

EUREKA TOWNSHIP
Dakota County, State of Minnesota

TOWN BOARD MEETING
SEPTEMBER 27, 2021 – 7:00 P.M.

Call to Order

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

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

Others Present: Ranee Solis, Chad Lemmons, Carol Cooper, Deb Burkhardt and Deputy Mike Vai.

Zoom Attendance: Julie Larson and Brian Ahern.

Approval of the Agenda

The following changes were made to the agenda:

1. Add item F. Accessory building complaint under New Business.
2. Change the Town Board meeting date from October 11th to October 12th under Upcoming Meetings/Dates.

Motion: Chair Palmquist moved to approve the agenda as amended, seconded by Supervisor Barfknecht. *Motion carried 5-0.*

Sheriff's Department Update – Deputy Mike Vai

Deputy Vai reported that there continue to be reports of car thefts and stolen catalytic converters in the area. As a reminder, always lock your cars and do not leave your keys in the car. The Board reported complaints of shooting at night at 9235 Upper 235th St. and requested that the Sheriff's Department patrol the area. Supervisor Kauffman asked the Deputy to check on whether a citation was issued regarding the complaint of shooting a gun after dark on Highview.

Road Report

Eureka Estates drainage issue

Supervisors Barfknecht and Palmquist met with Dean Trahan and Mark Henry to discuss the Eureka Estates drainage issue. Dean Trahan is preparing a proposal for the Board to review at the next meeting.

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

Maxine and Howard Storlie parcel – Rebuild after fire

Supervisor Fredlund requested discussion of verification of a housing right on 26430 Galaxie after the house burned down two years ago. Supervisor Sauber noted that if it is a nonconforming use, the building should have been replaced within 12 months. We changed the Ordinance to state that if they are not changing the footprint they do not need to come before the Board. The Clerk and Planning Commission Chair would verify that the setbacks are the same.

Carol Cooper asked to speak, as she represents the owners of both parcels. Since this is a Pre-1982 Lot of Record, it is grandfathered, eliminating the need to rebuild within a year. Chad Lemmons confirmed this to be true so long as it is conforming to the current zoning ordinance. Commissioner Larson pointed out the issue of the shed being located on the neighboring parcel. Ms. Cooper clarified that the Storlie's decided against a lot split so as not to endanger the building right. Instead, they recorded a declaration of easement for the area where the shed is located. The reason the issue arose is that around 1980 the Dakota County surveyor repositioned the section lines on the south end of these properties. The pole shed that would have been on the property as originally configured was now an encroachment. They recorded an easement instead of changing the property lines. Chad Lemmons confirmed that if it is a conforming parcel in terms of size and width, it would be a permitted use. Ms. Cooper expressed that the fact that it has been more than a year is irrelevant because it is a pre-1982 Lot of Record.

Treasurer's Report

Net Pay and claims

Treasurer Solis presented net pay in the amount of \$1,910.94 and claims in the amount of \$19,858.15. Supervisor Sauber requested that the Treasurer make note that we have received gravel tickets.

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

Email regarding ARPA funds

Vice Chair Fredlund reported that Eureka has already applied for and received the ARPA funds, and the email the Board received was a general reminder for townships to apply.

Pay for Zoom attendance

Vice Chair Fredlund asked whether a Town Board Supervisor or Planning Commission member who attends a meeting via Zoom without proper notice of remote attendance should receive pay for the meeting. The Board agreed that they should not be paid since they are unable to participate as a voting member of a meeting due to lack of proper posted notice.

Attorney Items

Progressive Resources/Friedges Housing Right Transfer

Chad Lemmons reported that although the applicants did not record the form within the designated time period, a court would rule in the applicants favor because we cannot prove that they received the forms from the Township. The Board agreed to sign off on new paperwork without reapplying since it was previously reviewed and approved, noting that they must pay a new application fee and return the recorded forms within 120 days per the Ordinance. The Clerk was directed to issue a receipt stating the date that the documents are picked up from Town Hall. In addition, an explanation that this form was issued to replace the original which was previously lost should be placed in the property file.

Pre-1982 Lot of Record Ordinance definition amendment

Chad Lemmons recommended to leave the definition as is because the only records you can access and independently verify are the land records. When the County switched to electronic tax records in the mid 90's, the paper records were destroyed leaving no way of knowing which PID numbers existed in 1982. The only means of verification are the legal descriptions on the warranty deeds.

Supervisor Sauber requested clarification that plat maps no longer come into consideration, just strictly the stub abstract. Chad Lemmons confirmed that tax records and land records are two separate systems. You can have two tax parcels combined into one tax parcel, then you can sell them separately provided you can recreate the parcels as they existed pre-1982.

Supervisor Kauffman stated she was troubled by the interaction at the previous meeting where a resident had a stub abstract showing Pre-1982 Lots of Record for 2 parcels with no evidence of ever being combined. He was told by our attorney at the Planning Commission meeting that it was a Lot of Record, then at Town Board meeting the rug was being pulled out from under him over a plat map. Our Ordinances are restrictive enough without finding ways to say no. The burden of proof was being approached in two separate ways. First, he needed to show he had a Pre-1982 Lot of Record by a preponderance of the evidence. He needed to show it was more probable than not that he had a Lot of Record. Then, once plat maps and tax parcels were being thrown in, it became that he needs to show beyond a reasonable doubt. I would prefer that the Board use the preponderance of the evidence standard in the future, a plat map does nothing to a legal chain of title. Supervisor Sauber responded that we must be sure we are administering the Ordinances correctly. When Commissioner Wood brought up the question, I was not looking for way to say no, I was looking to make sure our yes was correct.

Chad Lemmons clarified that he reviewed the plat book at the Planning Commission meeting and the chain of title showed two distinct parcels. The Ordinance is based on land records contained in the County Recorder's office. After the Planning Commission meeting there were doubts about whether it was a separate tax parcel in 1982. If you are going to start looking at tax parcels as well as land records, you will have to amend your Ordinance definition because they are two separate, distinct systems. Supervisor Barfknecht added that the PID numbers in the stub abstract were the same today as they were before 1982.

Petrash letter

Chad Lemmons advised that he believes there is a misunderstanding as to what occurred at prior meetings. What a prior Town Board decides does not control what a current Board does. Previously, Mr. Petrash had a buildable lot, but someone used the native right in that quarter-quarter leaving no building right. The letter from his attorney states the parcel was split in 1985. Mr. Lemmons offered to send a follow up letter stating that this parcel did not exist on April 12, 1982, and therefore is not a Pre-1982 Lot of Record. However, if they can produce a certificate of survey dated prior to April 12, 1982, showing the same legal description that appears today, and proof of filing with the Dakota County Surveyor's office, they would have a buildable lot.

Supervisor Kauffman recommended offering residents the ability to list building rights for sale in the newsletter.

Swimming pool fence complaint

Chad Lemmons was directed to draft a letter to the resident stating the requirement of a fence surrounding his pool. At the time of application, a fence was required, and the permit was approved based on the inclusion of a fence in his site map. Now that the fence requirement is no longer part of the building code, they must follow our Ordinance, which requires a fence. Either way, the pool must have a fence.

Review of JPA with Dakota County Sheriff

The Board reviewed the current JPA which is in effect until December 31, 2021. Supervisor Sauber noted that according to the agreement the Sheriff's department should have enforced our exotic animal ordinance. Chad Lemmons added that according to Ordinance 8, Chapter 1, any violation of the code is a misdemeanor violation so they would have to enforce the entire code. He recommended that the Township provide a list of every Ordinance they are supposed to enforce and, if they are unwilling to enforce them, then do not renew the JPA.

Motion: Supervisor Kauffman moved for the Township attorney to draft a memo on how to set up an administrative hearing system, independent of the JPA, to have an alternate path for enforcing some Ordinances without going to law enforcement or the courts, seconded by Chair Palmquist. *Motion carried 5-0.*

Supervisor Barfknecht offered to reach out to the Sheriff's department regarding renewal of the JPA. Chad Lemmons offered to draft an appendix of the Ordinances for the Sheriff.

Retention Schedule filed with the State

The Retention Schedule is complete and has been submitted to the proper custodian.

Old Business

Complaint follow-up at 25500 Highview Avenue

Supervisor Fredlund verified that the construction equipment has been removed from the pole barn. The excavator and fuel tanks are still being stored behind the building. Chad Lemmons was directed to send a letter requesting a date by which the resident intends to remove the backhoe.

Broadband notice

After receiving notice from NTIA, the broadband grant application was resubmitted via email, and successful receipt was acknowledged. Senator Amy Klobuchar filed a letter of support for Eureka directly to the Secretary of Commerce. Supervisor Kauffman offered to write a letter of thanks to our State Representative for her support of our broadband grant.

Housing Right Transfer small group

Supervisor Sauber recommended that, in lieu of a housing right transfer group, the Board authorize for the attorney to attend Planning Commission meetings that have housing right transfers. The Planning Commission Chair should reach out to the attorney to request his attendance at any such meetings.

Motion: Supervisor Sauber moved to approve attorney attendance at Planning Commission meetings when Housing Right Transfer applications are being considered, seconded by Chair Palmquist. *Motion carried 5-0.*

Lakeville roads JPA amendment

The Board reviewed the JPA which was amended to include the .33 miles of the recently annexed Adelman property that is adjacent to 225th St.

Motion: Vice Chair Fredlund moved to approve the Lakeville Roads JPA amendment as presented, seconded by Supervisor Kauffman. *Motion carried 5-0.*

Septic pumping status update

The Board agreed to select and approve a group of septic contractors at their next meeting to perform septic pumping for those on the non-pump list. In addition, another notice should be sent out prior to acting.

9390 267th St. complaint follow-up

Chad Lemmons was directed to send one more letter stating that if they do not comply the Sheriff will be contacted.

24840 Dodd Blvd complaint follow-up

Chad Lemmons was directed to send one more letter stating that if they do not comply the Sheriff will be contacted.

Home extended business discussion

The Board requested the Clerk reach out to the Planning Commission regarding their availability for a special joint meeting to discuss home extended business on either November 15th or 16th.

New Business

Town Hall lights, flags, measuring wheel

The Board requested the Clerk obtain new quotes for converting the Town Hall to LED lighting and check into rebates.

The Board requested the Clerk check into and order sturdier flags, as well as a measuring wheel for setback inspections.

General Code Ordinance draft

Supervisor Sauber stated that there are many errors just in the first 20 pages of the Ordinance draft. The Clerk was directed to contact General Code and request a red-lined second draft.

Guidelines for Covid exposure

The Board agreed to display a sign at Town Hall strongly recommending that unvaccinated citizens wear a mask for the safety of our staff. Additionally, if you are experiencing any symptoms, please do not enter the building.

Permit applications – Black ink

Motion: Supervisor Kauffman moved to approve adding language to use black ink only on permit application forms, seconded by Supervisor Barfknecht. *Motion carried 5-0.*

Process for annual mining reviews

Supervisor Sauber recused herself from this agenda item. The Town Board discussed asking the Planning Commission to pull all active mining development agreements, read through them to see what their obligations are, such as reclamation, level of bonds, and prepare a letter to send to each mine in advance of their annual reviews.

Motion: Supervisor Kauffman moved to direct the Planning Commission to perform a thorough review of all mining agreements and create letters to each listing their obligations which are to be reported to the Board before their February reviews, seconded by Chair Palmquist. *Motion carried 4-0,* with Supervisor Sauber recused.

Chad Lemmons advised that, in addition to the information in each development agreement, Ordinance 6, Chapter 6, Section 2, A-L lists additional items which must be submitted. The Board agreed that the letters should be sent out mid-December, stating that responses are due by January 31st.

Accessory building complaint at 8802 225th St. W.

Supervisor Fredlund reported that the recently constructed pole shed contains an overhang that was not on the plans of the approved application and is now exceeding the maximum allottable size. The Clerk was asked to request that the residents attend the next meeting for discussion.

Adjournment

Motion: Chair Palmquist moved to adjourn the meeting, seconded by Supervisor Kauffman. *Motion carried 5-0.*

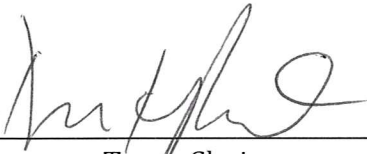
Meeting adjourned at 10:00 p.m.

Respectfully submitted,

Ranee Solis

Ranee Solis, Town Clerk

Minutes Officially Approved By:



Town Chair

on:

11/22/21

Date