

EUREKA TOWNSHIP

Dakota County, State of Minnesota

SPECIAL CLOSED TOWN BOARD MEETING

March 21, 2023 – 3:30 P.M.

Call to Order

The Eureka Township Special Town Board meeting was called to order at 3:35 p.m. by Chair Lu Barfknecht.

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

Others Present: Liz Atwater, Brian Ahern, Steve DeYoung, Tim Pope, Allen Novacek, Pete Storlie, Kendyl Storlie, Melanie Storlie, Beverly Swanson, Janie Heyda, Mark Ceminsky, Julie Larson, Deb Burkhardt

Zoom Attendance: Rob Ruppe, Ken Olstad, Jody Arman-Jones, Gloria Belzer, Jeff Otto, Kristen, Cheryl, Nevada, Randy Wood, Annie, Colleen Riley, Sara Hart

Attorney Matters

Chair Barfknecht moved to enter into a closed session with our Attorney pursuant to Minnesota Statutes, Section 13D.04, Subdivision 2, to engage in confidential attorney-client communications and litigation strategy with regards to potential litigation discussing potential zoning violations with Heyda, Sather, and Pope. Supervisor Sauber second. Motion carried 4-0.

Chair Barfknecht recapped the closed: session the meeting was for attorney client privilege in relation to zoning violations for Mr. Heyda, Mr. Sather and the complaint filing against Mr. Pope.

Chair Barfknecht moved to designate Lu Barfknecht and/or Kathleen Kauffman as the individuals working with the Township attorney. Such Supervisors are hereby designated the authority to direct the actions of the Town attorney regarding such potential litigation included but not limited to filing a cause of action in Dakota County District Court regarding the property owned by Dan Heyda. Supervisor Fredlund seconded. Motion carried 4-0.

Chair Barfknecht explained the complaint on Mr. Pope did come in prior to the election and the Board had tabled the complaint because Mr. Pope was running for a Supervisor seat. Upon reviewing the complaint and the information on the property, there have been some alterations and expansions on the property. There was a permit for a motorcycle repair shop and non-conforming use on the property. At this time, if there are no more complaints and nothing is affecting the neighbors, the Board will not move forward with the complaint. If any future complaints come forward, the Board will revisit the complaint at that time.

Attorney Ruppe explained that Supervisor Kauffman is sitting in the seat won by Tim Murphy. Mr. Murphy is unable or refuses to serve due to an illness. Per Minnesota State Statute 367.03 Subdivision 7 **Inability or refusal to serve.**

In addition to the events specified in section 351.02, a vacancy in a town office may be declared by the town board when an officer is unable to serve in the office or attend board meetings for a 90-day period because of illness, or because of absence from or refusal to attend board meetings for a 90-day period. If any of the preceding conditions occurs, the town board may, after the board by resolution has declared a vacancy to exist, make an appointment to fill the vacancy at a regular or special meeting for the remainder of the unexpired term or until the ill or absent member is again able to resume duties and attend board meetings, whichever is earlier. If the vacancy is in the office of Supervisor, the vacancy must be filled by an appointment committee made up of the remaining Supervisors and the town clerk. If the original member is again able to resume duties and attend board meetings, the board shall by resolution so determine and remove the appointed officeholder and restore the original member to office.

Attorney Ruppe stated that Ms. Kauffman will finish out Mr. Murphy's term, unless Mr. Murphy comes back, then Ms. Kauffman must vacate the seat immediately.

Mark Ceminsky stated that Mr. Murphy resigned his office on February 28, 2022, as per the minutes. Chair Barfknecht explained that Mr. Murphy was sworn in, he did not ask to come back, there was no official letter of resignation, and he verbally stated it at the meeting. The Attorney was asked if they could accept this as his resignation, and the Board was advised that all resignations must be in writing. The Board reached out to Mr. Murphy; however, he never submitted a letter of resignation.

Mark Ceminsky asked about the motion made, seconded, and voted on at the Annual Meeting regarding Ms. Kauffman's vacating the Supervisor seat won by Mr. Murphy. It was his understanding that the Board needed to follow it.

Chair Barfknecht read from the Minnesota Association of Townships Document TM 6000 Annual Town Meeting document:

Motions made and passed at the meeting are not necessarily binding on the town board. The legislature has indicated what the electors can do at the annual meeting, and they are limited to those powers. Likewise, certain powers are delegated to the town board, and the board is limited to those powers. The electors' decisions are binding on the town board only if a statute has granted electors such authority. In other words, the electors cannot force or prohibit the board from acting on a matter assigned to the town board's discretion.

It references the State Statute Minnesota Statute § 365.10 **Annual Town Meeting; Powers of Electors** which lists what the electors of the town may do.

Attorney Ruppe confirmed that unless there is a specific requirement in the statute, the guidance given by the electors at an Annual Meeting, is just that: guidance.

Attorney Ruppe also cited Minnesota State Statute 351.01 **Resignations**, Subdivision 1

To whom made. Resignations shall be made in writing signed by the resigning officer.

It is effective when it is received as per Subdivision 2.

Road Concerns

Supervisor Fredlund reported that graders were out on Denmark, Fairgreen, 240th, and 225th. The Board has authorized the Road Superintendent to apply gravel or rock to areas as deemed necessary.

Supervisor Kauffman moved to establish a separate fund and place into it three years' worth of expense to renovate 225th Street. Supervisor Barfknecht seconded the motion. After discussion Supervisor Kauffman withdrew the motion.

Supervisor Barfknecht recommended that TKDA get involved to look at engineering products, processes, and projects. The Board should start working on applications with the State for Grants.

Old Business

Supervisor Kauffman explained that the Data Practices Policy was changed and is final. Procedures are needed for the Clerk as to what the charge will be for copies and what the Township will give out for documents. The largest items should be added to New Business in the future. Supervisor Kauffman stated since the Township is no longer under Urban Powers and the Minnesota Data Practices Act, the new data practices policy states that the Township has broad discretion on what we must provide. Supervisor Kauffman emphasized that the Board has full discretion and not the Clerks.


Chair Barfknecht stated the policy must be consistent. Supervisor Kauffman continued that the Board needs to provide guidance to the Clerks, and it is up to the Board to make those decisions.


Adjournment

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

The meeting was adjourned at 4:46 p.m.

Respectfully submitted,


Liz Atwater, Town Clerk

Minutes Officially Approved by: 
on: 5/23/2023
Town Chair