

EUREKA TOWNSHIP
Dakota County, State of Minnesota

TOWN BOARD MEETING
May 23, 2023 – 7:00 P.M.

Call to Order

The Eureka Township Town Board meeting was called to order at 7:06 p.m. by Chair Barfknecht and the Pledge of Allegiance was given.

Supervisors Present: Lu Barfknecht, Nancy Sauber, Allen Novacek, Tim Pope, and Randy Wood.

Others Present: Liz Atwater, Ralph Fredlund, Mark Nelson, Brian Ahern, Beth Eilers, Glenn Benson, Mark Henry, Terri Petter, Melanie Storlie, Deputy O'Meara.

Zoom Attendance: Carol Cooper, Deb Burkhart, Jeff Otto, Julie Larson, Pete Storlie, Donovan Palmquist.

Approval of the Agenda

Motion: Chair Barfknecht moved to approve the agenda. Vice Chair Sauber seconded the motion. *Motion carried 5-0.*

Road Report

Mark Henry reported he drove some of the roads and is making a list of roads and priorities for dust proofing. A lot of garbage is being dumped in the Township.

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 Barfknecht opened the floor for public comment and reminded that if anyone has comment regarding any agenda items, now is your time to speak.

Beth Eilers - 10185 250th Street

Glory to Glory church and School is on your agenda again tonight regarding the CUP. This was to give time for all the Supervisors to take a look at the lighted sign. I have to ask why. When this Church School first applied for their CUP there was a hearing and this room was filled. People who live in the area did not want it because they did not want the added traffic and they did not want the lights. So taking all of that into consideration the CUP was granted to the church with the following rules. If you violate the CUP action can be taken. That's why every year there is a meeting to renew the CUP and make sure the rules are being followed. Two of the rules were, no lighted sign and only security lighting. Then a few years went by, they got a sign, then they put a light on the sign, then changed the sign to be a backlit sign and put a brighter light above the sign. The come before you to renew the CUP, you are made aware of the violation of the CUP and it is decided that you're just going to let them change the CUP without a public hearing. If this was a mining company none of this would happen. And make no mistake this is a business. This is the biggest complaint the

citizens of this township have, the enforcement action taken by this board is not consistent with the rules on the books. This room was filled, none of the neighbors wanted the lighted sign. The CUP was drafted respecting the wishes of the township residents. And now you are going to change the rules without allowing the neighbors to have a voice. A CUP has rules for a reason. The number one complaint of the residents of this township is the inconstant manner the ordinances and CUPS are enforced. I respectfully request that you the board follow the rules established by the CUP or go through the required steps to change the CUP.

Carol Cooper- 26437 Galaxie Ave W

Ms. Cooper talked about the grandfather housing rights issue. When Ms. Cooper spoke at the last meeting, she was unaware that the 2023 Amendment had not been codified. She was referring to the previous ordinance. When looking at the current ordinance, she talked about the following:

1. The current ordinance defines "Grandfathered Lot" (*current ordinance does not use the phrase "Pre-1982 Lot of Record"*) as follows:

Any lot which is one unit of a plat heretofore duly approved, one unit of an Auditor's Subdivision or a Registered Land Survey, or is separately described in a deed, contract for deed, or other legally sufficient instrument of conveyance, and which was filed in the Office of the Dakota County Recorder on or before April 12, 1982.

2. The Policy that the Board recently adopted changes the definition of a Grandfathered Lot because it does not conform to the ordinance language:
 - a. The Policy does not recognize that a lot that is separately described in a deed, contract for deed, or other legally sufficient instrument of conveyance filed on or before April 12, 1982 is, under the plain meaning of the ordinance, what can be used to show that the lot is grandfathered.
 - b. Instead, the policy creates a requirement that the applicant show an abstract, certificate of title, or certificate of survey filed before April 12, 1982 as proof of a grandfathered lot
 - c. This requirement is not in the ordinance
 - d. Abstracts have become artifacts of the last century. They are not used by local title companies anymore to determine whether an owner has good title. Instead, title companies look at the deeds that have been recorded. This is the same standard that is contained in the ordinance.
 - e. DCA Title no longer prepares or updates abstracts or stub abstracts.
 - f. At least one other title company in the metro area is sometimes not able to update or create an abstract for a lot, and sometimes is not able to gather the needed deeds due to the fact that title companies do not offer a product that is designed to produce the documentation required by the ordinance.
 - g. The products provided by title companies, which used to create and update abstracts, are not designed to produce the documentation required by the ordinance. Instead, they primarily serve buyers and sellers and lenders, whose primary consideration is determining whether the seller has good title to the property.
 - h. The vast majority of real estate in this township is abstract, not torrens. Only torrens properties have a certificate of title.

- i. In my experience, it is virtually impossible to obtain a copy of a certificate of survey filed before April 12, 1982 for an individual lot. It appears that the Dakota County Surveyor does not retain certificates of survey for individual abstract lots.
 - j. The ordinance does not contain any language that requires that the boundaries of a grandfathered lot have not been changed after April 12, 1982, as long as they are the same today as they were on that date. I'm attaching a letter from township attorney Trevor Oliver from 2011 explaining grandfathered rights and on page two of that letter, he states that a lot can be re-configured so that the boundaries are the same as they were on April 12, 1982.
 - k. In contrast, the policy requires that the boundaries not have been changed after April 12, 1982 except in rare circumstances. This is an additional requirement that is not contained in the ordinance.
3. Because the Policy does not conform to the ordinance language, and instead creates additional requirements without going through the process required for amending an ordinance, it is ineffective.

Chair Barfknecht asked three times if there were any attendees who would like to make a comment. Hearing no more, the floor was closed.

Citizen Inquiry - None

Attorney Matters

10132 235th Street- MN Barnyard Buddies

Ms. Petter presented information to the Board regarding the complaint and letter sent by the Attorney. Chair Barfknecht explained all the information she presented will be sent to the Township Attorney.

Motion: Supervisor Novacek made a motion that the complaint for 10132 235th Street-weekend events schedule for summer be dismissed based on the documents and testimony they just received. Supervisor Pope seconded.

During discussion of the motion, Supervisor Novacek requested the following statement be included in the minutes: *"I think that Ms. Petters has been treated badly and things have not been done appropriately in many cases. I don't necessarily think any individual here has some kind of hatred or dislike. I think in general if you've been treated badly, you need to get this handled. We need to get this complaint gotten rid of because it is baseless and we need to start doing things different. We need to start worrying about the resident's rights and not just interfere with them."*

Tim Pope and Allen Novacek- Aye, Lu Barfknecht, Nancy Sauber, and Randy Wood - Nay.
Motion failed 2-3.

Glory to Glory CUP Follow-up

Vice Chair Sauber clarified that the CUP does allow for an internally lighted sign. The extra light put up was not in the CUP and does not meet the CUP requirement. Chair Barfknecht explained there are a couple options. Glory to Glory could remove the unapproved extra light

attached to the sign and then submit a request for a permit for a new safety light or amend the CUP to include the extra light.

Motion: Vice Chair Sauber moved that we ask Glory to Glory Church to remove the light that is attached to their lighted sign, as it is not part of the CUP. If they want to pursue it, they can either come in and get a separate permit for another kind of lighting, or they can come in and get their CUP amended.

Vote: Lu Barfknecht, Nancy Sauber, and Randy Wood - Aye. Tim Pope and Allen Novacek-Nay. *Motion carried 3-2.*

Mark Nelson CUP

Chair Barfknecht opened the floor for any public comments on the Mark Nelson CUP. Hearing none, Vice Chair Sauber moved to approve the review of the Private Air Strip for Mark Nelson at 5255 265th Street W. Supervisor Novacek seconded. *Motion carried 5-0.*

Mining: MPM/Chard IUP

Motion: Chair Barfknecht moved to have Mr. Gilchrist move forward with the letter to Mr. Chard and MPM on the process. Supervisor Novacek seconded. *Motion carried 4-0, Vice Chair Sauber recuse.*

Treasurer's Report

Net Pay and claims

The Clerk presented payroll in the amount of \$3,032.87 for payment.

The following claims in the amount of \$30,892.87 were presented for payment:

John Staurulakis, LLC	Row Permit Refund	\$200.00
Anderson Rock and Lime	Gravel	\$11,673.07
Benafica, LLC	HRA	\$530.50
Couri & Ruppe	Legal Services April	\$1,875.00
De Lage Landen Financial	Copier	\$95.83
Mark Henry	Mileage April	\$309.82
NATW	National Night Out Membership	\$35.00
T & C Cleaning	April Town Hall Cleaning	\$150.00
Alexander Exteriors	50% Roofing materials	\$16,023.65

Motion: Vice Chair Sauber moved to approve the net pay and claims as presented. Chair Barfknecht seconded the motion. Roll call vote: Lu Barfknecht – Aye; Nancy Sauber – Aye; Allen Novacek – Aye; Tim Pope – Aye; Randy Wood - Aye. *Motion carried 5-0.*

Year to date expenses vs budget

Clerk/Treasurer Atwater presented the spreadsheets to review the year-to-date expenses vs budget. She also presented and recommended some midyear adjustments to the budget categories.

ARPA funds

Clerk/Treasurer Atwater explained that she spoke with the MAT Attorney, Steve Fenske and the Township can spend the remaining APRA funds on Broadband or on Lost Revenue Replacement.

ICS and CD Recommendations

Clerk/Treasurer Atwater recommended the Town Board approve the ICS (Insured Cash Sweep) and purchase a 7-month CD for \$10,000-25,000.

Motion: Chair Barfknecht to purchase a 7-month CD for \$25,000 from general fund. Supervisor Novacek seconded. Roll call vote: Lu Barfknecht – Aye; Nancy Sauber – Aye; Allen Novacek – Aye; Tim Pope – Aye; Randy Wood - Aye. *Motion carried 5-0.*

Motion: Supervisor Novacek moved the Treasurer is allowed to use funds that are not dedicated to the two savings accounts, to place those funds in an ICS account. Vice Chair Sauber made a friendly amendment to include the minimum amount. Supervisor Novacek accepted the friendly amendment, then retracted the motion.

Motion: Chair Barfknecht moved to transfer all funds with the exception of \$50,000 that's left in each of the individual saving accounts into the ICS fund. Supervisor Novacek seconded. Roll call vote: Lu Barfknecht – Aye; Nancy Sauber – Aye; Allen Novacek – Aye; Tim Pope – Aye; Randy Wood - Aye. *Motion carried 5-0.*

Sheriff's Department- Deputy O'Meara

Deputy O'Meara reported that the gas leak on 280th is diverting traffic onto the side roads. They are going to shut down 280th and Galaxy for about 5 days. They are stopping more vehicles that are speeding and racing on the roads because the weather is getting nicer outside. Deputy O'Meara is going to the US Marshals, and this will be his last meeting.

Unfinished Business

Draft Data Policy

Vice Chair Sauber made the following correction on Page 7: **Township Compliance Liaison** should be **Town Board Compliance Liaison**.

Motion: Vice Chair Sauber moved to approve the data practices policy with one correction. Chair Barfknecht seconded. *Motion carried 5-0.*

Inspectron Contract and Fee Schedule

Clerk Atwater will send to the Town Board the current contract and the redline of the contract from the Attorney from last year. The Town Board will discuss this further at the next meeting.

Ordinance Permit Pricing vs Referring to a Fee Schedule

Vice Chair Sauber reported she spoke with the Township Attorney, Bob Ruppe, and he stated that fees should be in the ordinance. Supervisor Sauber was requested to speak with the Attorney again to get some clarification and guidance as to why this is his recommendation.

Township Road Speed Project/Laws on Putting up Speed Limit Signs

Supervisor Novacek reported he spoke to the MAT Attorney, Steve Fenske. The Township needs to follow the document provided by Mr. Fenske about signs. Township may not be in

compliance with some of the signs that are posted. The Town Board will coordinate with the Road Superintendent to make a list of signs that need replacing. Supervisor Sauber and Planning Commissioner Beth Eliers will be meeting with Attorney Gilchrist to gather information about how to prosecute violators of the speed limits.

MPCA

Clerk Atwater has called the MPCA and is waiting for a response. She will send a follow up letter to the citizen about the complaint.

ARPA Funds

Clerk Atwater discussed under the Treasurer Report.

National Night Out/Night to Unite Donations

Clerk Atwater shared that the Township may accept donations but must do so by Resolution per State Statute 465.03.

New Business

Ordinance 240 vs Policy of Grandfather Rights

Motion: Supervisor Novacek moved that we remove completely the document that says at the top, Pre-1982 Lot of Record Policy. Supervisor Pope seconded. Allen Novacek- Aye; Lu Barfknecht – Aye; Tim Pope- Aye; Nancy Sauber – Nay; Randy Wood - Nay. *Motion carried 3-2.*

Vice-Chair Sauber requested her following statement be reflected in the minutes: *"I would like to make the point, that no supervisor up here should tell another supervisor 'to go home and say it to yourself a thousand times. PLEASE!' That is highly disrespectful."*

Minutes for Approval

Motion: Chair Barfknecht moved to approve as a consent agenda item the minutes for March 7, Special Town Board Public Hearing, March 7, Special Town Board Meeting, March 13, Special Town Board Meeting and March 21, Special Town Board Meeting. Vice Chair Sauber seconded the motion. Lu Barfknecht – Aye; Nancy Sauber – Aye; Allen Novacek – abstain; Tim Pope – abstain; Randy Wood - abstain. *Motion carried 2-0.*

Clerk Matters

Motion: Chair Barfknecht moved to approve the one Adobe license annual contract for \$239.88 annual or \$19.99 a month. Supervisor Novacek seconded. *Motion carried 5-0.*

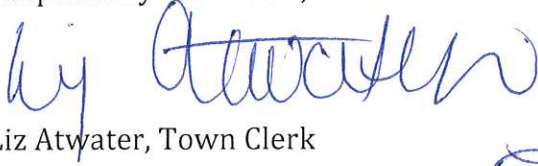
Vice-Chair Sauber stated *"that open meeting law requires that the public whether they are here in person or on zoom hears what is being discussed. So side comments with your hand covering your face is not an okay thing to do under open meeting law because nobody knows what you are saying."* Supervisor Pope said "Sorry" and requested this be included in the minutes.

Adjournment

Motion: Chair Barfknecht moved to adjourn the meeting. Vice Chair Sauber seconded the motion. *Motion carried 5-0.*

Meeting adjourned at 10:28 pm

Respectfully submitted,



Liz Atwater, Town Clerk

Minutes Officially Approved By:



Town Chair

on: 7-11-2023
Date