

**EUREKA TOWNSHIP
DAKOTA COUNTY, MINNESOTA**

EUREKA TOWN BOARD MEETING

February 9, 2015

CALL TO ORDER

Chair Kenny Miller called the meeting to order at 7:00 p.m. and the Pledge of Allegiance was given. Town Board Supervisors present were Kenny Miller, Cory Behrendt, Brian Budenski and Mark Ceminsky. Supervisor Steve Madden was absent. Planning Commission liaison Butch Hansen was present. Township Attorney Chad Lemmons and Township Clerk Mira Broyles were also present. See the attached list for others present.

APPROVAL OF AGENDA

Additions were made to the agenda as follows:

Consent Agenda: B. Minutes of the February 4, 2015 Special Town Board meeting
Treasurer's Report: F. Annual Audit
Consent Agenda: The minutes of the January 12, 2015 meeting were pulled for revisions
Prior to Other Business: Discussion of what constitutes a quorum
New Business: Annual Review of Landing Strip CUP

Motion was made by Chair Miller, seconded by Supervisor Behrendt to approve the agenda as amended. Motion carried 4-0.

TREASURER'S REPORT

The Treasurer's Report was given by Treasurer Marcia Wilson (*see attached report*).

Motion was made by Supervisor Budenski, seconded by Supervisor Ceminsky to accept the Treasurer's Report dated February 9, 2015. Motion carried 4-0.

The claims and receipt lists were reviewed.

Motion was made by Chair Miller, seconded by Supervisor Ceminsky to approve the bills and receipts. Voice vote was taken on the motion. Motion carried 4-0.

Outstanding invoices were reviewed.

Motion was made by Chair Miller, seconded by Supervisor Budenski to accept the outstanding invoices. Motion carried 4-0.

2016 Budget Review. The 2016 Budget, reviewed at the special Town Board meeting on February 4, 2015 was amended as follows: \$2,000 was deducted from Road Maintenance and \$2,000 was deducted from Town Hall Upkeep.

Motion was made by Supervisor Ceminsky, seconded by Supervisory Behrendt to approve the proposed budget for 2016 as amended (\$2,000 deducted from Road Maintenance and \$2000 deducted from Town Hall Upkeep) plus the addition of current escrow amounts to be listed. Motion carried 4-0.

2016 Annual Meeting Preparation. It was noted that work will begin with assistance from the Treasurer and Deputy Clerk to prepare for a presentation to be given at the annual Township meeting.

Annual Audit. It was noted that an annual audit is no longer required for the Township, however it was agreed that an audit be conducted every other year.

Motion was made by Chair Miller, seconded by Supervisor Budenski, to authorize an audit every other year beginning in 2015 for the year 2014. Motion passed unanimously.

It was decided that a request for proposals would be posted on the website and Town Hall bulletin board. Supervisor Behrendt stated he would provide a list of four firms that could be contacted for a request for proposal.

Deputy Sherriff Comment. A Dakota County Deputy Sherriff discussed the increase in auto accidents involving uninsured motorists and an increase in copper theft. He also stated the use of 911 is more than just for emergencies. It is acceptable for citizens to call 911 for a variety of reasons, including to report an unusual siting, animal calls, or to request the Sherriff's Department to drive by a residence if citizens are going to out of town.

PUBLIC COMMENT

Gloria Belzer expressed concern over directives given to the Planning Commission by the Town Board that were not precisely followed. She also discussed the draft agritourism ordinance and suggested that all Town Board members attend the public hearing on February 17, 2015. She further noted her disagreement that donated computer equipment that was offered by Supervisor Behrendt at the January Town Board meeting was not accepted.

Nancy Sauber expressed concern over the proposed agritourism ordinance regarding the cost to the Township and the lack of consideration given to input by Eureka citizens and the task force. She discussed the proposed ordinance and the need to implement the use of interim use permits.

Jeff Otto noted that he concurred with the comments of Ms. Sauber. He stated he felt the Board is rushing the public hearing on the proposed agritourism ordinance, as it would be a waste of the Township's money and time.

Gary Smith questioned if another public hearing would be held in regard to a text amendment application by Kenneth Miller.

CITIZEN BUSINESS

Nancy Sauber questioned fees charged to, and payment received by, Joey Miller in regard to action taken by the Town Board at their December 8, 2014 meeting. Building Inspector Gilmer provided clarification on the permit fees both charged and received from Mr. Miller.

CONTRACTOR TIME

Jason and Bryce Otte of Otte Excavating discussed the condition of road signs within the Township. Supervisor Budenski stated he would follow up by working with the Clerk to locate a report previously prepared relating to State requirements for signs.

BUILDING INSPECTOR UPDATE

Building Inspector Darrel Gilmer noted he had been attending training for the past two weeks. He stated he will be working on the new watershed procedures to be implemented March 1.

CONSENT AGENDA

The minutes of the January 12, 2015 minutes were amended as follows; on page two to reflect Supervisor Behrendt's offer to provide a better laptop to the Treasurer at no charge to the Township; correction of a motion seconded by Supervisor Ceminsky rather than Supervisor Madden under the Consent Agenda; on page three to add the word "watershed" to clarify what ordinance was being discussed; addition of the sentence – "The Board directed the Planning Commission to forward the draft agritourism ordinance to the Town Board for review prior to the public hearing" after the third paragraph; and correction of 3-0 to 4-0 on motion votes on pages five and six.

Motion was made by Chair Miller, seconded by Supervisor Behrendt to approve the minutes of the January 12, 2015 Town Board meeting as amended. Motion carried 4-0.

Motion was made by Chair Miller, seconded by Supervisor Budenski to approve the minutes of the February 4, 2015 special Town Board meeting as amended on the spreadsheet attached to the minutes. Motion carried 4-0.

It was agreed that the annual review of gravel pits would be moved forward on the agenda.

Annual Review of Gravel Pits. Chair Miller recused himself and turned the meeting over to Vice Chair Behrendt. The Eureka Sand Gravel permit was reviewed. Complaints that had been submitted were addressed by Mr. Miller as part of his document submission. Chair Behrendt opened the floor for public comment.

Gary Smith noted that berms surrounding the site need to be seeded, as weed seed has blown onto his adjoining property. He further noted that the fence is not in compliance and dust control is inadequate.

The Board noted that fees had been paid and the annual review of the Eureka Sand and Gravel permit was complete.

Chair Miller took over the meeting.

Brosseth Pit and Storlie Pit. This item was tabled due to the lack of a representative.

Friedges Landscaping. John and Justin Friedges were present and noted that more good material had been found on the site than had originally been thought to exist. Dust control was discussed. The floor was open to public comment. There was none.

The Board noted that fees had been paid and the annual review of the Friedges Landscaping, Inc. pit operation was complete.

PLANNING COMMISSION UPDATE

Planning Commission liaison Butch Hansen reviewed discussions and actions taken at the February 2, 2015 Planning Commission meeting.

PLANNING COMMISSION – LAND USE, PERMITS, AND RELATED ITEMS

Permit Requests

Friedges Landscaping – Madden Pit, 10396 225th Street – Concrete Crush / Recycle. Chair Miller reviewed Ordinance 6, Chapter 13, noting that, provided materials are obtained from within the Township, concrete can be crushed for 14 days per year without a permit. The restriction that materials cannot be obtained from outside the Township was discussed. The Board explained that the applicant could apply for a text amendment and the process was explained.

At a future time in the meeting, it was noted that action should be taken as follows:

Motion was made by Chair Miller, seconded Supervisor Behrendt to deny the application dated December 22, 2014 by Friedges Landscaping to crush concrete and the Clerk was directed to draft a letter referencing the applicable ordinance. Motion carried 4-0.

Quorum Discussion. Two alternatives provided by the Township Attorney regarding what constitutes a quorum were discussed.

1. Approval of any action to be taken by the Town Board requires three affirmative votes.
2. Approval of any action to be taken by the Town Board requires approval by a majority of the quorum voting.

It was noted that alternative number one was taken from guidelines of the Minnesota League of Cities and alternative number two was taken from guidelines of the Minnesota Association of Townships.

Township Attorney Lemmons noted that when a member is recused from an item, his presence does not count towards the quorum, however an abstention from a vote is treated as a nay vote.

Motion was made by Supervisor Ceminsky, seconded by Chair Miller, to adopt alternative number two “approval of any action to be taken by the Town Board requires approval by a majority of the quorum voting”. Motion failed on 1-3 vote. Supervisors Miller, Behrendt and Budenski voted nay. Supervisor Ceminsky voted aye.

Motion was made by Supervisor Behrendt, seconded by Supervisor Budenski, to adopt Resolution No. 2015-02 establishing policy that approval of any action taken by the Town Board requires approval by a majority of the quorum voting with a recusal of a member considered as removal from the quorum, and abstention by a voting member considered a nay vote.

Motion passed 3-1. Supervisor Ceminsky voted nay.

Chair Miller called a recess at 9:14 p.m. The meeting reconvened at 9:20

OTHER BUSINESS

Complaints.

Previous Complaint Follow-Up:

Supervisor Budenski and Chair Miller stated that after review of the subject property on Iceland Path and discussion with the property owner, they deem the complaints invalid.

Supervisor Behrendt stated that in regard to complaints filed against property on 235th Street, a response from the property owner needs to be applied to each individual complaint and will be completed and a report given at the March Town Board meeting.

New Complaint: Attorney Lemmons noted that the new complaint should be handled in the same manner as a former, similar complaint. It was noted that the subject parties will be notified and proper procedures will be followed. Chair Miller indicated he would work with the Clerk.

OLD BUSINESS

Chair Miller turned the meeting over to Vice-Chair Behrendt.

Kenneth Miller, Text Amendment. Mr. Miller discussed the development agreement dated August 24, 2010 which addresses the blending of soils and minerals as an accessory use. Vice Chair Behrendt discussed accessory uses as addressed in Ordinance 6, Mining Ordinance.

Supervisor Ceminsky stated he feels the proposed text amendment is a zoning issue and the pending 120 day deadline for action will expire prior to the April Town Board meeting. Attorney Lemmons noted that the application is for a text change not an actual use of the property, thus eliminating the 60 day rule. Supervisory Ceminsky stated he feels another public hearing is warranted to be fair to the Eureka residents, noting the Township should pay for the second public hearing.

Discussion was held regarding stipulations pertaining to performance standards that could be implemented. Mr. Miller discussed amending his development agreement and his willingness to sponsor a public hearing. Attorney Lemmons noted that a public hearing would not be required for the modification of a development agreement. Further discussion was held regarding the use of an interim use permit and the possibility of an environmental assessment worksheet. Revised language for the text amendment was proposed and Vice Chair Behrendt stated he would draft proposed language to be forwarded to Attorney Lemmons prior to the March Town Board meeting. Mr. Miller stated he would like to review the proposed language prior to it being forwarded to Attorney Lemmons.

Motion was made by Vice Chair Behrendt, seconded by Supervisor Budenski to amend the proposed text amendment to include the following points, review with applicant, and submit to the Township Attorney for review.

1. *Allowing ready mix as an accessory use in level 3 mines only.*
2. *A process for altering interim use permits*
3. *Reporting requirements for accessory uses*
4. *Percentage of off-site material allowed and/or related to accessory use.*
5. *Type of ready mix systems allowed (dry only).*
6. *Fees if needed*

Motion passed 2-1. Supervisor Ceminsky voted nay.

Watershed Resources Management Ordinance Procedures. A revised building permit application form incorporating check boxes for the watershed related items was presented.

Supervisory Ceminsky moved, Supervisor Budenski seconded a motion to accept the revised building permit application form with the addition of the watershed information. Motion passed unanimously.

Discussion was held regarding an escrow establishment, as well as the revision of more complicated applications (i.e. for lot splits, etc.).

The Clerk was directed to forward the forms attached to the application to Travis Theil, VRWJPO and Brian Watson at Dakota County for their review and suggestions.

Consideration of procedures for implementation of the Watershed Resources Management Ordinance was tabled pending response from Brian Watson, Dakota County and Travis Thiel, VRWJPO.

Agritourism. A proposed draft ordinance pertaining to agritourism had been forwarded from the Planning Commission for review by the Board prior to a public hearing scheduled for February 17, 2015.

Motion was made by Supervisor Ceminsky, seconded by Supervisor Budenski, to approve the draft agritourism ordinance for presentation at a public hearing to be held by the Planning Commission with resubmission and recommendation to the Town Board. Motion failed 3-1. Supervisors Behrendt, Budenski and Miller voted nay. Supervisory Ceminsky voted in favor.

It was noted by Supervisor Behrendt that the majority opinion expressed at the agritourism open house was that an interim use permit should be required.

Motion was made by Supervisor Ceminsky, seconded by Supervisor Budenski, to cancel moving forward with the proposed agritourism ordinance. Motion passed unanimously.

Motion was made by Supervisor Behrendt, seconded by Supervisor Budenski, to cancel the public hearing scheduled for February 17, 2015. Motion carried unanimously.

Code Recodification. Chair Miller discussed Chapter 3 of the Town Code in regard to repealing an ordinance. Discussion was held regarding recodification of the Code in 2010. Attorney Lemmons noted that a public hearing had been held in May of 2010 and the recodification was adopted on June 15, 2010. The Clerk was directed to provide copies of the draft code to the Planning Commission for review. The Planning Commission was directed to schedule a public hearing for review of the proposed recodification of the Town Code.

Dick Nielsen Invoice. Supervisor Ceminsky recused himself during discussion of this issue. Butch Hansen addressed the issue on behalf of Mr. Nielsen. He noted that Mr. Nielsen is willing to pay for repairs to 240th Street if needed as a result of the drain tile installation in August, 2014.

Motion was made by Supervisor Behrendt, seconded by Chair Miller, to accept the permit fee of \$105 previously paid by Dick Nielsen and rescind the invoice of August 26, 2014, and bill Mr. Nielsen for any actual repair costs to 240th Street once the road stabilizes after the Spring thaw. Motion passed 3-0.

IT Update. Supervisor Behrendt provided an update on the status of the new Website, noting the Clerk and Deputy Clerk will be trained on February 12th. He also discussed making needed changes to the current email arrangement. Approval was given for Supervisor Behrendt to dispose of the Brother printer that is no longer operational. Updated hardware for the copy machine was also discussed.

Motion was made by Chair Miller, seconded by Supervisor Budenski, to approve the installation of hardware for the Ricoh copy machine for a cost not to exceed \$1,300.00. Motion passed unanimously.

GRE Update. A special closed meeting to discuss pending litigation with GRE was scheduled for February 24, 2015 at 6:00 p.m.

NEW BUSINESS

Election Judges for March Township Election.

Motion was made by Supervisor Budenski, seconded by Supervisor Ceminsky, to adopt Resolution No. 2015-01 appointing Election Judges for the March 10, 2015 Township Election; schedule the Board of Canvass meeting for March 12, 2015 at 6:00 PM; and schedule the Township reorganization meeting for March 24, 2015 at 7:00 PM.

Motion carried unanimously.

Environmental Review of Bordering Property in Lakeville. Discussion was held regarding a request from the City of Lakeville for official feedback on a scoping EAW to set the parameters for further environmental study for a proposed project roughly defined by Dodd Road to the east, CR 70 to the north, and Eureka Township to the south. The Clerk was directed to ask a representative to attend a future Town Board meeting.

Annual Review of Landing Strip Conditional Use Permit. This item was tabled until the March meeting. (Butch Hansen was present)

Motion was made by Supervisor Budenski, seconded by Supervisor Behrendt, to adjourn the meeting at 12:20 AM.

Respectfully submitted:

Mira Broyles, Township Clerk