. Jeff Otto offered that he is suggesting that when a lot split is initiated, the metes and bounds language on the plat for the newly created lots is sufficient for the Board to approve the transfer while waiting for the County to issue new PIDs. The 90 days language was intended to allow sufficient time to close the transaction, then an additional 30 days to file at the County.

Attorney Lemmons clarified that in the case of annexation, a resident would have to obtain Town Board approval of a housing right transfer before the annexation occurs in order to protect the housing right. Once the annexation occurs the housing right ceases to exist. You cannot hang on to the housing right because there would be no parcel in the Township with a right attached to it. The Board could approve a housing transfer to a new parcel without a PID by listing the legal descriptions of the parcels. In the case of a lot split, once the Board approves the split, and you have two new legal descriptions, you could transfer the housing right simultaneously to one of those two legal descriptions and the County would have to accept that for recording because they also have evidence that you’ve approved the subdivision.

Supervisor Sauber asked for clarification of a statement made by Jeff Otto in the May Planning Commission minutes stating that a housing right transfer must only be initiated within 30 days to provide protection of the housing right from annexation. Mr. Otto responded that his statement was inaccurate.

Highview address sign-off and bill

Supervisor Sauber requested an explanation of the boundary line adjustment for 26120 Highview Ave made by the attorney as noted on the billing. Attorney Lemmons responded that, with permission by the Chair, he reviewed a survey with Butch Hansen entailing a boundary adjustment made due to a driveway encroaching on the property, resulting in no change to parcel sizes. He then prepared a note to the Dakota County Recorder's Office stating that this is a boundary line adjustment and, therefore, does not require subdivision approval by the Town of Eureka. The statutory definition of a subdivision excludes any change in tax parcels due to a boundary line adjustment. The Board agreed that the attorney billing in the amount of \$135 attached to that procedure should be assessed to the people involved.

Motion: Supervisor Sauber moved that the attorney billing of \$54 and \$81, totaling \$135, be assessed to Mark Hansen, Butch Hansen or the Trust, whichever is appropriate, seconded by Chair Palmquist. Roll Call vote: Donovan Palmquist – Aye; Ralph Fredlund – Aye; Lu Barfknecht – Aye; Nancy Sauber – Aye. *Motion carried 4-0.*

Railroad creating more than one native right in a quarter-quarter

Attorney Lemmons confirmed that, in the case of the railroad dividing a quarter-quarter section, that division could give grandfather status to those parcels. The division does not create a native right for each parcel.

Lawn contract vis-à-vis RFP

The item was tabled until the next meeting.

CUP holder in attendance at annual review

Chad Lemmons advised that although the practice has been that a CUP holder attend the meeting for the annual review, the ordinance does not require the CUP holder to be in attendance in order for the Board to approve it.

Town Board prohibiting contracting with officials through Reorganization meeting

Chad Lemmons advised that if the statute allow contracting with officials, the Board must make sure that the statute does not preempt the town from taking that action. If there is no preemption in the statute, and the Township wants to make it more restrictive, it can do so by ordinance. The Board agreed to refer this to the Planning Commission for their consideration.

Amended retention schedule

Chad Lemmons stated that the amended retention schedule has not been completed. In the meantime, recordings should still be retained for 60 days after the minutes have been approved.

Old Business

Transfer of Housing Rights forms – Jeff Otto

The tabled this item until the next meeting.

Newsletter on housing density update

The Board agreed that shorter document with bullet points will go in the newsletter with a link to the longer article on the website.

Update of septic letters and County follow up

The Deputy Clerk/Treasurer contacted the County to request they update the non-pump list. The Board agreed to place this item on the agenda each month until it is resolved.

Other Business

None

Approval of meeting minutes

April 12, 2021, Town Board meeting

Motion: Chair Palmquist moved to approve the minutes as amended, seconded by Vice Chair Fredlund. Roll Call vote: Donovan Palmquist – Aye; Ralph Fredlund – Aye; Lu Barfknecht – Aye; Nancy Sauber – Aye. *Motion carried 4-0.*

April 19, 2021, Special Town Board meeting

Motion: Supervisor Sauber moved to approve the minutes as amended, seconded by Chair Palmquist. Roll Call vote: Donovan Palmquist – Aye; Ralph Fredlund – Aye; Lu Barfknecht – Aye; Nancy Sauber – Aye. *Motion carried 4-0.*

April 19, 2021, Special Reorganization meeting

Motion: Chair Palmquist moved to approve the minutes as presented, seconded by Vice Chair Fredlund. Roll Call vote: Donovan Palmquist – Aye; Ralph Fredlund – Aye; Lu Barfknecht – Aye; Nancy Sauber – Aye. *Motion carried 4-0.*

Clerk Matters

- Clerk Solis noted that David Frame and Julie Larson will continue to help out in May.
- The Board agreed to resume in-person meetings in June.

Adjournment

Motion: Chair Palmquist moved to adjourn the meeting, seconded by Supervisor Sauber. Roll Call vote: Donovan Palmquist – Aye; Ralph Fredlund – Aye; Lu Barfknecht – Aye; Nancy Sauber – Aye. *Motion carried 4-0.*

Meeting adjourned at 10:05 p.m.

Respectfully submitted,

Ranee Solis, Town Clerk

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