

EUREKA TOWNSHIP
Dakota County, State of Minnesota

TOWN BOARD MEETING
February 28, 2022 – 7:00 P.M.

Call to Order

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

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

Others Present: Ranees Solis, Martin Norder, Bill Clancy, Randy Wood, Tim Murphy, Mike Callahan, Pat Mason, Matt Nelling, Dan Ames.

Zoom Attendance: Stacy Shaw, Julie Larson, Carol Cooper, Deb Burkhardt, Justin Friedges, Brian Ahern.

Approval of the Agenda

Motion: Chair Palmquist moved to approve the agenda as presented. Vice Chair Fredlund seconded. *Motion carried 5-0.*

Vice Chair Fredlund took over as Chair for the remainder of the 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.

Tim Murphy – 9110 225th St. W., Lakeville

Town Board Supervisor Tim Murphy announced that, due to his medical condition, he will be unable to resume his position on the Town Board for the remainder of his term. The Board thanked him for his service and wished him well.

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

Sheriff's Department

The Deputy was asked to check on the status of the email sent regarding gun fire in the area of Highview or Ipava.

Citizen Inquiry - None

Mining CUP/IUP Annual Reviews

Supervisor Sauber recused herself from all discussion on this agenda item.

Brosseth Pit – 13-00800-25-011, Dakota Aggregates (Pat Mason)

Pat Mason and Matt Nelling were in attendance to represent the mining review.

- A. Amount of material removed: 266,961.12 cubic yards.
Amount of material imported from off-site: 0.
- B. Amount of material remaining to be removed: Approximately 1,025,000 cubic yards.
- C. Evidence that bonding and insurance are still in force and effect: Certificate of Insurance in effect from September 1, 2021, to September 1, 2022. Reclamation Surety Bond #30146476 from Western Surety Company in the amount of \$60,000 signed 1/20/22.
- D. Status of permit holder's responses to complaints or violations during the previous year: None.
- E. History of permit holder's compliance with this mineral extraction ordinance and other governmental regulations relating to mining: In compliance.
- F. Status of phasing plan: Finishing Phase 8 and progressing to Phase 9 in 2022.
- G. Status of reclamation: The north side site access property line (just north of the pit access road) is reclaimed and vegetated. The east berm is constructed and vegetated. The northwest corner of the site abutting the haul road is reclaimed and established with vegetation.
- H. Up to date list of all vehicles and equipment on site; estimated number of vehicles accessing the facility: 2 loaders, 1 water truck, 1 bobcat, 1 backhoe, portable dredge/dragline and processing equipment. From April through December, approximately 6-8 employee trips can occur daily. During the period from December through March/April daily employee trips average 2-4 per day.
- I. Report on condition of haul roads that serve or abut the facility: maintained and in good condition.
- J. Status of erosion control measures: maintained and in good condition.
- K. Any changes in ownership and/or operator: none.
- L. Other items of information requested by the Town Board.

Vice Chair Fredlund opened the floor for questions from the Board.

Supervisor Barfknecht questioned that the 2021 report stated the amount of material remaining to be removed was between 525,302 - 1,025,332. The 2022 report lists 1,025,000 remaining to be mined after removing 266,961. Pat Mason explained that it is an estimate.

Supervisor Barfknecht asked if Mr. Mason is aware of a state law that says mines cannot bring in topsoil for reclamation. Mr. Mason responded he is not aware of any such law. Dakota County allows for import of topsoil so long as it is tested and found to be clean.

Supervisor Kauffman noted the water quality report states that one result was out of spec due to testing contamination and will be run again in March. She requested the results of the new testing be submitted to the Board.

Supervisor Kauffman asked how many acres have currently been disturbed and will be reclaimed in the future. Mr. Mason responded that approximately 20 acres have been disturbed.

Commissioner Clancy requested a copy of the Development Agreement and the 2009 site map.

Vice Chair Fredlund asked if there were any others who would like to make comment. Hearing none, the floor was closed.

Vice Chair Fredlund noted that there have been no complaints or violation for the Brosseth pit this past year.

Motion: Vice Chair Fredlund moved to approve the annual IUP review for the Brosseth pit. Supervisor Barfknecht seconded. *Motion carried 4-0, with Supervisor Sauber recused.*

Storlie Pit – 13-00700-02-022, Dakota Aggregates (Pat Mason)

Pat Mason and Matt Nelling were in attendance to represent the mining review.

- A. Amount of material removed: 53,941.60 cubic yards.
Amount of material imported from off-site: none.
- B. Amount of material remaining to be removed: approximately 1,015,000 cubic yards.
- C. Evidence that bonding and insurance are still in force and effect: Certificate of Insurance in effect from September 1, 2021, to September 1, 2022. Reclamation Surety Bond #30146477 from Western Surety Company in the amount of \$90,000 signed January 20, 2022.
- D. Status of permit holder's responses to complaints or violations during the previous year: none.
- E. History of permit holder's compliance with this mineral extraction ordinance and other governmental regulations relating to mining: In compliance.
- F. Status of phasing plan: Active in Phase 5. The phasing plan was accepted by the Township in February 2003.
- G. Status of reclamation: The reclamation plan was accepted by the Township in 2003 and will be followed when reclamation activities commence.
- H. Up to date list of all vehicles and equipment on site; estimated number of vehicles accessing the facility: Screener, feeder, conveyors and two loaders from time to time when in operation. 2-4 daily employee trips during the active mining months.
- I. Report on condition of haul roads that serve or abut the facility: maintained and in good condition.
- J. Status of erosion control measures: maintained and in good condition.

- K. Any changes in ownership and/or operator: John Storlie is the property owner and Dakota Aggregates is the operator.
- L. Other items of information requested by the Town Board.

Vice Chair Fredlund opened the floor for questions from the Board.

Vice Chair Fredlund asked if the mine is being operated now. Mr. Mason responded that it is.

Supervisor Kauffman asked how many acres have been disturbed. Mr. Mason responded approximately 5 acres.

Supervisor Kauffman asked if there is an end date of when they will complete the mining. Mr. Mason responded that they are actively mining and will reclaim in the timeliest fashion as they can.

Commissioner Clancy requested copies of the phasing plan and reclamation plan from 2003.

Vice Chair Fredlund asked if there were any others who would like to make comment. Hearing none, the floor was closed.

Vice Chair Fredlund noted that there have been no complaints or violation for the Brosseth pit this past year.

Motion: Vice Chair Fredlund moved to approve the annual CUP review for the Storlie pit. Supervisor Barfknecht seconded. *Motion carried 4-0, with Supervisor Sauber recused.*

Sibley Aggregates/Eureka Pit – 13-01200-50-011, MPM (Mike Callahan)

Mike Callahan was in attendance to represent the mining review.

- A. Amount of material removed: 0 tons of materials removed (sold); 0 tons extracted; 4,800 tons recycled concrete crushed.
Amount of material imported from off-site: 0 tons of material imported.
- B. Amount of material remaining to be removed: approximately 500,000 tons of mineable material remain.
- C. Evidence that bonding and insurance are still in force and effect: Certificate of Insurance in effect from September 1, 2021, to September 1, 2022. Bond #9245692 from Fidelity and Deposit Company of Maryland in amount of \$60,000 dated March 23, 2017.
- D. Status of permit holder's responses to complaints or violations during the previous year: MPM received 3 complaints in 2021. There were no violations in 2021.
 - 1. Recycle materials – In July 2021, MPM had a sub-contractor haul materials to the pit that originated within the township but did not originate from a road project from within the township. MPM received a letter from the township detailing the concern. The material was removed from the site. The two Town Board members

assigned to the complaint inspected the site on August 6, 2021, and noted the issue was resolved in a satisfactory and timely manner. This complaint was noted as resolved at the August 9, 2021, Town Board meeting.

2. Temporary storage – in November 2021, MPM received a complaint concerning tile piping and a Conex box on site. These items were removed on November 24, 2021. MPM is waiting for the Town Board members assigned to the complaint to conduct a site visit.
 3. Reclamation – In November 2021, MPM received a complaint regarding reclamation. During the November 22, 2021, Town Board meeting MPM stated their concern about the current reclamation plan and how it would violate other parts of the ordinance if followed. The two Town Board members assigned to the complaint agreed to meet with MPM to work on an amended reclamation plan which would be subject to approval by the Town Board.
- E. History of permit holder’s compliance with this mineral extraction ordinance and other governmental regulations relating to mining: Paved driveway; mine processing within required setbacks; repaired previous operators’ berm; operating under MSHA and MPCA required rules and reporting.
 - F. Status of phasing plan: Working in permitted area of the active mine site until usable resources are depleted.
 - G. Status of reclamation: Exhausted mining areas are being/will be reclaimed with overburden derived from stripping materials related to the active mining operations along with material that comes from off site that will be tested for non-noxious, non-flammable and non-combustible substances.
 - H. Up to date list of all vehicles and equipment on site; estimated number of vehicles accessing the facility: 1 portable crushing plant, 1 screening plant, 1 wash plant, 2 loaders, 1 dozer as needed throughout the year. Necessary mobile equipment: 1 loader, 1 service truck, 1 man lift.
 - I. Report on condition of haul roads that serve or abut the facility: Haul Road paved as required.
 - J. Status of erosion control measures: All water is contained on site and reclaimed for wash plant use. Perimeter berm is actively managed to determine if maintenance is required for erosion or weed control. Weeds were sprayed by MPM and River Side LLC.
 - K. Any changes in ownership and/or operator: Owner is Leroy Chard, operator is Oldcastle Materials d/b/a Minnesota Paving and Materials.
 - L. Other items of information requested by the Town Board.
Ordinance 6, Chapter 7, Section 1(U) 2(G): All materials used for back filling originated on-site and no off-site materials were used as back fill.

In response to the additional information requested, MPM is enclosing the following: Interim Use Permit, Environmental Assessment Worksheet and Development Agreement.

Vice Chair Fredlund opened the floor for questions from the Board.

Supervisor Barfknecht noted that in November MPM was granted 120 days to present a reclamation plan for the mine. She also noted that there was previous talk of expanding the mine which was not approved. She asked what the mine has planned after reclamation which will be done by the end of the year. Mr. Callahan responded that there will be no expansion request by MPM. The remaining materials will be mined either by MPM or the landowner.

Supervisor Barfknecht asked how much material is left to be mined. Mr. Callahan responded approximately 500,000 ton.

Commissioner Clancy requested a copy of the Development Agreement and EAW.

Vice Chair Fredlund asked if there were any others who would like to make comment. Hearing none, the floor was closed.

Vice Chair Fredlund noted that there have been three complaints for the MPM pit this past year. Two of the complaints have been resolved and the third complaint is in process.

Motion: Vice Chair Fredlund moved to approve the annual IUP review for the Eureka pit. Chair Palmquist seconded.

Supervisor Kauffman expressed she is hesitant to approve the annual review before reviewing the delinquent reclamation plan.

Supervisor Barfknecht asked the attorney to clarify the violation sections of the Ordinance. Martin Norder explained that once a complaint has been cured, it is not a violation.

Motion failed 2-2, with Supervisor Sauber recused.

Motion: Supervisor Kauffman moved to table approval of the IUP review of the Eureka pit until the Board has the revised reclamation plan in hand. Supervisor Barfknecht seconded. *Motion carried 4-0, with Supervisor Sauber recused.*

Vermillion River Aggregates Pit – 13-00700-30-011 (Dan Ames)

Dan Ames was present to represent the mining review.

- A. Amount of material removed: 29,877.85 Cubic Yards.
Amount of material imported from off-site:
- B. Amount of material remaining to be removed: 303,000 Cubic Yards.
- C. Evidence that bonding and insurance are still in force and effect: Certificate of Insurance in effect from March 1, 2022, to March 1, 2023. Permit Bond #3607698152 from Travelers Casualty and Surety Company of America in the amount of \$66,000 dated 8/5/2015.
- D. Status of permit holder's responses to complaints or violations during the previous year: None.

- E. History of permit holder's compliance with this mineral extraction ordinance and other governmental regulations relating to mining: In compliance.
- F. Status of phasing plan: Phase 1.
- G. Status of reclamation: Currently mining in progress.
- H. Up to date list of all vehicles and equipment on site; estimated number of vehicles accessing the facility: 1 loader, 1 bobcat, 1-2 backhoes and processing equipment. On average, 1 to 2 trucks enter the site daily.
- I. Report on condition of haul roads that serve or abut the facility: Maintained and in good condition.
- J. Status of erosion control measures: Maintained and in good condition.
- K. Any changes in ownership and/or operator: None.
- L. Other items of information requested by the Town Board.

Vice Chair Fredlund opened the floor for questions from the Board.

Vice Chair Fredlund noted the report shows no response to the amount of material imported off site and asked how he is reporting the sewage being hauled in. Mr. Ames responded that he must have skipped it. There is no sewage being hauled in, it is dirt and water that is being used to reclaim the back of the pit.

Vice Chair Fredlund asked if the material was safe and clean, and records can be provided. Mr. Ames responded that the material is tested and that he has load counts.

Mr. Ames noted the west bank has a 70-foot drop. He has to bring in material to reclaim the pit. Commissioner Clancy noted that Ordinance 6, Chapter 7, Section 1(U)(2)(g) states "All materials used for the back-filling in any area of the reclamation shall be tested and be free of all contaminants, and shall be non-noxious, non-flammable and non-combustible." This indicates an understanding that materials will be brought in for reclamation

Mr. Ames indicated he is working on a revised reclamation plan to include the recently acquired state pit.

Supervisor Kauffman asked when he anticipates the mining will end. Mr. Ames responded that he is still actively mining and expects to continue for at least a decade.

Supervisor Kauffman asked if he is water testing for pollution or water table. Mr. Ames responded he is not. The MPCA has come out and checked on usage.

Supervisor Kauffman asked if reclamation of the pit is ongoing. Mr. Ames responded that it is. They have started on the west side and are working their way east.

Supervisor Kauffman asked to address the issue of the storage of bagged mulch in the pit. She stated she cannot see how the storage of bagged mulch is permitted under the mining Ordinance. Other mines have received violation complaints regarding the storage of pipe, etc. The storage of bagged mulch is not an accessory use. You can store inputs of the mining

process or outputs of the mining process, but the storage of mulch is not a legitimate use of a mine under our Ordinance.

Supervisor Kauffman suggested tabling the review and ask Mr. Ames to review the Ordinance to find justification to continue to store 3 acres of bagged mulch.

Supervisor Barfknecht suggested that the Board revisit this as a separate issue, not in conjunction with the permit review.

Vice Chair Fredlund asked if there were any others who would like to make comment. Hearing none, the floor was closed.

Vice Chair Fredlund noted that there have been no complaints or violation for the Vermillion River Aggregates pit this past year.

Motion: Supervisor Barfknecht moved to approve the annual CUP review for Vermillion River Aggregates. Chair Palmquist seconded. *Motion carried 3-1, with Supervisor Kauffman opposed and Supervisor Sauber recused.*

Motion: Supervisor Barfknecht moved to revisit the resolution that was passed related to the storage of mulch at the next meeting. Chair Palmquist seconded. *Motion carried 4-0, with Supervisor Sauber recused.*

Friedges Landscaping Pit – 13-00700-26-030 (John Friedges)

John Friedges was present on Zoom to represent the mining review.

- A. Amount of material removed: 6,402 Cubic Yards.
Amount of material imported from off-site:
- B. Amount of material remaining to be removed: approximately 70,000 Cubic Yards.
- C. Evidence that bonding and insurance are still in force and effect: Certificates of Insurance in effect from April 1, 2021, to April 1, 2022, and from April 1, 2022, to April 1, 2023. Merchants Bonding Company Continuation Certificate Bond #MN 47701 in the amount of \$82,000 effective from April 24, 2021, to April 24, 2022, and Merchants Bonding Company Continuation Certificate effective from April 24, 2022, to April 24, 2023.
- D. Status of permit holder's responses to complaints or violations during the previous year: Friedges Landscaping, Inc. received no noise or dust complaints during the year of operation 2021.
- E. History of permit holder's compliance with this mineral extraction ordinance and other governmental regulations relating to mining: Friedges Landscaping has remained in compliance with Eureka Township Ordinances since pit operations have commenced.
- F. Status of phasing plan: Continuing mining operations as planned. Once mining operations are completed, reclamation plans will be put into place.
- G. Status of reclamation: Will begin reclamation once material has been mined.

- H. Up to date list of all vehicles and equipment on site; estimated number of vehicles accessing the facility: Front-end loader (Case 821 or John Deere 824), Powerscreen Chieftain 1400, 460 Series Linkbelt Backhoe, 2 conveyors, unloader. Approximately 585 vehicles travelled in and out of the Friedges pit during the operating period in 2021.
- I. Report on condition of haul roads that serve or abut the facility: Access roads that serve the Friedges pit include Dakota County road 74A, Dodd Blvd, and Pillsbury Ave.
- J. Status of erosion control measures: Erosion control measures are in place. MPCA NPDES Permit #C00034180 in place and being maintained.
- K. Other items of information requested by the Town Board.

Vice Chair Fredlund opened the floor for questions from the Board

Supervisor Barfknecht questioned the number of yards removed and remaining. There were 80,000 remaining reported in 2019. In 2020 it was reported that 29,093 yards were removed with 70,000 yards remaining. The current report for 2021 lists 6,402 yards removed with 70,000 yards remaining. The numbers do not add up. Mr. Friedges explained that as they continue to mine they find more usable material than previously thought.

Supervisor Barfknecht asked if they are actively mining the pit and the month that they last took gravel out of the pit. Mr. Friedges responded that they are not actively working the mine every day. They last removed gravel from the mine around October.

Supervisor Kauffman when he anticipates mining will end. Mr. Friedges responded 5 years. They use the pit for jobs in the area as needed. There was not a lot of work located in that area last year.

Supervisor Kauffman asked how many acres have been disturbed and will need reclamation. Mr. Friedges responded approximately 10 acres.

Supervisor Kauffman asked if they have done any water testing. Mr. Friedges responded they have not as they do not dig near the water table, and they have no runoff.

Supervisor Kauffman asked for clarification of reclamation. The report indicates reclamation will take place at the end of mining, yet it also states that reclamation is being done as you go. Mr. Friedges stated they have been reclaiming as they go. They are working on the south end and using state DOT mixes to seal it up. Supervisor Kauffman requested a revised report to show this.

Commissioner Clancy requested a copy of the reclamation plan showing the current status. Vice Chair Fredlund asked if there were any others who would like to make comment. Hearing none, the floor was closed.

Vice Chair Fredlund noted that there have been no complaints or violation for the Friedges Landscaping pit this past year.

Motion: Vice Chair Fredlund moved to approve the annual CUP review for Friedges Landscaping. Supervisor Barfknecht seconded. *Motion carried 4-0, with Supervisor Sauber recused.*

Old Business

Revised Ag-exempt zoning approval form

Motion: Vice Chair Fredlund moved to approve the revised Ag-exempt zoning approval form as presented. Supervisor Sauber seconded. *Motion carried 5-0.*

Text amendment excluding play structures as accessory buildings

The Board discussed the need for some additional language to the proposed text amendment.

The Board agreed that the text amendment should include that play structures shall be single-story, shall not exceed 80 sq. ft., and allow only one per parcel.

Supervisor Sauber proposed that, should the Board approve the text amendment, they combine it with other upcoming public hearings to make it more cost efficient.

NCRWMO Community reporting form

The Board reviewed the questions and provided the following responses:

1. Subsurface Sewage Treatment Systems (SSTS): Local ordinance has been adopted that is stricter than Dakota County Ordinance 113 regarding the installation and maintenance of SSTS or will delegate the SSTS ordinance enforcement to Dakota County? *No. Dakota County expects the Township to enforce the Ordinance by sending letters.*
2. Development, Stormwater and Erosion Control: Number of developments greater than one acre in the past year? *None completed, one possibly in the making.* Number of times the erosion control ordinance was enforced in the past year. *None.* Any updates to the Ordinance made for Minimal Impact Design Standards or updated rainfall amounts/trends? *No.*
3. Mining Ordinance: Existing mining ordinance in place? If yes, reviewed for appropriateness in the past year? *Yes. Reviewed 2/14/22.* If no, considered adopting a mining ordinance in the last year? *N/A.*
4. Wetlands: Maps of the Wetland and Watercourse Inventory are posted in the Town Hall? *Yes. They were moved for an open house and are in the process of putting them back up.* Communities continue to work with Dakota County SWCD for Wetland Conservation Act coordination? *Yes.*
5. Road Right-of-ways: Any activity to enforce right-of-way setback requirements? *Yes.*
6. Local Water Management Plan Status: A Local Water Management Plan (historically completed as part of the Comprehensive Plan) has been reviewed and accepted by NCRWMO and the Metropolitan Council? *Yes.*

Motion: Supervisor Sauber moved for the Clerk to submit the responses of the Board. Supervisor Barfknecht seconded. *Motion carried 5-0.*

Attorney Items

Status of General Code Ordinance draft

Martin Norder reported that General Code is awaiting responses to the questions they submitted. The Board reminded that Chad Lemmons was to inform General Code to correct the draft using the 2017 Ordinance as the base. The Board is waiting for them to submit the clean copy.

Motion: Chair Palmquist moved for Supervisor Kauffman to contact General Code regarding the Ordinance draft. Supervisor Sauber seconded. *Motion carried 5-0.*

Status of Administrative Hearing system

Martin Norder reported that the Attorney General has assigned an attorney to review the request.

Treasurer's Report

Net pay and claims

Treasurer Solis presented net pay in the amount of \$2,171.50 and claims in the amount of \$1,141.23.

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

Approval of 2021 Financial Report for State Auditor

Motion: Vice Chair Fredlund moved to approve the 2021 Financial Report for the State Auditor. Supervisor Barfknecht seconded. *Motion carried 5-0.*

2023 Proposed Levy

The Board agreed that inflation makes it necessary to increase the levy by 8%.

Motion: Supervisor Sauber moved to recommend the 2023 levy in amount of \$764,329 to the residents at the annual meeting. Vice Chair Fredlund seconded. *Motion carried 5-0.*

New Business

Castle Rock Bank release request

The Board requested the attorney contact Castle Rock Bank to determine what the pledged securities related to.

Motion: Supervisor Sauber moved to table this item until the March meeting. Vice Chair Fredlund seconded. *Motion carried 5-0.*

Supervisor Kauffman lost her connection and was not present for the remainder of the meeting.

Adelmann citizen inquiry revisited

The Adelmanns were not present for the discussion. The Board pointed out that there were many issues with the proposed plans and that the Adelmanns should be present to discuss.

Contract expirations / RFPs

The Board discussed the possibility of having all contracts renew at the same time each year. They also discussed the possibility of signing 2-year contracts if the attorney determines it would be legal to do so.

Final Annual Meeting slides for approval

Motion: Chair Palmquist moved to approve the annual meeting slides as amended. Supervisor Sauber seconded. *Motion carried 4-0*, Supervisor Kauffman lost her connection to Zoom.

Clerk Matters

Adjournment

Motion: Vice Chair Fredlund moved to adjourn the meeting. Supervisor Sauber seconded. *Motion carried 4-0*.

Meeting adjourned at 10:00 p.m.

Respectfully submitted,

Ranee Solis, Town Clerk

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