

**EUREKA TOWNSHIP
DAKOTA COUNTY, MINNESOTA**

EUREKA TOWN BOARD MEETING

November 10, 2014

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, Mark Ceminsky and Steve Madden. 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

The following additions were added to the agenda under Old Business:

- L. Addressing
- M. Road Supervisor Fees
- N. GRE Meeting

Motion was made by Supervisor Behrendt, seconded by Supervisor Budenski to approve the agenda as amended. Motion carried by unanimous vote.

TREASURER'S REPORT

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

Motion was made by Supervisor Budenski, seconded by Chair Miller to accept the Treasurer's Report dated November 10, 2014.

The bill from Contech Construction Products for HC pipe was discussed. It was noted that bids will be requested in the future for such projects.

Motion was made by Chair Miller, seconded by Supervisor Budensk to approve the claims list as submitted. A roll call vote was taken on the motion. Motion carried 5-0.

Discussion was held regarding compensation for Butch Hansen for materials and labor on the Township storage building. Mr. Hansen was asked to provide an invoice for \$1,000.

Motion was made by Chair Miller, seconded by Supervisor Budenski to adopt a resolution and waiver (to pay a Board/Commission member) to compensate Butch Hansen in the amount of \$1,000 for labor/material on the Township storage building. Motion passed by unanimous vote.

Treasurer Wilson noted there was a mistake regarding the Otte bill, in that a \$5500 charge to gravel placement should be moved under the road repair category.

Outstanding Invoices:

Attorney Lemmons discussed the Sauber Trust, stating the Trust no longer owns the property and too much time has passed to collect from the Trust.

Motion was made by Supervisor Behrendt, seconded by Supervisor Ceminsky to dismiss the outstanding invoice on the Sauber Trust. Motion passed by unanimous vote

Supervisor Ceminsky questioned the status of an outstanding invoice for Richard Neilson. After brief discussion, it was decided to table the issue and ask Mr. Nielson to attend a Board meeting to review the outstanding invoice.

Motion was made by Supervisor Budenski, seconded by Supervisor Ceminsky to approve the balance of the financial report. Motion passed by unanimous vote.

PUBLIC COMMENT

None

CITIZEN BUSINESS

Nancy Sauber, 9445 225th Street West made comments regarding the agritourism task force minutes being on the web, the VRWJPO ordinance review by the Planning Commission, a Planning Commission summary regarding a moratorium recommendation, and meeting notification.

CONTRACTOR TIME

Discussion was held regarding products being used for ice removal on both the road and Town Hall parking lot.

BUILDING INSPECTOR UPDATE

Building Inspector Darrell Gilmer stated there were no issues regarding current inspections and that reroof inspections are continuing.

CONSENT AGENDA

Supervisor Ceminsky asked that the minutes of the October 14, 2014 be amended on page five, first paragraph (motion), adding the wording "or it's feed lot status" at the end of the motion.

Motion was made by Supervisor Behrendt, seconded by Supervisor Budenski to approve the minutes of the October 14, 2014 Town Board meeting as amended. Motion carried by unanimous vote

PLANNING COMMISSION UPDATE

Planning Commission Chair Hansen gave a report on discussions and actions at the November 3, 2014 Planning Commission meeting.

PLANNING COMMISSION – LAND USE, PERMITS, AND RELATED ITEMS

Permit Requests

Jared Vinar, 9800 257th St. W. - building permit for pole shed. Discussion was held regarding the proposed building permit and it was noted that the Planning Commission had reviewed the plans and recommended approval subject to the submittal of a site drawing showing well and septic locations, as well as setback feet. Mr. Vinar provided the required plans which were reviewed by Planning Commission Chair Hansen who noted they were in order. Further discussion was held regarding the need for approval from the VRWJPO.

Motion was made by Supervisor Ceminsky, seconded by Supervisor Behrendt, to approve a building permit for Jared Vinar to build a pole shed on property located at 9800 257th Street (PID 130190075010) subject to submittal of a letter from the VRWJPO to the Town Clerk.

Motion carried by unanimous vote.

Prairie Creek School Conditional Use Permit, 27695 Denmark Avenue – Simon Tyler representing Prairie Creek School discussed the annual review of a conditional use permit for Prairie Creek School. It was noted that no complaints have been received in regard to the school. The review was completed with no issues of record.

Old Business

Joey Miller, 2220 Dodd Boulevard, Findings of Fact. The Findings of Fact of the Planning Commission approved on November 3, 2010 were reviewed. Discussion was held which included whether or not the home building operation is located on both parcels, where offices are located, property addresses, and the non-conforming registration.

Carol Cooper, attorney representing Joey Miller, noted that the 60 day rule could be enforced.

Supervisor Ceminsky asked that his tabled motion from the October 14, 2014 meeting be brought forth. The motion was as follows:

Motion was made by Supervisor Ceminsky, seconded by Supervisor Madden, stating that a registered non-conforming use of the race car operation has not intensified; the office space has not intensified but the alteration will require a permit with double fees; the offices were moved to the northern most building and no alterations are to be made to the non-conforming use going forward from this date.

A voice vote was taken on the motion. Motion failed on a 3-2 vote. Supervisors Budenski, Behrendt, and Chair Miller voted nay.

Motion was made by Chair Miller, seconded by Supervisor Ceminsky to table action on the Joey Miller non-conforming use item pending review by the Township Attorney of pertinent data until the next meeting with a definite decision being made at that time. Motion passed on a 4-1 vote. Supervisory Budenski voted nay.

Attorney Lemmons was asked to provide a formal report regarding his review of ordinances, property addresses and what would reasonably establish intensity of use of the property.

Chair Miller recessed the meeting at 9:20 p.m.
The meeting reconvened at 9:30 p.m.

Vermillion River Watershed Joint Powers Organization Permit Process

Discussion was held regarding whether the Township should take over the VRWJPO permitting process. Discussion included time efficiency for applicants, potential fees and application process, possible assistance from the Soil and Water Conservation District. The Clerk was directed to obtain fee information from surrounding communities. It was also noted that the Building Inspector would be asked to attend the next meeting prepared to discuss his role in the permitting process. Supervisor Ceminsky stated he would work with the Clerk as well as contact the Soil and Water Conservation District to request a written statement as to their willingness to assist in the permitting process.

Motion was made by Supervisor Ceminsky, seconded by Supervisor Madden to table the decision regarding the Township taking over the permitting process from the Vermillion River Watershed Joint Powers Organization pending receipt of the above listed information at the December Town Board meeting. Motion passed on a 3-2 vote. Supervisor Behrendt and Supervisor Budenski voted nay.

Organica Gardens

Paul Frank, representing Organica Gardens, stated they have no further needs at this time from the Township as they believe they are in compliance with Township ordinances. He stated that Organica Gardens is currently awaiting the State's decision regarding the award of permits for growing and manufacturing medical marijuana. Discussion was held regarding the need for a conditional use permit, the Right to Farm

Act, actual processing of the marijuana, and a potential moratorium to allow time for further research by the Township.

Motion was made by Chair Miller, seconded by Supervisor Budenski, to inform Organica Gardens, through a formal letter by the Town Clerk, that a conditional use permit will be required should the State of Minnesota issue a permit for Organica Gardens to operate a medical marijuana manufacturing operation. Motion passed on a 3-2 vote. Supervisor Ceminsky and Supervisor Madden voted nay.

Policies and Procedures

Discussion was held regarding the Attorney Engagement Policy as it pertains to requests by the Planning Commission. It was agreed that the policy would be updated by Supervisor Behrendt to allow the Township Attorney to respond directly to the Planning Commission when a request is made by the Commission.

Terri Petter vs. Township Lawsuit Update

Attorney Lemmons provided an update on the Terri Petter vs. Eureka Township lawsuit stating the case was dismissed and the Freelund lawsuit is currently before the appellate court. He noted it could be several months before a decision is reached regarding that case.

Ordinances / Code Update

Discussion was held regarding the Township Code recodification. Resolution #59 was discussed in regard to missing background information. Attorney Lemmons stated that if the Code had been updated since Resolution 59 was approved, any ordinance changes would have already been adopted. Attorney Lemmons was directed to provide a synopsis of all resolutions adopted since Resolution 59 and to clarify what defines a text amendment. He stated he will also provide the date of the last Code recodification. This item was tabled until the December meeting.

Agritourism Update

Planning Commission Chair Hansen provided an update on the Agritourism open house. He stated the Planning Commission will review the public comments and proceed with the potential ordinance in December.

IT and Website Update

Supervisor Behrendt discussed potential upgrade and management options for the website.

Motion was made by Supervisor Ceminsky, seconded by Supervisor Budenski to accept the proposal by Town Web Design for website management. Motion passed by unanimous vote.

Storage Garage – Shelving

Supervisor Ceminsky discussed costs for shelving and storage totes for the storage building, noting the total cost for 9 units of shelving and 16 storage totes would be approximately \$3,994 at Menards. He was asked to provide the cost for assembly of the shelving as well as a tool crib. The item was tabled.

Complaints

24565 Iceland Path – The Clerk was directed to send a letter to the property owners requesting proof of permits for the additions to their property.

9805 250th Street West – It was noted that the Building Inspector is working with the property owner and the lean-to constructed on the property is being taken down, as the owner was not aware a permit was needed.

8880 235th Street West – Chair Miller stated he would contact Wells Fargo Bank, the owner of this property, to address the complaint issues.

Supervisor Madden questioned if a limit could be placed on the number of complaints that could be filed against a property within a year.

Addressing

Township Clerk Broyles stated Dakota County will be providing a memo to area townships in regard to addressing with the assistance of the GIS Department. This information will be forwarded to the Board and Planning Commission when received.

New Business

Proposed Text Amendment Procedure – Kenny Miller

Chair Miller turned the meeting over to Vice Chair Behrendt. Discussion was held regarding procedure for an application by Kenneth Miller for a zoning ordinance text amendment which included if a public hearing is required. Attorney Lemmons discussed requirements for a zoning ordinance text amendment vs a mining ordinance text amendment. He noted that it is at the discretion of the Board whether or not a hearing is held. He further noted that notification of individual property owners is not required.

Motion was made by Supervisor Ceminsky, seconded by Supervisor Madden to direct the Planning Commission to hold a public hearing in regard to a text amendment of Ordinance 6, Mining Ordinance applied for by Kenneth Miller with notification in the local

newspaper and posting locations only. Motion passed on a 4-0 vote. (Chair Miller had recused himself).

Lakeville Comprehensive Plan Amendment

Chair Miller was given authority to notify the City of Lakeville of the Township's approval of the comprehensive plan amendment outlined in the letter dated November 3, 2014.

Road Supervisor Fees

Supervisor Ceminsky requested clarification be made to the citizens of Eureka regarding how he, as a Road Supervisor, was compensated. Chair Miller stated the issue would be better handled at the next Township annual meeting. Supervisor Behrendt suggested Supervisor Ceminsky provide a document outlining the fee schedule which could be added as part of the public record.

Great River Energy Meeting

Motion was made by Supervisor Behrendt, seconded by Chair Miller to give Supervisor Ceminsky and Supervisor Budenski authority to negotiate fees with Great Rive Energy. Motion carried by unanimous vote.

A motion was made by Chair Miller, seconded by Supervisor Madden to adjourn the meeting at 11:45 p.m.

Respectfully submitted:

Mira Broyles, Township Clerk